



AL-HAQ

# Occupying Jerusalem's Old City

*Israeli Policies of Isolation, Intimidation and Transformation*





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## Table of Contents

<b>I. Introduction</b>	<b>6</b>
<b>II. General Context on the Old City of Jerusalem</b>	<b>7</b>
A. Isolation, Fragmentation, and Access Restrictions	7
1. ID-System and Annexation Wall	7
2. Obstruction of Access Into and Within the Old City	8
B. Intimidation and Surveillance in the Old City	9
1. Militarization of the Old City and Harassment of Palestinian Youth	9
2. Eye of the Occupation	12
C. Applicable International Law Standards	13
<b>III. Population Transfer in the Old City</b>	<b>15</b>
A. Lack of Adequate Housing and Services	17
B. Evictions	19
C. Targeting of Church Properties	22
1. Jaffa Gate Area	22
2. St. John's Hospice	23
D. Applicable International Law Standards	25
<b>IV. Forcing a Disconnect: Israel's Policies towards Palestinian Institutions and Obstructing Religious Practices</b>	<b>27</b>
A. Targeting of Educational, Cultural, and Social Institutions	27
1. Burj Al-Luq Luq	28
2. Industrial Islamic Orphanage	29
3. Nidal Center	30
B. Attacks on and Limitations to Accessing Holy Sites in the Old City	31

## Table of Contents

1. Attacks on Al-Aqsa Mosque Compound	31
2. Israel's Obstruction of Access to Churches	33
C. Applicable International Law Standards	34
<b>V. Economic Subjugation of the Old City</b>	<b>36</b>
A. Israeli Authorities and the Management of Discrimination	37
1. Targeting by the Municipality and IOF	37
2. Obstructing Local Sales and Local Tourism	41
3. Other Administrative Policies that Impede Sales and Development	46
B. Tourism and the Old City	47
1. Repositioning the Old City	48
2. Influence of Tour Guides in Directing Sales	54
C. Applicable International Law Standards	55
<b>VI. Conclusion</b>	<b>57</b>



## I Introduction

Following the start of the occupation in 1967, Israel moved to annex East Jerusalem and establish the city, alongside annexed West Jerusalem, as its “united capital.” Since that time, Israel has worked to entrench its control over Jerusalem, instituting a variety of policies and practices that aim to drive Palestinians out of the city while acquiring land and property in the process. As a result, the Old City, the heart of Jerusalem, has suffered from the same issues as other Palestinian neighborhoods in the city. This includes, in part, the confiscation of property, a discriminatory planning regime and inadequate services, the transfer of Israeli settlers, the targeting of Palestinian institutions, the targeted de-development of the economy, and harassment by Israel’s municipal authorities. What sets the Old City apart from other neighborhoods of Jerusalem or other areas of the Occupied Palestinian Territory (OPT), in addition to its unique history and holy sites, is the stark contrast between the Israeli narrative consumed by the countless tourists that flow through its streets and the reality of the human rights abuses happening around them. Consequently, Israel’s targeting of Palestinians and erasure of Palestinian presence is happening in full view.

This report seeks to highlight some of the seen and unseen, widespread and systematic policies that Israel uses to deepen its control over the Old City, resulting in the forcible displacement of Palestinians there. It further highlights Israel’s respective obligations, as Occupying Power, under international humanitarian law (IHL), including as reflected in the Fourth Geneva Convention (1949) and Hague Regulations (1907), and international human rights law (IHRL). This report does not aim to identify or detail all Israeli policies and practices that: target Palestinian residents or business-owners in the Old City; deter Palestinians from accessing the city; or seek to erase Palestinian presence and history therein, including through excavations and the appropriation of Palestinian cultural property. Given the breadth of measures taken by Israel since the start of the occupation, such a comprehensive examination is outside the scope of this report.



## II General Context on the Old City of Jerusalem

### A. Isolation, Fragmentation, and Access Restrictions

Through its unlawful annexation of Jerusalem, Israel has created and fostered a situation of isolation, fragmentation, and uncertainty for Palestinians. An additional layer of Israeli policies targets the Old City, and is aimed at crushing Palestinian life therein.

#### 1. ID-System and Annexation Wall

Immediately after the start of the occupation, Israel instituted an ID-system in the OPT to fragment the population. This included issuing Jerusalem IDs to residents of East Jerusalem, West Bank IDs to Palestinians in other areas of the West Bank, and Gaza IDs to Palestinians from Gaza. Notably, in 1967, Israel conducted a census immediately upon seizing control of the OPT, and at least 270,000 Palestinians who were not present in the country were excluded from receiving an ID.<sup>1</sup> Since that time, Israel has continued to institute measures that aim at controlling the growth of the Palestinian population. This is particularly acute in Jerusalem, where Israel has a stated demographic objective of 70 per cent Israeli Jews to 30 per cent Palestinians. This objective is in part facilitated by the “permanent residency” status carried by the Jerusalem ID, which is effectively a temporary status that is revocable according to the discretion of the Israeli Ministry of Interior. It has been estimated that at least 14,595 Palestinians from East Jerusalem have lost their residency status between 1967–2016.<sup>2</sup> Israel’s ID system further implicates the rights to movement and choice of residence, where Palestinians are largely forced

<sup>1</sup> Human Rights Watch “‘Forget About Him, He’s Not Here’, Israel’s Control of Palestinian Residency in the West Bank and Gaza” (5 February 2012), available at: <https://www.hrw.org/report/2012/02/05/forget-about-him-hes-not-here/israels-control-palestinian-residency-west-bank-and>

<sup>2</sup> Human Rights Watch, “Israel: Jerusalem Palestinians Stripped of Status”, (8 August 2017), available at: <https://www.hrw.org/news/2017/08/08/israel-jerusalem-palestinians-stripped-status#>

to live in, and are confined to, the area designated by their ID.<sup>3</sup>

This has been coupled with other Israeli policies which have left Jerusalem, alongside other parts of the OPT, in a state of isolation. Immediately following the start of the occupation, Israel expanded the municipal boundaries of Jerusalem, and began constructing unlawful settlements that would encircle it. Through the construction of the Annexation Wall in the West Bank, Israel sought to cement its illegal “facts on the ground” and further fragment the OPT. As a result, East Jerusalem was left further isolated, with Palestinians holding West Bank and Gaza IDs largely required to receive a permit to enter the city, due to checkpoints, the Wall, and other barriers, which obstructed movement and effectively made nearby and interconnected cities distant. In its 2004 Advisory Opinion, the International Court of Justice has stated, “the route chosen for the wall gives expression in *loco* to the illegal measures taken by Israel with regard to Jerusalem and the settlements, as deplored by the Security Council.”<sup>4</sup> Indeed, Jerusalem as the once commercial, social, cultural, and political capital for Palestinians, is now cut off, in an effort to fulfill Israel’s objectives of unilateral control over and annexation of the city.

## 2. Obstruction of Access Into and Within the Old City

In addition to the general limitations on access to Jerusalem inflicted on West Bank and Gaza ID-holders, over the past few years, Israel has also set a dangerous precedent of implementing general bans on entry of Palestinians into the Old City. On 4 October 2015, for example, Israel implemented a 48-hour ban that excluded Palestinians, with the exception of residents, from entering the Old City. Israeli Jewish citizens and tourists, however, had continued access. Soon thereafter, the Israeli Security Cabinet passed a variety of measures targeting Palestinians, including authorizing the “closure on, or to surround, centers of friction and incitement in Jerusalem, in accordance with security considerations.”<sup>5</sup> Al-Haq documented approximately 33 checkpoints and observation points in the Old City alone in October 2015.<sup>6</sup>

3 See: Al-Haq, “Engineering Community: Family Unification, Entry Restrictions and other Israeli Policies of Fragmenting Palestinians” (February 2019), available at: [http://www.alhaq.org/images/stories/PDF/Family\\_Unification\\_14%20February%20\(1\).pdf](http://www.alhaq.org/images/stories/PDF/Family_Unification_14%20February%20(1).pdf)

4 Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice, Advisory Opinion of 9 July 2004, para. 122.

5 Israeli Ministry of Foreign Affairs, “Security Cabinet Approves Anti-Terror Measures” (13 October 2015) available at: <https://mfa.gov.il/MFA/PressRoom/2015/Pages/Security-Cabinet-approves-anti-terror-measures-13-Oct-2015.aspx>

6 Al-Haq, “East Jerusalem: Exploiting Instability to Deepen the Occupation” (hereafter Exploiting Instability) (2015) 29, available at: <http://www.alhaq.org/publications/publications-index/item/east-jerusalem>

While the 48-hour ban on entry was seen as “unprecedented” in 2015,<sup>7</sup> Israel once again closed the Old City between 14-16 July 2017, with the exception of allowing entry to residents. The closure was part of an array of collective punishment measures against the Palestinian population following an alleged attack.<sup>8</sup> Al-Haq has most recently documented the Israeli Occupying Forces (IOF) obstructing entry and forcibly removing Palestinians at Damascus Gate for Israeli settler “Jerusalem Day” and following the U.S. recognition of Jerusalem as Israel’s capital.<sup>9</sup>

## B. Intimidation and Surveillance in the Old City

Israel uses a variety of practices to threaten, harass, and attempt to control Palestinians in and around the Old City. Such measures have ranged from consistent presence of the IOF, including military, police as well as private military and security personnel, in and around the Old City, and the surveillance of the general population within the Old City.

### 1. Militarization of the Old City and Harassment of Palestinian Youth

The IOF has continually sought to impose its presence in the Old City, as seen in the area of Damascus Gate, through the use of heavy patrolling and extensive surveillance equipment. Inside the Old City, the IOF regularly patrol the streets and are stationed at particular junctures and at the gates to Al-Aqsa Compound. In 2013, it was reported that there are around 800 IOF soldiers in the Old City on “an average day,” and the number increases to between 3,000-5,000 police during the month of Ramadan.<sup>10</sup>

In June 2017, Israeli Minister of Strategic Affairs Gilad Erdan, stated that there would be “an unprecedented change in the entire security system at the Damascus Gate – cameras, positions, intelligence, changing the territory – everything is

7 Id. at p.28.

8 Al-Haq, “International Community must Intervene to End Israel’s Targeting of Jerusalem” (20 July 2017), available at: <http://www.alhaq.org/publications/papers/Israel%E2%80%99s.Targeting.of.Jerusalem.pdf>

9 Al-Haq, “Quashing Assembly: Violent ‘Jerusalem Day’ Celebrations as Israeli Mobs Parade Through Occupied Palestinian Territory (OPT)” (16 May 2018), available at: <http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/1248-quashing-assembly-violent-jerusalem-day-celebrations-as-israeli-mobs-parade-through-occupied-palestinian-territory-opt>; Al-Haq, “Suppression of Peaceful Assemblies in Jerusalem” (23 December 2017), available at: <http://www.alhaq.org/images/thumbnails/images/stories/Images/1163.pdf>

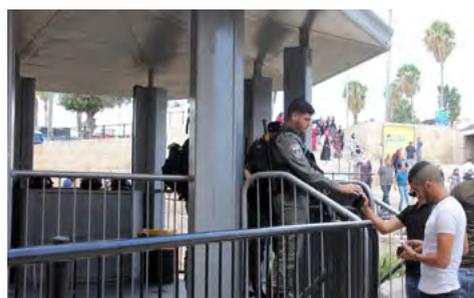
10 “The Eyes of the Old City: ‘Mabat 2000’ Captures All” (The Jerusalem Post, 18 June 2013), available at: <https://www.jpost.com/National-News/The-eyes-of-the-Old-City-Mabat-2000-captures-all-316885>

done to significantly reduce attacks on this area.”<sup>11</sup> Shortly thereafter, Israel began to construct permanent IOF watchtowers on both sides of the stairs leading into Damascus Gate, as well as a watchtower immediately at the entrance of the gate. The IOF watchtowers have militarized and marred the most picturesque gate to the Old City, and are designed to intimidate Palestinians and reinforce Israel’s so-called ‘security’ narrative for tourist consumption. The Permanent Delegation of Palestine to UNESCO noted that the changes may “impact...the Outstanding Universal Value of the World Heritage site;” notably the Old City and its Walls are listed as a site of World Heritage in danger by UNESCO since 1982.<sup>12</sup>

Prior to the construction of the watchtowers, the IOF had maintained a regular presence at and around the Gate. This presence, and the high concentration of the IOF in the Old City more generally, has led to Palestinians, especially young Palestinian men, being routinely stopped, searched, and questioned in an effort to harass and deter them from entering the Old City.<sup>13</sup>



IOF Watchtower at Damascus Gate © Al-Haq.



IOF Harassing Palestinian Youth at Damascus Gate © Al-Haq.

11 “Israel Planning ‘Unprecedented Change’ for Jerusalem Security”, (The Jerusalem Post, 22 June 2017), available at: <https://www.jpost.com/jerusalem/Interior-security-minister-unprecedented-change-planned-for-Old-City-security-497603>

12 UNESCO, Old City of Jerusalem and its Walls, Factors Affecting the Property in 2018, <https://whc.unesco.org/en/soc/3786>

13 “Detained, Arrested and Harassed: The Life of Palestinian Teens in East Jerusalem”, (Haaretz, 11 January 2018), available at: <https://www.haaretz.com/middle-east-news/palestinians/.premium-detained-arrested-and-harassed-the-life-of-palestinian-teens-in-east-jerusalem-1.5730242>

This treatment of the occupied population was facilitated by the passing of legislation in February 2016, by the Israeli Parliament (Knesset), which allowed police to stop and frisk individuals without probable cause that they have committed or are about to commit a crime.<sup>14</sup> The bill was “revived” in October 2015, and alongside other measures taken by the Israeli Cabinet, was immediately documented by Al-Haq to be used by the IOF against Palestinians “acting *ultra vires* the law in East Jerusalem.”<sup>15</sup>



Picture taken on 27 November 2016 at Damascus Gate © Al-Haq.



Picture taken on 15 January 2017 inside the Old City © Al-Haq.

In addition to searches, it should also be noted that the heavily armed members of the IOF also regularly use unnecessary, disproportionate and lethal use of force against Palestinians in and around the Old City. This has not only led to unlawful killings of alleged Palestinian suspects, but also the injury of Palestinians hit by stray bullets.<sup>16</sup>

14 The legislation (temporary order) was not extended in January 2018. See: ACRI, <https://law.acri.org.il/he/12594> “Israeli lawmakers approve new stop and frisk laws”, (Chicago Tribune, 2 February 2016), available at: <https://www.chicagotribune.com/news/nationworld/ct-israeli-palestinians-20160202-story.html>

15 *Supra* note 6, p.20.

16 Al-Haq for example documented the case of a Palestinian man shot while driving his car near New Gate on 9 March 2016. The passenger in the car told Al-Haq that they were meters away from the ‘targeted’ vehicle, and the IOF were running and shooting up the street, without prior warning. Al-Haq, “Monitoring & Documentation Department Internal Report”, (9 March 2016); See also “Israeli Forces Admitted to Killing Downed Palestinian Assailant, but Incident was Never Probed”, (Haaretz, 23 December 2018), available at: <https://www.haaretz.com/israel-news/.premium-border-policemen-admit-to-verifying-kill-on-downed-attacker-but-weren-t-probed-1.6767964>

## 2. Eye of the Occupation

Alongside the physical presence of the IOF, Israel also established “Mabat 2000,” a system of approximately 320 to 400<sup>17</sup> Closed-Circuit Television (CCTV) cameras placed throughout the Old City. The cameras can be “maneuvered 360 degrees to follow and track movements,”<sup>18</sup> while the software used allegedly predicts behavior based on algorithms.<sup>19</sup> In 2017, the Israeli government pledged to upgrade the system including with “facial recognition abilities, the ability to detect if an individual is carrying a weapon, including concealed weapons, and providing full profiles of individuals who walk through the streets of the Old City.”<sup>20</sup> The cameras are monitored 24 hours a day, seven days a week on “36 hi-tech touch screens,” and the “system is constantly recording.”<sup>21</sup> Notably, the presence of 320 cameras corresponds to one camera per every 125 permanent residents.<sup>22</sup>



Surveillance tower outside of Damascus Gate  
© Al-Haq



Surveillance cameras in the Old City © Al-Haq

Palestinian residents and shopkeepers in the Old City are keenly aware of the presence of the cameras. In a 2018 WhoProfits report, one resident was quoted as saying “the Old City, the streets and alleyways used to be our collective social spaces, our living rooms. Now, not only are our living rooms surveilled, but they can even see underneath our clothes. Our privacy and liberty are systematically deprived from us, to make us leave and stop resisting.”<sup>23</sup> This

<sup>17</sup> “Jerusalem’s Mabat 2000: Catching terrorists in the act”, (Ynetnews, 18 November 2015), available at: <https://www.ynetnews.com/articles/0,7340,L-4727621,00.html>

<sup>18</sup> “The Eyes of the Old City: ‘Mabat 2000’” (n 10).

<sup>19</sup> Who Profits, “‘Big Brother’ in Jerusalem’s Old City: Israel’s Militarized Visual Surveillance System in Occupied East Jerusalem” (November 2018) 11.

<sup>20</sup> *Id.* at p.11-12.

<sup>21</sup> “Old City Hi-Tech Helps Israeli Police Prevent Crime”, (Jerusalem Post, 1 August 2016), available at: <https://www.jpost.com/Israel-News/Old-City-hi-tech-helps-police-prevent-crime-462907>

<sup>22</sup> *Supra* note 10.

<sup>23</sup> *Id.* at p.12.

sentiment was echoed by a shopkeeper, who stated, “they don’t only want to watch us, they want us to know that they are watching at all times, that they are the controllers.”<sup>24</sup>

Importantly, Israeli and international businesses facilitate this comprehensive surveillance system,<sup>25</sup> which is showcased as part of Israel’s training programs with police and other “security” forces globally.<sup>26</sup> After participating in such a program, the Chief of the Atlanta Police Department in the United States reportedly established the city’s Video Integration Center, a “network of more than 5,300 both public and private cameras,” modeled after the Mabat 2000.<sup>27</sup>

## C. Applicable International Law Standards

Israel’s ID-system as well as the barriers it has established throughout the OPT, ranging from the Annexation Wall to checkpoints, serve to fragment the territory and Palestinian society, and obstruct Palestinians’ right to freedom of movement. These policies are intensified in Jerusalem, where neighborhoods may be separated from each other, and as Israel increasingly uses bans on entry into the Old City. As a result, the right of Palestinians to freedom of movement is violated. Paragraphs 1 and 3 of Article 12 of the International Covenant on Civil and Political Rights (ICCPR) assert respectively:

“1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.”

<sup>24</sup> *Id.* at p.13.

<sup>25</sup> Israeli company C. Mer Group was awarded the contract to install and maintain Mabat 2000, while the system hardware used includes that from: VideoTec, a private Italian company; Dahua Technology, a public Chinese company; and Evron Systems Ltd., a private Israeli company. WhoProfits also documented cameras from Sony, a public Japanese company, installed at Damascus Gate. *Supra* note 10, p.10-14.

<sup>26</sup> Israel 21c, “US law enforcement officials find security in Israel”, (25 June 2006), available at: <https://www.israel21c.org/us-law-enforcement-officials-find-security-in-israel/>

<sup>27</sup> “Atlanta Police Host International Law Enforcement Officials”, (Liberty Voice, 24 August 2015), available at: <https://guardianlv.com/2015/08/atlanta-police-host-international-law-enforcement-officals/>

In clarifying the right to freedom of movement, the Human Rights Committee has affirmed:

“Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.”<sup>28</sup>

Given that Israel has restricted access to Jerusalem for West Bank and Gaza ID holders and that such restrictions have continued for nearly 20 years, and in light of its stated position of maintaining Jerusalem as its capital, Israel’s obstruction of Palestinian movement, including access to occupied Jerusalem, does not conform to the exception provided for in Article 12.<sup>29</sup>

Furthermore, the arbitrary harassment of Palestinians at Damascus Gate and throughout the Old City, including through searches and heavy surveillance, is meant to instill fear in the Palestinian population at large. It further violates their basic inalienable rights including but not limited to non-discrimination, equality, freedom from inhuman or degrading treatment and the right to liberty and security of person. Article 27 of the Fourth Geneva Convention also asserts, “Protected persons are entitled, in all circumstances, to respect for their persons, their honor... They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.” Additionally, the ICCPR affirms:

“1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

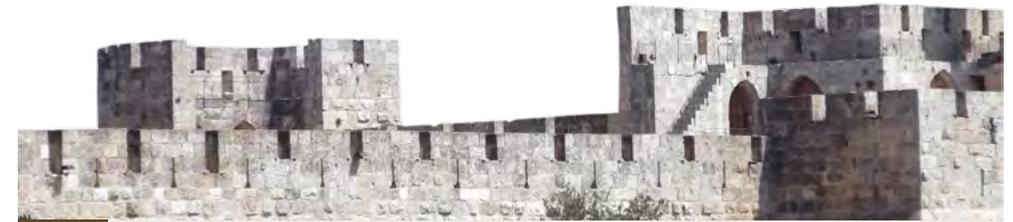
2. Everyone has the right to the protection of the law against such interference or attacks.”

Last, while Israel has claimed that the watchtowers at Damascus Gate “are removable, had been installed for security reasons and would be removed when the security situation allows,”<sup>30</sup> its actions there, and in the Old City more broadly, violate Article 56 of the Hague Regulations which prohibits “all seizure of, destruction or willful damage done to” religious, charitable, educational, and arts and sciences institutions, or historic monuments.

28 Human Rights Committee, General Comment 27, Freedom of Movement (Art.12), U.N. Doc CCPR/C/21/Rev.1/Add.9 (1999).

29 See, Applied Research Institute-Jerusalem (ARIJ), “The Israeli Permit Regime: Realities and Challenges” (2018), available at: <https://www.arij.org/files/arijadmin/2018/permits1.pdf>

30 Supra note 12.



### III Population Transfer in the Old City

Israel began its process of population transfer, settlement, and erasure of Palestinian presence in Jerusalem immediately following the end of the 1967 war. The prolonged and stark impact of these policies is perhaps most clearly demonstrated by Israel’s actions in the Moroccan Quarter of the Old City. On 10 June 1967, Israel gave residents in the Moroccan Quarter a few hours notice to evacuate.<sup>31</sup> By the following evening, Israel had dynamited and bulldozed two mosques and 135 houses in the Quarter, belonging either to the Islamic Waqf<sup>32</sup> or Palestinians, which caused the “expulsion of 650 poor and pious Muslims from their homes.”<sup>33</sup> This area became the Western Wall Plaza.

Following the demolition, Israel continued to implement measures to deepen its control over the city; however, it was also aware of how such actions may be perceived by the international community. The Israeli organization Akevot documented a “classified cable sent to Israeli delegations abroad on 26 June 1967;” the cable urged the diplomats to present the annexation of the Old City as an “act of ‘Municipal Fusion,’ meant to provide proper services to residents of Jerusalem and its vicinity.”<sup>34</sup> The following day, Israel immediately implemented the “Law and Administration Ordinance (Amendment No.11), which provided that the law, jurisdiction and administration of the state should apply in any area designated by the Government by order.”<sup>35</sup> This was then followed by an order declaring that the “Old City of Jerusalem and some adjacent territory shall be

31 Thomas Abowd, “The Moroccan Quarter: A History of the Present”, 7 Journal of Palestine Studies (2000), available at: <https://www.palestine-studies.org/jq/fulltext/78159>

32 This is a religious trust.

33 Report of the Secretary-General under General Assembly Resolution 2254 (ES-V) Relating to Jerusalem, 12 September 1967, UN Doc. S/8146, para. 114.

34 Akevot, “It should be described as an act of Municipal Fusion, rather than annexation,” (26 June 1967), available at: <https://www.akevot.org.il/en/article/municipal-fusion/?full>

35 Henry Cattán, “Jerusalem” (St. Martin’s Press New York, 1981) 71.

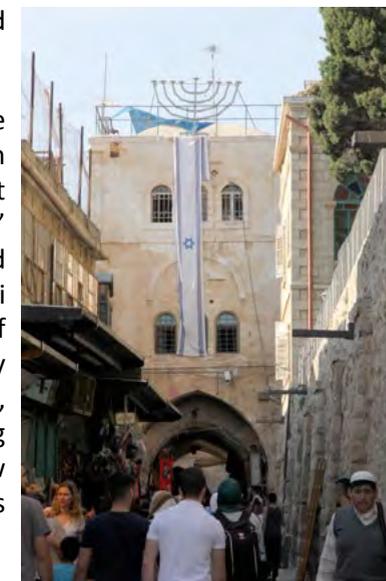
subject to the law, jurisdiction and administration of Israel.”<sup>36</sup>

Such measures, which aim to establish further control over Jerusalem, have continued ever since. In April 1968, Israel’s Ministry of Finance issued an order for the expropriation of 29 acres in the Old City, which included 700 stone buildings, the overwhelming majority of which were owned by Palestinians prior to 1948.<sup>37</sup> The former mayor of Jerusalem alleged that the expropriation would lead to the displacement of more than 6,000 Palestinians from the Old City.<sup>38</sup> In response to the action and what it viewed as Israel’s plan to expel Palestinians and replace them with Jewish residents, Jordan addressed a communication to the UN Security Council. Israel replied that “renewed discussions of those questions would not serve the interests of peace.”<sup>39</sup> Indeed, Israel’s aim was to establish a new Jewish Quarter in the expropriated area. With no real action taken by the international community, Israel began a mass eviction process lasting over 10 years resulting in the forced displacement of thousands of Palestinians from the area.<sup>40</sup>

It is important to note that the “Jewish Quarter” that was established following the occupation is not representative of the “traditional” area inhabited by the Jewish community before 1948. The original Jewish Quarter in the Old City was small and “fluctuated according to immigration and political circumstances,”<sup>41</sup> and is now estimated to be “five times larger than its original area.”<sup>42</sup> It should be further noted that “no more than 20 percent of the Quarter was owned by Jews at the outbreak of the 1948 War,” while the majority of properties belonged

“to Palestinian landlords and *waqfs*, *khayri* and *dhurri*.”<sup>43</sup>

After this period of direct State action to remove Palestinians from the new, expanded “Jewish Quarter”, the subsequent phases of settlement in the Old City have been referred to as “covert” settler targeting of the Muslim Quarter, followed by “overt” support of settlers by the Israeli government.<sup>44</sup> This targeting and takeover of Palestinian properties has been facilitated by discriminatory laws and a biased judiciary, where settlers can often “keep cases pending indefinitely.”<sup>45</sup> The below section highlights a few of the methods used to transfer Israeli settlers into, and Palestinians out of, the Old City.



Former Israeli Prime Minister Ariel Sharon’s settlement home on Al-Wad Street © Al-Haq.

## A. Lack of Adequate Housing and Services

Palestinians living in the Old City, and Jerusalem more generally, face systematic discrimination in regards to building and expanding homes, and in accessing adequate municipal services. The Jerusalem Municipality rarely grants building permits to Palestinians living in the Old City, and the Antiquities Authority also closely monitors construction activities and renovations. In 2015, it was reported that this entails a “\$300-per-day observation fee for personnel” which individuals must pay to the Authority.<sup>46</sup> A resident of the African Quarter interviewed by Al-Haq stated, “Even if you want to and are able to renovate, the municipality and Antiquities Authority come and check. The entire process takes time; it can take years. As a result, the housing conditions are very bad.”<sup>47</sup>

<sup>43</sup> *Supra* note 41, p.175.

<sup>44</sup> *Supra* note 37, p.32-33.

<sup>45</sup> *Id.* at p.50.

<sup>46</sup> The cited article notes, “Fewer than ten permits were granted during almost 50 years of occupation.” Simon Kouba, “Rehabilitation Works in the Old City of Jerusalem, This Week in Palestine” *This Week in Palestine* (February 2015), available at: <http://thisweekinpalestine.com/wp-content/uploads/2015/02/Renovation-and-Rehabilitation.pdf>

<sup>47</sup> Interview with resident of African Quarter (name withheld), 28 July 2018.

<sup>36</sup> *Id.*

<sup>37</sup> One hundred and five of the 700 buildings were reported to have belonged to Jews before 1948. Michael Dumper, “Israeli Settlement in the Old City of Jerusalem”, XXI (4) *Journal of Palestine Studies* (Summer 1992) 37-38.

<sup>38</sup> *Id.* at p.38.

It should be noted that a September 1967 UN report included information regarding “[T]he expulsion and rendering homeless of the 3,000 inhabitants of Sharif Quarter, on the pretext that Jews had lived in the Quarter in the past, although most of the houses in the area had been inhabited by Arabs throughout and owned by Muslim Waqf.” Report of the Secretary-General Under General Assembly Resolution 2254 (ES-V) Relating to Jerusalem, S/8146, (12 September 1967), Annex I, available at: <https://unispal.un.org/dpa/dpr/UNISPAL.NSF/181c4bf00c44e5fd85256cef0073c426/b78930c63d3bb4d285256265005ec4e1?OpenDocument>

<sup>39</sup> Yearbook of the United Nations 1968, Volume 22, Office of Public Information, (31 December 1968), available at: <https://unispal.un.org/UNISPAL.NSF/0/9D181D3B2925E6B785256CC6007496AA>

<sup>40</sup> While some accepted compensation, Israel also litigated against, harassed, and coerced many other tenants to ensure their transfer, and issued an amendment to the Absentee Property Law. *Supra* note 37, p.38.

<sup>41</sup> Michael Dumper, *The Politics of Jerusalem* (Columbia University Press, 1997) 174-175.

<sup>42</sup> Nadia Abu El-Haj, *Facts on the Ground: Archaeological Practice and Territorial Self-Fashioning in Israeli Society* (University of Chicago Press, 2002) 167.

One man interviewed by Al-Haq was recently forced to self-demolish his home, where he lived with his wife and children, on Al-Wad Street in the Old City. The three-story building owned by the Islamic Waqf includes a restaurant on the first floor, owned by his cousins, and an apartment belonging to his mother on the second floor. When his own family grew, he decided to build on the third floor:

*"in 1999 before the second Intifada, I built it without a permit, as it is well known that the Occupation prohibits any construction for Palestinians in the Old City... The first two floors of the building were built tens of years before the Nakba and the occupation."*<sup>48</sup>

He went on to describe his experience:

*"The harassment started in 2007, when inspectors from the municipality came and gave me a demolition order that would be carried out within 60 days. I went to the court to appeal against the order. The issue reached the High Court, who approved the demolition in 2016. During the years that the case pended in courts, I was fined three times: the first time I was fined 35,000 shekels, and then 20,000 shekels each, the second and third time. I paid it all; I also tried to attain a building license and asked a number of lawyers and engineers for advice, and they all told me that I would be paying a lot and would not have a positive result as the Occupation would not allow any building in the Old City because it is a historical area. After the final decision was issued in 2016, I demolished the internal partitions of the house; it was no longer suitable for living: only the ceiling and the four external walls remained. A year later, in 2017, I was summoned by the municipality to attend a court session, where the court decided that I would have until 27 January 2017 to demolish the house, or the municipality would demolish and I would be charged the costs. I did not demolish, and went to the Municipal Court to postpone, and they gave me until 7 April to demolish. On 1 April, I began to self-demolish my house, and it took me ten days to do so. The house was built from cement and stone. It cost me 35,000 shekels to demolish [...]"*<sup>49</sup>

As a result of the lack of adequate housing, overcrowding in the Old City is so severe that some families must sleep in shifts,<sup>50</sup> while other expanding families

48 Al-Haq Affidavit 223/2019.

49 Id.

50 Edmund Sanders, "In Jerusalem's Old City, Muslim Quarter faces overcrowding woes" (LA Times, 20 September 2012), available at: <https://www.latimes.com/world/la-xpm-2012-sep-20-la-fg-jerusalem-muslim-quarter-20120921-story.html>

either leave the Old City or, as highlighted above, are forced to build "illegally." A 2013 report by the United Nations Conference on Trade and Development (UNCTAD) noted the "higher housing density" in Palestinian areas of the Old City, where the Muslim Quarter had an estimated "53 persons/1,000 m<sup>2</sup> compared to 19 persons" in the Jewish Quarter.<sup>51</sup>

## B. Evictions

In 1970, Israel promulgated the Legal and Administrative Matters Law, allowing Israelis to lodge "claims to land and property allegedly owned by Jews in East Jerusalem prior to the establishment of the State of Israel."<sup>52</sup> As a result, hundreds of Palestinians currently remain under threat of eviction in East Jerusalem neighborhoods. Notably, Palestinians who lost their properties and were forcibly displaced in 1948 are prohibited from reclaiming them, while Jews who had been evacuated in 1948 were compensated.<sup>53</sup>

In January 2019, the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA) estimated that 74 Palestinians were at risk of eviction in the Old City of Jerusalem, including 30 children.<sup>54</sup> The Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967 recently noted that the majority of these claims "have been brought by settler organisations, exist within the context of Israel's unilateral annexation of occupied East Jerusalem. UN Security Council resolutions affirm that all legislative and administrative measures taken by Israel to alter the character and status of Jerusalem are null and void."<sup>55</sup>

51 UNCTAD, "The Palestinian Economy in East Jerusalem: Enduring Annexation, Isolation and Disintegration" (2013) 30, available at: [https://www.un.org/depts/dpa/qpal/docs/2014Ankara/P2%20MAHMOUD%20ELKHAFIF%20gdsapp2012d1\\_en.pdf](https://www.un.org/depts/dpa/qpal/docs/2014Ankara/P2%20MAHMOUD%20ELKHAFIF%20gdsapp2012d1_en.pdf)

52 UN OCHA, Imminent eviction of Palestinian family in East Jerusalem, January 2019, <https://www.ochaopt.org/content/imminent-eviction-palestinian-family-east-jerusalem>

53 Id. See also: "Moreover, the Jews who were evacuated during the war from the eastern part of the city, already received alternate housing in abandoned Palestinian property in western part of Jerusalem" in Hamoked, "The Status of West Bank Assets Owned by Jews Prior to 1948: HCJ 3036/03 Shlomo Valero v. The State of Israel (Judgment of February 6, 2011)" (1 July 2012), available at: <http://www.hamoked.org/Document.aspx?dID=Documents1941>

54 UN OCHA, "Imminent eviction of Palestinian family in East Jerusalem" (January 2019), <https://www.ochaopt.org/content/imminent-eviction-palestinian-family-east-jerusalem>

55 Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 15 March 2019, A/HRC/40/73, para.21.

### The Case of the Ghaith-Sub Laban Family

The Ghaith-Sub Laban family have lived in their home as tenants since 1953, renting the property from the Jordanian Custodian of Enemy Property.<sup>56</sup> Following the start of the occupation in 1967, the Israeli General Custodian of Public Property took over the property, and a few years later, the Protected Tenant Law of 1972 granted the family “protected tenant” status.<sup>57</sup> The family was temporarily forced out of their home in the late 1970s and 1980s, but after court proceedings, they were allowed to return in 2000.<sup>58</sup> The property was privatized by means of tender and without notification to the family, and in 2010, the Galetzia Trust took over the property. Importantly Galetzia is tied to settler organizations, including Ateret Cohanim.<sup>59</sup> Galetzia filed a court petition to evict the family, and in September 2014, the Magistrate Court, whose presiding judge was a settler, granted the petition on the basis that the family had lost their status as protected tenants.<sup>60</sup> This was followed by two attempts at eviction by the settlers in early 2015. Following an appeal, the Israeli High Court ruled in December 2016, that the parents of the Ghaith-Sub Laban family could stay in the home for an additional ten years as protected tenants, while their children and grandchildren (six persons) who were living with them had to move out immediately.<sup>61</sup>

On 27 January 2019, the Galetzia Trust filed a new eviction case against the Ghaith-Sub Laban family as the 2016 High Court ruling allowed them to start new proceedings two years after the ruling. The case is currently ongoing.

Prior to the initial decision, three UN Special Rapporteurs issued a joint communication on the case to the Government of Israel, highlighting the violations of international human rights law and international humanitarian law arising from the forced eviction of the family.<sup>62</sup> As noted by the former Special Rapporteur on the OPT, the Ghaith-Sub Laban case is “illustrative of the environment in which Palestinians in the occupied East Jerusalem live with pressure from powerful settler organizations, and the absence of proper legal protections for Palestinians.”<sup>63</sup>

In addition, the case highlights how the Israeli judiciary, government authorities, and settler organizations operate together to target and transfer Palestinians from their homes.

<sup>56</sup> According to a member of the Ghaith-Sub Laban family, while a Jewish family lived in the house pre-1948, it is not clear as to whether they were owners or tenants.

<sup>57</sup> Lawyers for Palestinian Human Rights, “LPHR Urgent Action: Under a month to prevent the unlawful forced displacement of the Ghaith-Sub Laban family from their home of over 60 years in occupied East Jerusalem” (4 November 2015), available at: <https://lphr.org.uk/latest-news/lphr-urgent-action-under-a-month-to-prevent-the-unlawful-forced-displacement-of-the-ghaith-sub-laban-family-from-their-home-of-over-60-years-in-occupied-east-jerusalem/>

<sup>58</sup> Id.

<sup>59</sup> Id.

<sup>60</sup> Joint communication (case No. ISR 1/2015) with the Special Rapporteurs on adequate housing as a component of the right to an adequate standard of living, on the independence of judges and lawyers, and on the situation of human rights in the Palestinian territories occupied since 1967, 30 April 2015, available at:

[https://spdb.ohchr.org/hrdb/30th/public\\_-\\_UA\\_Israel\\_30.04.15\\_\(1.2015\)\\_pro.pdf](https://spdb.ohchr.org/hrdb/30th/public_-_UA_Israel_30.04.15_(1.2015)_pro.pdf)

<sup>61</sup> Charlotte Silver, “Israeli Judges Order Grandchildren out of Jerusalem Family’s Home” (Electronic Intifada, 21 December 2016), available at: <https://electronicintifada.net/blogs/charlotte-silver/israeli-judges-order-grandchildren-out-jerusalem-familys-home>

<sup>62</sup> Joint communication (case No. ISR 1/2015) with the Special Rapporteurs on adequate housing as a component of the right to an adequate standard of living, on the independence of judges and lawyers, and on the situation of human rights in the Palestinian territories occupied since 1967, 30 April 2015, available at:

[https://spdb.ohchr.org/hrdb/30th/public\\_-\\_UA\\_Israel\\_30.04.15\\_\(1.2015\)\\_pro.pdf](https://spdb.ohchr.org/hrdb/30th/public_-_UA_Israel_30.04.15_(1.2015)_pro.pdf)

<sup>63</sup> Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Makarim Wibisono, 11 January 2016, A/HRC/31/73, para. 52.

## C. Targeting of Church Properties

In addition to properties owned by Palestinians and those allegedly previously owned by Jews, settler groups have also targeted the properties of religious authorities in the Old City, and most infamously those of the Greek Orthodox Church. The Greek Orthodox Church reportedly owns one-third of the land in the Old City,<sup>64</sup> and has been under persistent criticism for the takeover and/or sale of its land, often well-below market value, to settler groups and Israeli entities throughout mandate Palestine. These have included strategic properties in Bethlehem, Jaffa, and Haifa, amongst other places.<sup>65</sup> Importantly, critics of the Church note that much of the land was “given to the Church as an endowment, for safekeeping and to benefit the Orthodox community as a whole” by the Palestinian population.<sup>66</sup>

### 1. Jaffa Gate Area

As will be discussed in Section IV, Israel has sought to deepen its control over the Jaffa Gate area in order to not only benefit the Israeli tourism economy, but to also control how visitors view the city. Critical to the future of the area has been a 2004 sale of key Church properties to the Israeli settler group Ateret Cohanim,<sup>67</sup> which included:

- New Imperial Hotel (Jaffa Gate), purchased for \$1.25 million;
- Petra Hotel (Jaffa Gate), purchased for \$500,000; and
- Land near Bab Hutta (Muazmia Street 18), purchased for \$55,000.<sup>68</sup>

The deal included a lease term of 99 years renewable.<sup>69</sup> At the time, then-

64 Dalia Hatuqa, “Holy Land for Sale”, (Foreign Policy, 7 January 2019), available at: <https://foreignpolicy.com/2019/01/07/holy-land-for-sale/>

65 Greek Patriarch’s Sale of Church Lands to Settler Groups Infuriates Palestinian Christians, Washington Report on Middle East Affairs, November/December 2017, available at: <https://www.wrmea.org/israel/palestine/greek-patriarchs-sale-of-church-lands-to-settler-groups-infuriates-palestinian-christians.html>

66 Id.

67 The deal was reportedly made between holding companies for Ateret Cohanim - Berisford Investments Ltd, Richards Marketing Corporation and Gallow Global Ltd- and the Church. Court sides with right-wing Jewish group in Old City church property dispute, Times of Israel, 1 August 2017, available at: <https://www.timesofisrael.com/court-sides-with-right-wing-jewish-group-in-old-city-church-property-dispute/>

68 Id. Jihad Abu Raya, “The most disputed land on earth: How Greek Orthodox church sold off Palestinian plots” (Middle East Eye, 28 September 2017), available at: <https://www.middleeasteye.net/big-story/most-disputed-land-earth-how-greek-orthodox-church-sold-palestinian-plots>

69 *Supra* note 68.

Greek Orthodox Patriarch Irenaius claimed that his “finance director, Nikolas Papadimos,” who held power of attorney, closed the deals without his approval.<sup>70</sup> Given the importance of the properties, the Palestinian Cabinet established a fact-finding committee, which found that although there was no evidence incriminating Irenaius, the regular internal procedures in the Church had not been followed, and that a “well calculated plan” had unfolded which ultimately led to the deal.<sup>71</sup>

Following the house arrest of Irenaius and years of litigation, in August 2017,



Tourist posing with IOF outside of Petra Hotel, August 2018 © Al-Haq.

the Jerusalem District Court ruled in favor of Ateret Cohanim - denying the Church’s claim that the leases were obtained fraudulently - and even ordering the Church to pay the legal costs of Ateret Cohanim.<sup>72</sup> The Church appealed the decision; however, on 10 June 2019, the Israeli Supreme Court upheld the lower court’s decision. Palestinian merchants interviewed in the Jaffa Gate area repeatedly emphasized the devastating effects

that such a takeover would have on the area; one representative from an NGO in the area stated, “Everyone is terrified.”<sup>73</sup>

### 2. St. John’s Hospice

The dire impact that the Jaffa Gate properties would have on Palestinians, including on the broader character of the Old City, can be surmised from another Greek Orthodox property taken over by Ateret Cohanim in the Old City. The St. John’s Hospice, located in the Christian Quarter and overlooking the Church of the Holy Sepulchre, was taken over by 150 settlers in April 1990, following the alleged subleasing of the property to a Panamanian-registered company linked to Ateret

70 Id.

71 The Palestinian Commission to probe the facts and realities of the so-called Bab Al-Khalil and the Greek Orthodox Patriarchate, Report of the Legal Commission (English translation).

72 Sue Surkes, “After Court Loss, Church Vows Fight Over Old City Hotels Will Go On” (Times of Israel, 1 August 2017), available at: <https://www.timesofisrael.com/after-court-loss-church-vows-fight-over-old-city-hotels-will-go-on/>

73 Interview with representative of St. Yves, 1 August 2018.

Cohanim.<sup>74</sup> The Greek Orthodox Church said that it did not agree to the sublease nor did it receive any proceeds from it, and moved to evict the settlers in court.<sup>75</sup> Ateret Cohanim did not act alone in the takeover, with the Israeli Ministry of Housing and Construction contributing \$1.8 million for the lease, via a subsidiary of the Jewish National Fund.<sup>76</sup> A spokesperson for the settlers stated at the time that the hospice was “a test case because... more than any other building, fulfilled Ateret Cohanim’s goal to settle Old Jerusalem.”<sup>77</sup>

The takeover was protested locally, including with a one-day closure of all Christian holy places in cities ranging from Nazareth to Bethlehem,<sup>78</sup> as well as with a demonstration in front of the Hospice that was violently dispersed, and where the then-Patriarch “was pushed to the floor by settlers.”<sup>79</sup> The US State Department even called the settler takeover “an insensitive and provocative action.”<sup>80</sup> Irrespective of this widespread condemnation, Ateret Cohanim retains control of the site, which now includes residential space for 10 families, with approximately 100 children between them, alongside a yeshiva for 70-80 students, and a synagogue.<sup>81</sup>

The transformational impact of such takeovers on the character of the Old City and Palestinian presence therein are urgent and severe. Although religious institutions, including the Greek Orthodox Church, and others have affirmed that these transfers breach the “status quo”<sup>82</sup> and that the transfer of settlers is illegal under international law, robust action, including by the diplomatic community, has not been taken. Instead, these incidents highlight the dubious and veiled

74 Orly Levy and Erik Cohen, “The Occupation by Jews of St. John’s Hospice in the Old City of Jerusalem: An Analysis of an Iconic Event” 26(2) *Urban Anthropology and Studies of Cultural Systems and World Economic Development* (Summer, 1997) 208.

75 *Id.* at 218-219.

76 *Id.* at 215.

77 *Id.* at 220.

78 “Christian Sites to Close in 1-Day Israel Protest” (Los Angeles Times, 24 April 1990), available at: <https://www.latimes.com/archives/la-xpm-1990-04-24-mn-330-story.html>

79 Michael Dumper, *The Politics of Jerusalem*, (n 41) 195.

80 *Supra* note 77.

81 “Entire neighborhood behind one door in the Old City of Jerusalem” (Israel National News, 29 May 2017), available at: <http://www.israelnationalnews.com/News/News.aspx/230311>

82 In regards to the Jaffa Gate properties, Church leaders, “condemned Israel for its ‘systematic attempt to undermine the integrity of the Holy City of Jerusalem’ and ‘weak[ening] the Christian presence’ in Palestine” in, “Church leaders condemn Israel for ‘systematically’ undermining Christianity” (Middle East Monitor, 7 September 2017), available at: <https://www.middleeastmonitor.com/20170907-church-leaders-condemn-israel-for-systematically-undermining-christianity/>

manner in which properties are acquired in the Old City in particular, the support that Israeli State authorities, including the judiciary, provide in order to facilitate unlawful settler presence, and a broader environment of impunity as Palestinian presence is erased.

Israeli State authorities have also sought to use other methods to target properties owned by churches. In 2018, the Jerusalem Municipality initiated a plan to impose taxes on church properties, which leaders of the Greek Orthodox, Catholic and Armenian churches said was part of a “systematic campaign against the churches and the Christian community in the Holy Land, in flagrant violation of the existing status quo.”<sup>83</sup> Also in 2018, a bill was put forward in the Knesset (the Israeli parliament) to allow for the State to seize Church property that was sold to private developers.<sup>84</sup> Neither the bill nor the taxation plan has been implemented.

#### D. Applicable International Law Standards

Since 1967, Israel has sought to forcibly transfer the Palestinian population from the Old City and transfer in Israeli settlers. Article 49 of the Fourth Geneva Convention



Café on Al-Wad Street with signpost stating that it was “Established by Australian Friends of Ateret Cohanim.” © Al-Haq

prohibits the individual or mass forcible transfer of protected persons, and only provides for exceptions of total or partial evacuation “if the security of the population or imperative military reasons so demand.” Forcible transfer can be both direct and indirect, where a coercive environment is created which deprives protected persons of a “free or genuine choice to remain.”<sup>85</sup>

83 Ruth Eglash, “Israel backtracks on plan to tax church properties” (Boston Globe, 27 February 2018), available at: <https://www.bostonglobe.com/news/world/2018/02/27/israel-backtracks-plan-tax-church-properties/uYOMRqhbizCLbYNFAtETxN/story.html>

84 “Jerusalem churches fear Israel is using ‘discriminatory’ bill to seize their land” (Christian Today, 23 December 2018), available at: <https://www.christiantoday.com/article/jerusalem-churches-fear-israel-is-using-discriminatory-bill-to-seize-their-land/131307.htm>

85 Judgment in the Case the Prosecutor v. Vidoje Blagojevi and Dragan Joki, Summary of Judgment, 17 January 2005, p.5, available at: [http://www.icty.org/x/cases/blagojevic\\_jokic/tjug/en/050117\\_Blagojevi\\_Joki\\_summary\\_en.pdf](http://www.icty.org/x/cases/blagojevic_jokic/tjug/en/050117_Blagojevi_Joki_summary_en.pdf)

Palestinians have been subject to direct forcible transfer by Israel, since the start of the occupation when it demolished and cleared the Moroccan Quarter. Israel has also facilitated an environment ripe for indirect transfer, including through its discriminatory planning policy, lack of provision of basic services in the Old City, and impunity for settler attacks. In doing so, Israel has also violated the right of Palestinians to an adequate standard of living, which includes adequate housing,<sup>86</sup> and freedom to choose one's residence,<sup>87</sup> amongst other rights.

Importantly, unlawful transfer also includes the transfer of the Occupying Powers own civilian population into the occupied territory. The Commentary to Article 49 of the Fourth Geneva Convention notes that this practice had been used by Occupying Powers "for political and racial reasons or in order, as they claimed, to colonize those territories." Indeed, Israeli officials and settlers themselves have underscored their desire to change the demography of Jerusalem through the transfer of Israeli settlers into the city, and the OPT more broadly.

<sup>86</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, Art. 11.

<sup>87</sup> International Covenant on Civil and Political Rights (ICCPR), Adopted by the General Assembly of the United Nations on 19 December 1966, Art. 12.



## IV Forcing a Disconnect: Israel's Policies towards Palestinian Institutions and Obstructing Religious Practices

Jerusalem has been the educational, social, and cultural capital for Palestine, with the Old City, in particular, having a central role in the religious life of Palestinians. Accordingly, the Old City is not only of deep historical importance to Palestinians, but continues to have tangible and intangible impacts on Palestinian society as a whole. Rather than respect and facilitate these connections, Israel has instituted a variety of policies and practices that seek to distance all Palestinians from the Old City, and ensure that Israel controls the scope of any educational, social, religious and other ties to, and activities in, the city.

### A. Targeting of Educational, Cultural, and Social Institutions

Palestinian educational, social, and cultural institutions in Jerusalem have been both directly targeted by Israeli authorities and impacted by Israel's broader policies since the start of the occupation. It has been estimated that since 1967, Israel has closed over 120 Palestinian social, cultural, and political institutions in Jerusalem.<sup>88</sup> In February 2019, the European Union (EU) Representative noted Israel's "extension of the ban on Palestinian institutions in East Jerusalem, including the Orient House and the Arab Chamber of Commerce and Industry, which have now been prevented from operating for the past 18 years," and noted that "the lack of Palestinian institutional presence in East Jerusalem continues to negatively affect

*"There is another kind of killing. Jerusalem is being choked. They are killing it without showing it."*

-Omar Gharabli, Director of the Industrial Islamic Orphanage

<sup>88</sup> PLO Negotiation Affairs Department, email inquiry response received 26 March 2019.

the political, economic, social and cultural life of Palestinians living there, as well as the security situation on the ground.”<sup>89</sup>

As throughout other areas of Jerusalem, Palestinian institutions in the Old City have also been impacted due to Israel’s imposed isolation and fragmentation of the city and harassment and closure of institutions by Israeli authorities. The section below highlights a few of these cases.

### 1. Burj Al-Luq Luq

The Burj Al-Luq Luq Social Center Society, established in 1991, is in the Bab Hutta area of the Muslim Quarter. It provides sports, recreational, and a variety of other programs to both children and adults, and a much needed open space for the community. The Center also aims to “protect the land from any kind of future settlement or confiscation and to ensure it remains open and accessible to Old City residents.”<sup>90</sup> Its size and location has made it a prime target of Israeli authorities and settler groups. For example, Ateret Cohanim targeted the area in 1996, with the aim of building settler homes, a synagogue and a religious school next to the Center.<sup>91</sup>

There are currently three demolition orders pending against the Center, including on its greenhouse, canopy, and the football stadium stairs.<sup>92</sup> During the first Friday of Ramadan 2019, the IOF invaded the Center and said that the Ramadan *fanous* (lantern) was unlicensed and would be demolished.<sup>93</sup> After going to Court, it was decided that the Center could keep the *fanous* until the end of Ramadan.

The IOF also regularly raids the Center, harassing children and staff there. For example, on 22 November 2014, the IOF raided and searched the Center for over two hours, and also stormed the daycare area where nearly 40 children were present.<sup>94</sup> The Director of the Center stated that the incident caused fear and

89 The Office of the European Union Representative (West Bank and Gaza Strip, UNRWA), “Local EU statement on the extension of the ban on Palestinian institutions in East Jerusalem” (12 February 2019), available at: [https://eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/58002/local-eu-statement-extension-ban-palestinian-institutions-east-jerusalem\\_en](https://eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/58002/local-eu-statement-extension-ban-palestinian-institutions-east-jerusalem_en)

90 About Us: Our Goals, Burj Al-Luq Luq Social Center Society, available at: <http://www.burjalluquq.org/home/about-us/about-the-society/>

91 “Children’s Playground, Women’s Recreation Tent among Latest Targets as Israel Intensifies Oppression of Old City Palestinians” (Wafa, 29 March 2007), available at: <http://english.wafa.ps/page.aspx?id=zxEj4ca9232955853azxEj4c>

92 Interview with Muntaser Dkaidek, Director of Burj Al Luq Luq, 20 April 2019.

93 Id.

94 “Israeli occupation forces storm the headquarters and kindergarten of Burj Al-Luq Luq” (Arabic) (22 November 2014), available at: <https://www.raya.ps/news/878746.html>

confusion amongst the children.<sup>95</sup>

### 2. Industrial Islamic Orphanage

The Industrial Islamic Orphanage (hereafter IIO) was established in 1922 as a dormitory and school, providing vocational training to young boys and men. The building also historically had an area for the elderly and for girls.<sup>96</sup> The IIO currently provides vocational training in areas ranging from carpentry to electrical wiring and maintenance, amongst other fields, and is renowned for its printing and publishing training programs and work. The building that houses the school is itself also historically significant; it was a palace during the Mamluk period, and later served as the Jerusalem Mutasarrifate (administrative authority) during the Ottoman period.<sup>97</sup>



The Director of the IIO, Omar Gharabli, emphasized the historical importance of the school to the Arab world, with graduates going on to work throughout the region, and underscored the current isolation of the school due to the occupation. He described how the composition of the school has changed as a result of Israel’s establishment in 1948, and Israel’s occupation and related policies.

*“The school was established in 1922. Initially it had students from all over Palestine. After Israel was established in 1948, it stopped having Palestinian students from within the Green Line. It continued to have students from all over the Arab world until 1967 and the start of the occupation. Once Israel established the Wall, students from the West Bank could not attend.”<sup>98</sup>*

As a result of the school’s isolation, including due to the Annexation Wall, the IIO decided to open a branch in Al-’Eizariyya (Bethany) in order to service Palestinians in the West Bank, while the Old City location is now focused on supporting and providing training for Jerusalem residents.

95 Id.

96 Video: “A Hundred years of giving,” Palestinian Kufiya Channel, available at: <http://www.daralaytam.ps/en/a-hundred-years-of-giving-the-palestinian-kufiya-channel>

97 Id.

98 Interview with Omar Gharabli, Director of Industrial Islamic Orphanage, 2 August 2018.

### 3. Nidal Center

The Nidal Center opened in 2000 in Jerusalem's Old City, and provided educational and cultural activities, including summer camps. The organization was raided in 2005 by the IOF, who confiscated some of its equipment at that time. It was subject to its first closure by the IOF in July 2009, and was forcibly and permanently closed a few months later.<sup>99</sup> The IOF claimed that the organization was closed for "security" reasons; the former director of the organization stated, "the judge informed us that the decision to shut us down had been based on confidential information that, of course, we were not allowed access to."<sup>100</sup> No charges were brought at the time. This was noted by a former worker, who stated after the 2009 closure:

*"They didn't even search the rooms or the people. They knew they wouldn't find anything... They know we organize only cultural and development activities for the children and women of Jerusalem... this is just one of the steps to make Jerusalem the capital of Israel."<sup>101</sup>*

Although individuals cleaned the closed Old City office in 2014, no further steps were taken to reopen it, as the IOF had reportedly made threats against it. Workers from Nidal opened an office in the Shu'fat neighborhood of Jerusalem in 2012, but the IOF raided and closed it in 2015.<sup>102</sup>

99 The Observers, "Israel puts pressure on Palestinian organisations to leave East Jerusalem" (France 24, 21 September 2012), available at: <https://observers.france24.com/en/20120921-israel-puts-pressure-palestinian-organisations-leave-east-jerusalem-nidal-cultural-centre-closed-old-city>

100 Id.

101 "Latest news from the Nidal Centre", (Taayoush, 1 January 2010), available at: <http://taayoush.be/spip.php?article110>

102 Information provided by Mahmoud Jiddeh on 20 April 2019.

## B. Attacks on and Limitations to Accessing Holy Sites in the Old City

The Old City of Jerusalem contains important holy sites for the three Abrahamic religions. Since the start of the occupation, however, Israel has instituted a variety of measures that obstruct Palestinian freedom of worship, while creating a narrative for the holy sites that largely excludes Palestinians. In doing so, Israel again demonstrates that its systematic and discriminatory policies are directed towards the entire Palestinian people, irrespective of religion.

### 1. Attacks on Al-Aqsa Mosque Compound

The Al-Aqsa Mosque Compound, the third holiest site in Islam, has been subject to regular Israeli targeting by both State and settler groups since 1967. Israeli policies and practices have damaged the site itself,<sup>103</sup> and impacted the right of Palestinians to freedom of religion, and have ranged from closures of the compound as a method of collective punishment, to draft legislation in the Israeli parliament that aims to change the status quo of the holy site.



IOF harassing a Palestinian boy outside an entry to Al-Aqsa in August 2017 © Al-Haq



IOF presence outside of an entry to Al-Aqsa © Al-Haq

Limitations on Palestinian access to the Al-Aqsa Mosque Compound extend well-beyond Israel's imposed ID-system that prohibits Palestinians living in the West Bank and Gaza from entering Jerusalem, and also include regular and arbitrary prohibitions on Palestinians (from Jerusalem or other areas) from entering the

103 See, UNESCO Decision 40 COM 7A.13, Old City of Jerusalem and its Walls (site proposed by Jordan) (C 148 rev), 2016, available at: <https://whc.unesco.org/en/decisions/6818>

Old City and Al-Aqsa, including via closures of the compound itself.<sup>104</sup> The arbitrary restrictions are often gender and age-based. For example, on 21 September 2015, Al-Haq documented that the IOF prohibited men under the age of 50 from entering the Compound, while the following day, on 22 September, men under the age of 40 were prohibited.<sup>105</sup>

Israel's easing of entry restrictions for West Bank ID-holders for Fridays during the holy month of Ramadan further highlights the arbitrariness of such measures. During Ramadan 2019, for example, boys under the age of 13, men over the age of 40, and all women were allowed to enter.<sup>106</sup>

The IOF has also aimed to disrupt, surveil, and intimidate Palestinian worshippers through the closure of gates leading to the Compound, as well as by maintaining heavy IOF presence at each entry. This has included the closing of Al-Rahma Gate by military order in 2003, as well as the installment of metal detectors at open entrances in 2017, which were removed after widespread protest.<sup>107</sup>



Palestinians barred from entering Al-Aqsa pray on a street outside of the Old City on 26 September 2014  
© Al-Haq

Given the importance of Al-Aqsa, Israel has also used individual restrictions of entry against Palestinians as a form of punishment. In March 2019, following the reopening of the Al-Rahma Gate, Israel reportedly banned 133 Palestinians from entering the Compound, including religious

officials.<sup>108</sup> Such measures have become a regular tool used by Israel. In targeting

104 See for example: Al-Haq, "Palestinian Harassed As Israeli Extremists Overtake Al-Aqsa Mosque" (23 February 2012), available at: <http://www.alhaq.org/documentation/weekly-focuses/535-palestinian-harassed-as-israeli-extremists-overtake-al-aqsa-mosque>; Al-Haq, "Action Alert: International community must take concrete action to end Israel's aggression against Al-Aqsa" (30 October 2014), available at: <http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/864-al-haq-action-alert-international-community-must-take-concrete-action-to-end-israels-aggression-against-al-aqsa>

105 *Supra* note 6, p.33

106 "Tens of thousands attend second Friday of Ramadan in Jerusalem's Al-Aqsa" (WAFA, 17 May 2019), available at: <http://english.wafa.ps/page.aspx?id=BskvL8a110412865530aBskvL8>

107 *Supra* note 8, p.2.

108 "Israel bans 133 Jerusalemites from Al-Aqsa Mosque" (Middle East Monitor, 5 March 2019), available at: <https://www.middleeastmonitor.com/20190305-israel-bans-133-jerusalemites-from-al-aqsa-mosque/>

the Compound in July 2017, Al-Haq documented that 18 employees of the Islamic Waqf were contacted by Israeli authorities and "were prohibited from entering the Al-Aqsa Compound without detailing the timeframe. Only one employee was given a formal written order which prohibits him from entering for four months."<sup>109</sup> Al-Haq also previously noted the case of a Palestinian boy, who on 18 April 2014, was detained by the IOF for allegedly throwing stones, which he denied. The boy, who was 13 at the time of the incident, was held for nearly six hours, and "released on condition that he would not enter Al-Aqsa compound for three weeks."<sup>110</sup> Such bans are not unique, and have been a persistent feature of Israeli policy.

## 2. Israel's Obstruction of Access to Churches

Due to Israel's restrictions on movement and permit system for all Palestinians, Palestinian Christians living in the West Bank and Gaza are also obstructed from accessing Jerusalem, including during holidays. For Easter 2019, it was reported that between 800-900 Palestinians from Gaza requested permission to visit holy sites in the West Bank, including the Church of the Holy Sepulchre in the Old City, and celebrate with family members living in the West Bank.<sup>111</sup> Instead, Israel arbitrarily granted 200 Palestinians over the age of 55 permission to go to Jordan.<sup>112</sup> Following widespread criticism and after Easter, Israel reportedly allowed 300 Palestinians from Gaza to travel to the West Bank, including Jerusalem, for Orthodox Easter.<sup>113</sup>

Palestinians with West Bank IDs also face similar arbitrary denials of permits by Israel to enter Jerusalem for Christian holidays.<sup>114</sup> One Palestinian underscored the importance of accessing Jerusalem, stating "I would like to introduce my children to the Church [of the Holy Sepulchre]... To be able to take all my children to the

109 *Supra* note 8.

110 *Supra* note 104, Action Alert.

111 Jack Khoury, "Hundreds of Gazans Asked to Celebrate Easter in Jerusalem - Israel Let 200 Go to Jordan" (Haaretz, 17 April 2019), available at: <https://www.haaretz.com/middle-east-news/palestinians/.premium-hundreds-of-gazans-asked-to-celebrate-easter-in-jerusalem-israel-let-200-travel-to-jordan-1.7133802>

112 *Id.*

113 Adam Rasgon, "PA: 300 Gazan Christians permitted to enter Jerusalem for Easter as of Tuesday" (Times of Israel, 23 April 2019), available at: <https://www.timesofisrael.com/pa-300-gazan-christians-permitted-to-enter-jerusalem-for-easter-as-of-tuesday/>

114 Judith Sudilovsky, "Some West Bank Christians don't get Easter permits to enter Jerusalem" (Catholic News Service, 28 March 2016), available at: <https://www.catholicnews.com/services/englishnews/2016/some-west-bank-christians-dont-get-easter-permits-to-enter-jerusalem.cfm>

Church during Easter would be like a dream.”<sup>115</sup> Even upon being able to enter Jerusalem, it should be noted that Israel places barriers to movement within the Old City during Easter, limiting access to the Holy Sepulchre, amongst other areas.



IOF monitoring and documenting Palm Sunday procession at Lion's Gate on 14 April 2019 © Al-Haq



IOF obstructing access to Church of the Holy Sepulchre on Good Friday, 3 April 2015 © Al-Haq

Israeli Occupying Forces also annually monitor and harass Palestinians during Palm Sunday Processions in East Jerusalem, which enter into the Old City. This harassment has included the assault and arrest of Palestinian youth and priests for “raising the Palestinian flag among dozens of flags raised by pilgrims coming from many countries around the world.”<sup>116</sup>

### C. Applicable International Law Standards

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) calls on State Parties to take steps to achieve “steady economic, social and cultural development.”<sup>117</sup> It further recognizes the right of everyone to education<sup>118</sup> and the right to take part in cultural life.<sup>119</sup> The Committee on Economic, Social, and Cultural Rights (CESCR) has affirmed that culture:

*“encompasses, inter alia, ways of life, language, oral and written literature,*

<sup>115</sup> Id.

<sup>116</sup> Palestinian Liberation Organization Negotiations Affairs Department, “Celebrating Easter in occupied Jerusalem: The Resurrection of Hope to Freedom” (15 April 2019), available at: <https://www.nad.ps/en/media-room/media-briefs/celebrating-easter-occupied-jerusalem-resurrection-hope-freedom>

<sup>117</sup> Article 6, ICESCR.

<sup>118</sup> Article 13, ICESCR.

<sup>119</sup> Article 15, ICESCR.

*music and song, non-verbal communication, religion or belief systems, rites and ceremonies, sport and games, methods of production or technology, natural and man-made environments, food, clothing and shelter and the arts, customs and traditions through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence, and build their world view representing their encounter with the external forces affecting their lives.”<sup>120</sup>*

Availability and accessibility are two of the required interrelated features for the attainment of the right to culture and education.<sup>121</sup> Rather than fulfill its duties as Occupying Power, Israel has worked to ensure limited availability of educational and cultural institutions in Jerusalem, and the Old City in particular, and has sought to obstruct access to such institutions and sites by the occupied Palestinian population, as a whole. Under Article 50 of the Fourth Geneva Convention, Israel is obliged “to facilitate the proper working of institutions for children,” which includes “institutions and establishments of a social, educational or medical character.”<sup>122</sup>

The right to religion is also protected under IHL and IHRL. Article 27 of the Fourth Geneva Convention and Article 46 of the Hague Regulations affirm that protected persons are entitled to their religious convictions and practices. The commentary to Article 27 provides that the freedom to practice religion includes “religious observances, services and rites.” It further asserts, “Protected persons in the territory of a Party to the conflict or in occupied territory must be able to practice their religion freely, without any restrictions other than those necessary for the maintenance of public law and morals.”<sup>123</sup> The ICCPR also affirms the right to religion, and the “freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”<sup>124</sup> Limitations on freedom to manifest one’s religion must be “prescribed by law and... necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”<sup>125</sup>

<sup>120</sup> General Comment No 21, Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights), 21 December 2009, E/C.12/GC/21, para. 13.

<sup>121</sup> Id. at para. 16 and General Comment No. 13: The Right to Education (Art. 13), 8 December 1999, E/C.12/1999/10, <https://www.refworld.org/pdfid/4538838c22.pdf>

<sup>122</sup> Commentary to Article 50 of the Fourth Geneva Convention.

<sup>123</sup> Commentary to Article 27 of the Fourth Geneva Convention.

<sup>124</sup> Article 18, ICCPR.

<sup>125</sup> Id. at Article 18(3).



## V Economic Subjugation of the Old City

*“[The Israelis] want a political result from this economic oppression... The goal is to push the people outside the city [beyond the separation barrier]. But first outside the Old City.”*

-Ziyad Hammouri, founder of the Jerusalem Center for Social and Economic Rights<sup>126</sup>

Although East Jerusalem was once central to the Palestinian economy, including due to the strong tourism sector fostered between 1948-1967, it has endured an “economic separation” from the remainder of the OPT due to Israel’s annexation and related policies.<sup>127</sup> As a result, the Old City, which has been referred to by the UNCTAD as the “greatest potential strategic asset” for the East Jerusalem economy,<sup>128</sup> has instead been forced into isolation by Israel, with Palestinian merchants and business owners largely having to fend for themselves.

Israeli state authorities, settler organizations and tour operators have created an environment that not only seeks to target merchants, street vendors, and owners directly, but also potential consumers that enter the Old City. Consequently, as sales fluctuate due to these policies, business owners face continued hardships in keeping up with taxes and property taxes (*arnona*), while staving off other threats to them. UNCTAD noted some of the discriminatory issues surrounding property taxes, including the “disproportionately low municipal expenditure on East Jerusalem... compared to cities in Israel” although Jerusalem has a high *arnona* rate.<sup>129</sup> It was further noted, “In 2009, Palestinians paid some 55 per cent of Jerusalem municipality *arnona* charged/owed... reflecting inter alia

<sup>126</sup> Mya Guarnieri, “Old problems in Jerusalem Old City” (IRIN, 23 November 2015), available at: <https://www.refworld.org/docid/5656cc4c4.html>

<sup>127</sup> *Supra* note 51, p.4, 11

<sup>128</sup> *Id.* at p.28.

<sup>129</sup> *Id.* at p.10.

the preferential rates applied to Jewish settlers in East Jerusalem as part of government-sponsored settlement of the city.”<sup>130</sup>

The issue of property taxes, alongside others identified below, are just a few of many Israeli policies and practices identified by business-owners, merchants and others during interviews with Al-Haq, which serve to obstruct livelihoods and the development of the Palestinian economy.

### A. Israeli Authorities and the Management of Discrimination

Individuals working in the Old City highlighted an array of policies that they face as a result of Israel’s annexation of Jerusalem, and its overriding objective to Judaize the city. These policies include the concurrent vigilant monitoring of Palestinian stores and restaurants by the municipality in order to issue fines, and the neglect by the municipality in providing basic services, such as garbage collection. Importantly, shopkeepers in different parts of the Old City reiterated the impact of various Israeli policies and practices on their sales. It should be further noted that some individuals interviewed asked for their names to not appear in the report for fear of additional targeting.

#### 1. Targeting by the Israeli Municipality and IOF

##### a. Shops and Restaurants in the Old City

The Israeli municipality regularly targets Palestinian businesses in the Old City. When tensions began to rise during the fall of 2015, Israeli media reported that Israeli authorities planned to increase pressure on the Palestinian population through a variety of means, including administrative measures.<sup>131</sup> Soon after, the impact on Palestinian business owners in the Old City was evident, with Al-Haq documenting increased harassment by the municipality through the fining of shopkeepers and café owners.<sup>132</sup> The malicious intent of these actions was demonstrated by inspectors who measured “the outdoor displays with a ruler and ordered

*“These aren’t efforts to enforce laws, they are aimed at harassing Palestinians.”*

-Interview with storeowner on 31 July 2018

<sup>130</sup> *Id.*

<sup>131</sup> Yair Ettinger, “Hundreds Participated in the Funeral of the Man Killed in the Attack in Jerusalem” (Haaretz, 16 September 2015), available at: <http://www.haaretz.co.il/news/politics/1.2732329>.

<sup>132</sup> *Supra* note 6, p.42-43,

store owners to bring their goods to within the prescribed distance from the storefront.”<sup>133</sup>

According to business owners, this harassment has continued in the past few years, and increases when there is an alleged incident in the Old City. One business owner stated that if there is an incident in the Old City, the IOF may require that they close.<sup>134</sup>

#### b. Harassment of Street Vendors

In addition to stores, the Old City is populated with street vendors selling items ranging from *ka'ik* (a type of Palestinian bread) to clothing and household items on tables and carts, as well as fruits and vegetables. Street vendors face constant harassment and attacks from the Jerusalem municipality and IOF. Many of these vendors are West Bank ID-holders who do not require a permit due to their age or have attained a permit to enter Jerusalem. The pattern of harassment is well-documented in both Israeli and Palestinian media.<sup>135</sup> Israeli media, for example, has reported on the efforts of Aryeh King, a right-wing member of the Jerusalem city council, to “Judaize Jerusalem,” as he claimed, by harassing street vendors. In April 2014, King took credit after applying pressure on the municipality to confiscate *ka'ik* carts in the Old City; the municipality alleged that the confiscation was for “licensing issues.”<sup>136</sup> King also took credit for another instance of harassment by the municipality against Palestinian *ka'ik* vendors in the Old City in 2018.<sup>137</sup>

Al-Haq spoke to a number of vendors present near the stairs that lead up to Damascus Gate in the Old City. Individuals interviewed declined to provide their names for fear of being targeted by Israeli authorities, while other vendors declined to be interviewed whatsoever.

133 Nir Hasson, “Jerusalem Gets Petty with Muslim Quarter Merchants” (Haaretz, 15 October 2015), available at: <https://www.haaretz.com/jerusalem-gets-petty-with-muslim-quarter-merchants-1.5409151>

134 Interview with storeowner on Al-Wad street (name withheld), 28 July 2018.

135 See for example, an incident on 20 August 2018 where the Israeli municipality was also reported to have attacked Palestinian street vendors and farmers in the Old City. “In video - Israeli forces assault Palestinian farmers in East Jerusalem” (Maan News, 20 August 2018), available at: <https://www.maannews.com/Content.aspx?id=780770>

136 Nir Hasson, “Jerusalem Cracks Down on Old City Bagel Stands During Passover” (Haaretz, 20 April 2014), available at: <https://www.haaretz.com/premium-jerusalem-confiscates-bagel-stands-on-passover-1.5245619>

137 Aaron Rabinowitz, “Jerusalem City Councilman Boasts of ‘Judaization’ After Pushing Police to Shut Down Palestinian Pretzel Seller” (Haaretz, 24 July 2018), available at: <https://www.haaretz.com/israel-news/premium-jerusalem-lawmaker-boasts-of-efforts-to-judaize-city-1.6310821>

*“I am a resident of Hebron, and 48 years old. I am a father of six, including three children; they are all studying... I have been selling clothes on the stairs leading to Damascus Gate inside the Old City for 22 years. Prior to the building of the Annexation Wall (about 10 years ago), I used to enter Jerusalem ‘illegally’ from Bethlehem and ‘Anata. I have a West Bank ID, and it was impossible for me to get a permanent permit for entry. However, since the building of the Wall, entering from Bethlehem and ‘Anata became nearly impossible, so I went to the Chamber of Commerce in Hebron to help me get a commercial permit from the Israeli occupying authorities to allow me to enter Jerusalem as a merchant. I received a permit for a six-month period, and it has been consistently renewed.*

*Throughout my work, I have been harassed, and have had my goods confiscated by individuals from the municipality and the Israeli police about three times, because according to the occupier’s law, shopping stalls are prohibited in the Old City. The third time that my goods were confiscated was on Friday, 9 November 2018, around 9:30 am. Members of the municipality, accompanied by the police in their blue and dark blue uniforms, started attacking, and without prior warning, began confiscating all of the goods of the sellers (males and females) from the stalls and threw them to the ground. I was standing on the side next to my stall on the stairs of Damascus Gate, when all of a sudden four individuals from the municipality attacked me and confiscated all of my goods (clothes) that amounted to about 3,000 shekels. I asked them to issue me a fine that I would later pay in order to be able to return my goods, but they refused with the excuse that I have a West Bank ID.*

*I have been harassed and attacked by members of the municipality over the course of my work probably over 50 times, and each time I have been fined 475 shekels. The last two times happened in the past week and I paid 475 shekels each time. I have to pay all of the fines so that my permit to enter Jerusalem is not revoked by the occupying authorities. I want to emphasize that my clothing stall is the only source of my livelihood, and I am the only breadwinner for my family. I cannot work in another profession or field because I am not educated and do not have a degree. I have diabetes and high blood pressure, and also had an operation on my heart and cannot do manual labor because of my condition.”<sup>138</sup>*

138 Al-Haq Monitoring and Documentation Department, Report on Attacks Against Street Vendors, 28 November 2018.

Female street vendors who sell vegetables have similar stories of harassment as their male counterparts. One woman, 58 years old, and from Bethlehem, stated:

*"I am married and the mother of four, none of whom work, as they are all in school. My husband is sick and unable to work. I am the sole breadwinner for the family; I sell vegetables that I have grown on our land in Bethlehem on the stairs leading to Damascus Gate in Jerusalem. I have been working in this field for 14 years, before the construction of the Annexation Wall. When I turned 50, I was permitted to enter Jerusalem without a permit. Prior to that, I used to enter Jerusalem through 'Anata and Al-Zyyaim. The IOF prevents people from selling on the stairs near Damascus Gate. Two years ago I was detained by some Israeli police officers, and I was taken to a detention and investigation center (Al-Qishla) at Jaffa Gate. They took my fingerprints and pictures of me, and opened a 'security file.' I stayed there from 5:00 am until 5:00 pm, without food; I was crying from fear. I called a lawyer and he got me out - I paid him 2,000 shekels. I want to also note that members of the occupation municipality often attack us and confiscate our goods. On 9 November 2018 at around 9:30 am, a group of people from the municipality and the police attacked all of the vendors located in Damascus Gate. One of them confiscated my goods – some of them fell on the ground, and I tried to take them back, but they were confiscated too. The goods were worth about 600 shekels. This wasn't the first time that my goods were confiscated – it has happened three times before. I have also been fined 475 NIS twice before."*<sup>139</sup>

Another woman, 55, and from Hebron stated:

*"At least three times a week, and sometimes every day, members of the municipality and police harass the vendors (both male and female), and either confiscate their goods or give them a fine of about 475 shekels. In the past six years that I have had the stand, I have been fined about 20 times; sometimes I am able to run away with my goods before they fine me."*<sup>140</sup>

## 2. Obstructing Local Sales and Local Tourism

### a. Impact of the Annexation Wall, the Militarization of Damascus Gate, and Bans on Entry

As was noted in section II, Israel has implemented a variety of measures to isolate Jerusalem from the remainder of the OPT, with the establishment of the Annexation Wall having immediate impacts on the Palestinian economy.<sup>141</sup> A 2012 report by The Association for Civil Rights in Israel (ACRI) had found:

*"a marked reduction in the potential purchasing power of Palestinian consumers from areas adjoining Jerusalem. Many shoppers from these towns used to visit the Old City market and the shopping district on Saladin Street. After the completion of the Barrier, only 4% of those living beyond the wall have continued to do their shopping in Jerusalem, whereas 18% did so before."*<sup>142</sup>

The report went on to note that these conditions caused an increase in layoffs as well.

The impact of the Annexation Wall on sales was repeatedly mentioned to Al-Haq during interviews in the Old City. One shopkeeper in the Old City stated:

*"The situation isn't very good, and it became worse once the Wall was built. It impacted the number of people visiting – probably 70 per cent stopped coming. People from Al-Ram, Al-'Eizariyya, Abu Dis... even if they can enter with a permit, it takes them too much time so they prefer to go to Ramallah or a place that is closer."*<sup>143</sup>

<sup>141</sup> A 2007 report noted "The Old City and Salah- A-Din Street, both bustling centers of commerce, have already begun to suffer from the Wall and have less customers than they were used to." The Alternative Information Center, "The Economy of the Occupation" (January-February 2007), available at: <http://www.shirhever.com/wp-content/uploads/2018/01/Bulletin-11-12-Jerusalem-Wall-Economic-Impact.pdf>

<sup>142</sup> ACRI, "Neglect and Suppression in East Jerusalem- The Policies Behind Widespread Poverty and Unemployment" (May 2012) 3, available at: <https://law.acri.org.il/en/wp-content/uploads/2013/03/EastJlem-Poverty-ENG-web.pdf>

<sup>143</sup> Interview with Khaled Al Saheb, storeowner in Old City, 28 July 2018.

<sup>139</sup> Id.

<sup>140</sup> Id.

### Spotlight: Souq Al-Khawajat

Imad Barakat stated that his fabric store has been in his family since the 1930s.<sup>144</sup> He noted that his sales greatly declined after the construction of the Annexation Wall, as many of his customers were from neighboring villages; however, taxes and property taxes remained consistent or increased, making it extremely difficult to profit. He estimated that there are 70 stores in Souq Al-Khawajat, but only six regularly opened.

“Young people do not want to work here because they do not make enough money,” Barkat stated. While the store was passed on from his grandfather to his father to him, he could not ask his son to give up his current job to work at the store “for the sake of Palestine.”<sup>145</sup>



Souq Al Khawajat © Al-Haq

In addition to the Annexation Wall, shopkeepers noted that the continued presence of the IOF outside of Damascus Gate deters customers. One shopkeeper stated, “when you see your kids being searched you tell them to go somewhere else to shop so they don’t get harassed.”<sup>146</sup>

Shopkeepers who live outside of the Old City also noted that they are often stopped at the gates to the Old City, including Damascus Gate and Moroccan Gate (Bab Al-Magharbeh).

*“There are two sieges: the first is the Wall, and now there is a second at Damascus Gate...People don’t want to be searched, it isn’t a pleasant entry into the Old City.”*

-Khaled Al Sahab, business owner in the Old City

144 Interview with Imad Barakat, storeowner in Old City, 31 July 2018.

145 Id.

146 Id.

### Spotlight: Souk Al-Qatanin

As noted, Israel has imposed two comprehensive bans of entry into the Old City for Palestinians, with the exception of residents. Israel issued a 48-hour ban beginning on 4 October 2015; however the negative impacts continued for weeks. Al-Haq previously reported that even until 23 October 2015, most of the 54 stores in Souk Al-Qatanin remained closed, while “some stores would open for a few hours a day, individuals stated that they chose not to open due to the lack of customers.”<sup>147</sup>

Similarly, while the 2017 ban lasted from July 14-16, Al-Haq and Community Action Center documented that the majority of the 54 shops in Souk Al-Qatanin remained closed for days after due to continued IOF presence near the entry to the souk and the closure of the Al-Qatanin gate to the Al-Aqsa Mosque Compound.<sup>148</sup> One shopkeeper stated at the time: “The closures and access restrictions have a very negative impact on our income. This situation makes it impossible for us to pay the taxes and bills, as our revenues are very low. As a result, we have very heavy debts.”<sup>149</sup>



IOF presence at the entry to Souk Al-Qatanin on 19 July, 2017. © Al-Haq

### b. Attempts to Revive the Old City

Various efforts have been made to confront Israeli policies by supporting and attempting to revitalize the Palestinian market, including by Palestinian youth groups.<sup>150</sup> One initiative that was repeatedly mentioned to Al-Haq as a positive influence on sales was the “Maseeret Al-Bayareq” initiative (hereafter Al-Bayareq).<sup>151</sup> It was launched in 2001 by the Islamic Movement in Israel, and provided free daily buses from various Palestinian cities and areas within Israel to visit the Al-Aqsa Mosque Compound. The project was initiated to reportedly revive the connection of worshipers to Al-Aqsa, and support the economy of Jerusalem and the markets of the Old City.<sup>152</sup> The latter aim became especially important after the Annexation Wall and other restrictions on movement for Palestinians from the West Bank and the Gaza Strip. The initiative did not go unnoticed by the IOF, who interrogated organizers.<sup>153</sup>

In a 2011 video on the initiative, one shopkeeper stated that Al-Bayareq benefited the economy of the Old City, and even caused shops that were once closed to reopen due to the increase in traffic and customers.<sup>154</sup> In November 2015, Israel banned the Islamic Movement and summoned some of its organizers for investigation, accusing the Movement of escalating the situation at Al-Aqsa Mosque Compound.<sup>155</sup> As a result, the regular buses running from various cities in Israel to Jerusalem ended. Shopkeepers interviewed in different parts of the souk of the Old City noted that the closure of Al-Bayareq program was significant. One shopkeeper stated, “The buses would come on a daily basis, and many people would shop here; it was less expensive for them here. After Israel closed their offices, it had a big impact on sales here.”<sup>156</sup>

It should be noted that shopkeepers also repeatedly mentioned the lack of support by the Palestinian Authority (PA). Al-Haq was told that a one-time \$3,000 grant for shop owners in the Old City was given a few years prior by the PA; individuals stated that given the immensity of Israeli policies that target them, such singular

150 See for example: “Youth Association for Jerusalem” (Arabic), available at: [https://www.facebook.com/pg/S4Quds/about/?ref=page\\_internal](https://www.facebook.com/pg/S4Quds/about/?ref=page_internal)

151 See, “Maseeret Al-Bayareq’ infuses Al-Aqsa with thousands of worshipers during Ramadan” (Arabic), (Al-Quds City, 30 April 2010), available at: <http://alquds-online.org/news/12358> See also, Film Maseeret Al-Bayareq, 15 December 2011, <https://www.youtube.com/watch?v=4vA4BZ1Lc5I>

152 Id. at “Maseeret Al-Bayareq infuses Al-Aqsa.”

153 Id.

154 *Supra* note 150, Film Maseeret Al-Bayareq.

155 “The Islamic Movement inside the Green Line” (Arabic), Al Jazeera, <https://www.aljazeera.net/encyclopedia/movementsandparties/2015/10/22/رضخالاطخاللخادتييمالسإلاظكرحل>

156 Interview with shopkeeper on Al-Wad street (name withheld), 28 July 2018.

147 *Supra* note 6, p.43.

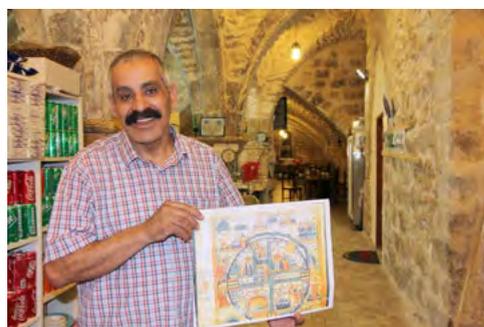
148 Al-Haq, “In Pictures: The Strangling of Souk Al-Qatanin” (25 July 2017), available at: <http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/1129-in-pictures-the-strangling-of-souk-al-qatanin>

149 Id.

efforts have no real impact.<sup>157</sup> Business owners underscored the need for the PA to move beyond rhetoric on Jerusalem, and have a plan of action to support Palestinian life in the Old City.

### 3. Other Administrative Policies that Impede Sales and Development

As noted in Section III, Palestinians face an array of Israeli policies that lead to poor housing conditions. This ranges from inadequate municipal services to strict limitations on renovating properties. Such issues also impact merchants and shopkeepers in the Old City. In 2001, merchants reported that the Israeli Jerusalem municipality purposefully neglected the Palestinian areas: “Streets are broken and full of tractors, dirt and garbage. So the impression is not good for tourists. On the Jewish side, everything is clean. If you are a foreign tourist, you are used to clean streets. Do you want to come and see garbage?”<sup>158</sup> Nearly two decades later, shopkeepers reiterated similar sentiments to Al-Haq. In addition to a lack of services, shop owners noted the various incentives provided for Jewish businesses, and in comparison, that Palestinian development is either obstructed or comes with a price. Business owner Imad Ishaq Abu Khadija told Al-Haq about the issues he faced when he wanted to expand and renovate his store:



Abu Khadija holding a map of the tunnels underneath his store  
© Al-Haq.

*“The Court prohibited us from digging for about seven years. When they did allow us to dig, they (Antiquities Authority) had to be present to ‘monitor.’ We had to pay them by the week to be here, but they didn’t help us at all... We found a lot of coins from the Byzantine, Mamluk and other periods while digging, and they took all of them.”<sup>159</sup>*

The Turkish government covered the costs associated with the renovation. Abu Khadija went on to note that his store was significant due to the tunnels underneath it; this caused him to become a target of the settlers and the Israeli authorities. He stated that he has had every type of offer put before him by settler groups: to sell, rent or have a partnership. One person told him “If you become

<sup>157</sup> See also: Nur Arafah, “Economic Collapse in East Jerusalem: Strategies for Recovery”, (Al-Shabaka, 30 November 2016), available at: <https://al-shabaka.org/briefs/economic-collapse-east-jerusalem-strategies-recovery/>

<sup>158</sup> Elizabeth Price, “Jerusalem For Sale: Souvenirs, Tourists and the Old City” 12-11 Jerusalem Quarterly (2001) 33, available at: <https://www.palestine-studies.org/jq/fulltext/78081>

<sup>159</sup> Interview with Imad Ishaq Abu Khadija, storeowner in Old City, 31 July 2018.

like we want, we will give you everything you want.”<sup>160</sup> He emphasized that he would never sell his store, and hoped to attain a permit to open a restaurant.

### B. Tourism and the Old City

The previous sections of this report highlighted some of the Israeli policies and practices that target Palestinian presence in the Old City. This daily reality for Palestinian residents, however, is often unnoticed or ignored by tourists visiting the city. Instead, the Israeli narrative on Jerusalem, as its “undivided capital,” is not only blindly consumed, but also reinforced by the millions of tourism dollars that flow back into the city and primarily into Israeli neighborhoods and institutions.

The magnitude of Israel’s tourism sector, alongside its reliance and impact on Jerusalem, including the Old City, is significant. Over the past few years, Israel has continued to boast of record numbers of tourists, with 2018 seeing approximately four million tourists. Central to these record numbers is Israel’s annexation of Jerusalem. In 2017, it was estimated that 78 per cent of the 3.6 million tourists that visited Israel that year went to Jerusalem.<sup>161</sup> In 2018, Jerusalem was named as one of the most popular travel destinations in the world.<sup>162</sup>

This fact has not gone unnoticed by Israel’s Jerusalem Development Authority (JDA), which underscored “Jerusalem is one of the strongest tourist brands in the world.”<sup>163</sup> Indeed, tourism has been a main element in the various master plans proposed for Jerusalem,<sup>164</sup> and the JDA has continued to include “the development of the Old City as a tourism product” in its strategy.<sup>165</sup> Such planning has been backed by heavy investment by the Israeli government for the Jerusalem area, including the Old City, reportedly at “more than half a billion shekels” (approximately 140 million USD) between 2005-2013, and an additional 350 million (approximately 98 million USD) shekels for 2013-2019.<sup>166</sup>

<sup>160</sup> Id.

<sup>161</sup> Michal Raz-Chaimovich, “Record 3.6m tourists visit Israel in 2017” (Globes, 27 December 2017), available at: <https://en.globes.co.il/en/article-record-36m-tourists-visit-israel-in-2017-1001217309>

<sup>162</sup> Jason Gale, “These are the World’s Hottest Travel Destinations of 2018” (Bloomberg, 3 December 2018), available at: <https://www.bloomberg.com/news/articles/2018-12-04/jerusalem-to-top-international-visitor-growth-as-tourism-booms>

<sup>163</sup> Jerusalem for Tourists, Jerusalem Development Authority, available at: [http://www.jda.gov.il/template/default\\_e.aspx?Cid=24](http://www.jda.gov.il/template/default_e.aspx?Cid=24)

<sup>164</sup> See, Nur Arafah, “Which Jerusalem? Israel’s Little-Known Master Plans” (Al-Shabaka, 31 May 2016), available at: <https://al-shabaka.org/briefs/jerusalem-israels-little-known-master-plans/>

<sup>165</sup> The Old City Basin, Jerusalem Development Authority, available at: [http://www.jda.gov.il/template/default\\_e.aspx?Cid=25](http://www.jda.gov.il/template/default_e.aspx?Cid=25)

<sup>166</sup> B’Tselem, “Jerusalem Walls National Park” (28 July 2015), available at: [https://www.btselem.org/jerusalem/national\\_parks\\_jerusalem\\_walls](https://www.btselem.org/jerusalem/national_parks_jerusalem_walls)

While Palestinian businesses may benefit as part of a ‘spillover’ effect, Israeli policies aim to capture the market and exclude both Palestinian businesses and Palestinian ties to the city in its overarching tourism narrative. This section examines a few of the ways that international tourists are deterred from entering in and shopping at Palestinian quarters of the Old City, and how Israel aims to maintain this control through settlement tourism in and around the Old City. It should be noted that there are numerous international law violations connected with Israel’s tourism sector that will not be fully examined here, including the confiscation of land for tourism sites and the destruction of property. This section also does not examine the Old City, in its entirety, as protected cultural property, nor does it detail Israel’s unlawful excavations or its taking of artifacts and other Palestinian cultural property. UNESCO has condemned such practices by both Israeli authorities and settler groups.<sup>167</sup>

### 1. Repositioning the Old City

Israel has sought to comprehensively control the tourism market and accompanying narrative on Jerusalem as its “united capital.” As such, each area has a role in propagating Israel’s objectives, both as a neighborhood and as part of the broader city. In 2017, the UN noted “the tourism heritage site development rooted in the illegal annexation of East Jerusalem has profoundly altered the shape and character of the areas surrounding the Old City, creating footholds for residential settlement expansion in Palestinian neighbourhoods.”<sup>168</sup> Accordingly, the environment created by Israel outside the City’s walls impacts the manner in which tourists visit and understand the Old City.

#### a. The National Park and Settlement Ring

Israel has used discriminatory planning as a measure to obstruct the growth of Palestinian communities and create a coercive environment throughout the West Bank, including Jerusalem. According to UN Habitat, “29 percent of the planned area in East Jerusalem is designated as ‘open/green areas’ that consists of a multiplicity of different types, including: open public areas, open private areas, open landscape areas, agriculture areas, parks, and national parks.”<sup>169</sup> Land, including private land, may also be retroactively zoned as a national park.<sup>170</sup>

<sup>167</sup> *Supra* note 103.

<sup>168</sup> Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, Report of the Secretary-General, 16 March 2017, A/HRC/34/39, para 21.

<sup>169</sup> UN Habitat, “Right to Develop, Planning Palestinian Communities in East Jerusalem” (2015) 14, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Right%20To%20Develop.pdf>

<sup>170</sup> *Id.*

In 1974, Israel declared the area surrounding the outer walls of the Old City as a national park to allegedly “serve as a green lung.”<sup>171</sup> The “Jerusalem Walls-City of David National Park” is approximately 271 acres, and encompasses much of Silwan, including the area of the “City of David” site.<sup>172</sup> By controlling the area surrounding the Old City, both as the municipality and through designating the land surrounding it as a national park, Israel is able to influence the manner in which tourists understand and interpret the Old City before even entering it. Importantly, these efforts are led by private settler groups such as El Ad. Israeli organization Ir Amim noted that Israel’s “use of national parks and tourist sites serves the goal of transforming the Palestinian neighborhoods in and around the Old City... from a densely populated Palestinian area into one sprawling tourist site that bolsters Israeli control of the area and access to it.”<sup>173</sup> A 2014 EU Heads of Mission Report, similarly underscored Israel’s “wider strategy to consolidate Israeli control over the Historic Basin by creating an exclusively Jewish tourism trail along and around the Old City, detaching it from its Palestinian surroundings and advocating a singular Jewish narrative.”<sup>174</sup>

#### i. The Cable Car

Central to Israel’s tourism strategy around the Old City is its plan for a cable car that will link settlement sites. The Israeli Cabinet approved the plan when marking the 50<sup>th</sup> anniversary of Israel’s annexation of Jerusalem. At the time, the Tourism Minister stated:

*“The future cable car will change the face of Jerusalem, allow easy and convenient access for tourists and visitors to the Western Wall and will serve as an exceptional tourist attraction. There is no more appropriate and exciting time than this – 50 years since the reunification of Jerusalem – to launch this revolutionary project.”<sup>175</sup>*

The statement, and the proposed stops, highlight Israel’s use of tourism as a tool to not only profit and control the city, but to also emphasize its alleged claims to it.

The cable car is expected to transport 3,000 people per hour and will begin in west

<sup>171</sup> Identity Card, Meet Jerusalem Walls-City of David National Park, Israel Nature and Parks Authority, available at: <https://www.parks.org.il/en/reserve-park/jerusalem-walls-city-of-david-national-park/>

<sup>172</sup> *Id.*

<sup>173</sup> Ir Amim, “New Map Release: Settlement Ring around the Old City, 2019” (13 February 2019), available at: <http://www.ir-amim.org.il/en/node/2278>

<sup>174</sup> European Union Heads of Mission (HOMS) Report, 18 March 2014.

<sup>175</sup> “Israeli Cabinet meets in Western Wall tunnels, approves Old City elevator” (Jewish Telegraphic Agency, 28 May 2017), available at: <https://www.jta.org/2017/05/28/israel/israels-cabinet-meets-in-western-wall-tunnels-approves-old-city-elevator>

Jerusalem (Abu Tor), and continue with stops at Mount Zion and at the settler Kedem Center near Bab Al-Magharbeh (Moroccan Gate); there are plans for future stops near the Mount of Olives.<sup>176</sup> Notably, the stop near Bab Al-Magharbeh will cater to tourists visiting both the tourist settlements of the Western Wall Plaza and the City of David in Silwan. Following the approval of the plan for the Kedem Center in 2012, Israel demolished a complex including a playground, community center and café, which had been built by Palestinian residents.<sup>177</sup> As Silwan, including the area around the City of David, continues to be a target of Israeli demolitions, the path and stops of the cable car will tell the past and present story of Israel's erasure of Palestinian presence in and around the Old City since the start of the occupation. Although these plans are well documented, including Israeli archives from 1967 that mention "the need to demonstrate Jewish ownership over the square in front of the Western Wall and plans for house demolitions and archeological digs in the square,"<sup>178</sup> tourists will likely be unaware of this history.

Equally important to the Palestinian economy in the Old City is how the cable car may impact tourism in the area, and discourage tourists from shopping in and visiting the Muslim, Christian, and Armenian Quarters. The Director of the Israeli archeology NGO Emek Shaveh stated, "the cable car will shift tourists from entering the Old City and walking through the Arab marketplace to entering through the City of David/Kedem sites, which belong to the Elad Association, a right-wing Jewish organization. This will lead tourists who take the car to focus mainly on Jewish sites."<sup>179</sup>

The cable car has been met with opposition by Palestinians, who see the plan as another Israeli method to transform the city and displace residents, as well as by some Israeli groups and international organizations. Emek Shaveh, for example, publicly objected to the plan and noted the impending damage to the Old City historic basin, the misrepresentation of the project as that of one for mass public transportation, and the withholding of information from the public by the developers.<sup>180</sup>

176 Peggy Cidor, "A Cable Car in the City of Gold? One NGO Says, 'No Thank You'" (Jerusalem Post, 21 March 2019), available at:

<https://www.jpost.com/Israel-News/A-cable-car-in-the-City-of-Gold-one-NGO-says-No-thank-you-584083>

177 Nir Hasson, "Israel Approves New East Jerusalem Visitors' Compound, Razes Palestinian Community Center" (Haaretz, 13 February 2012), available at: <https://www.haaretz.com/1.5185218>

178 Akevot, "Capital of the West Bank- 11 September 1967" (1967), available at: <http://akevot.org.il/en/article/capital-of-the-west-bank/?full>

179 *Supra* note 175.

180 Emek Shaveh, "Public Objections to the Cable Car" (14 May 2019), available at: <https://alt-arch.org/en/emek-shavehs-public-objections-to-the-cable-car/>

Given the adverse impacts that the cable car will have on the Palestinian population, as well as its purpose of furthering Israel's unlawful annexation of the city, civil society and other organizations have also urged multinational companies to refrain from participating in the project. As a result, the French company Safège pulled out of the project.<sup>181</sup>

### b. Prioritizing Entry

As aforementioned, the cable car will serve to direct tourists to enter the Old City from Bab Al-Magharbeh, and may deter tourists who would typically walk through the Old City in order to reach the Mount of Olives. This comes in addition to other methods used by Israel to capture the tourism market and steer how visitors view the city in general, and the Old City in particular.

First, Israeli Nature and Parks Authority asserts that "the Jaffa Gate... is the main gate for entry to the Old City, by vehicle and on foot,"<sup>182</sup> while Israeli Ministry of Foreign Affairs calls Jaffa Gate "the best known and busiest of Jerusalem's gates."<sup>183</sup> Defining Jaffa Gate as the "main" gate, rather than the more striking Damascus Gate, has important implications on the souk.



Damascus Gate © Al-Haq



Jaffa Gate © Al-Haq

In entering through Jaffa Gate, tourists can visit the main sites while missing the majority of the Palestinian souk, including the Muslim Quarter. In speaking with Palestinian business owners and tourism operators, the common view was that Israel was attempting to strengthen its presence over Jaffa Gate while spoiling the look and feel of Damascus Gate. In doing so, those interviewed contended

181 FIDH, et. al., "Israeli settlements in East Jerusalem- 3 French companies involved in light-rail construction" (10 June 2018), available at: [https://www.fidh.org/IMG/pdf/report\\_israeli\\_settlements\\_in\\_east\\_jerusalem-3.pdf](https://www.fidh.org/IMG/pdf/report_israeli_settlements_in_east_jerusalem-3.pdf)

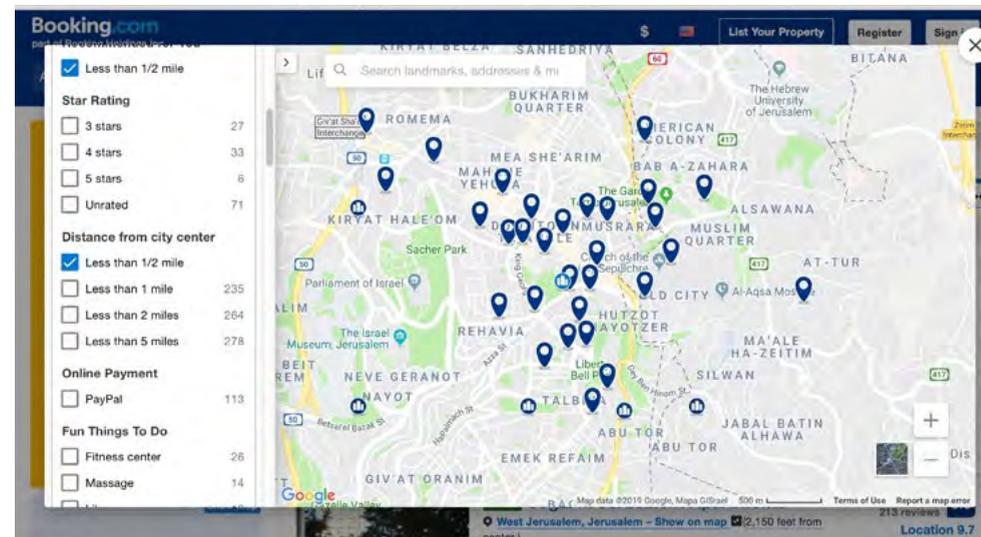
182 Archaeology and History, Meet Jerusalem Walls-City of David National Park, Israel Nature and Parks Authority, available at: <https://www.parks.org.il/en/reserve-park/jerusalem-walls-city-of-david-national-park/>

183 Jerusalem within the Walls, Israel Ministry of Foreign Affairs, available at: <https://mfa.gov.il/mfa/aboutisrael/state/pages/jerusalem%20within%20the%20walls.aspx>

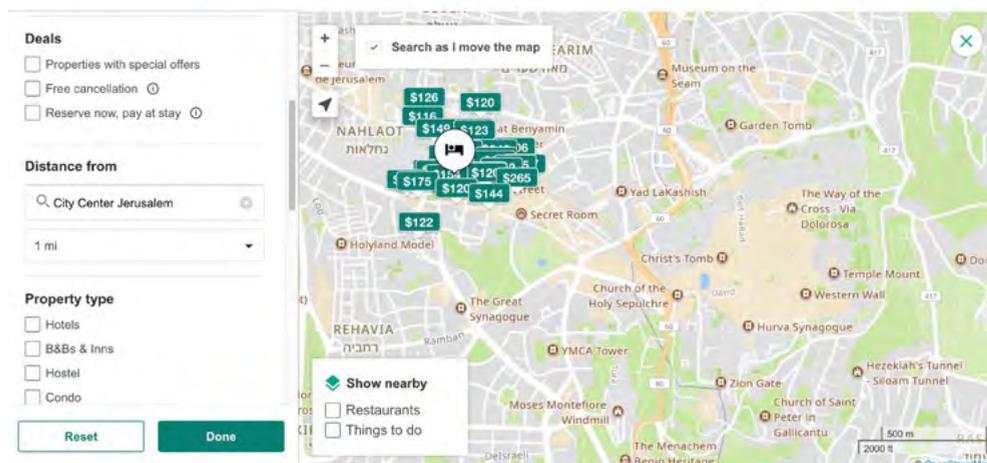
that Israel was attempting to influence how tourists walk through the Old City, damage the Palestinian market, and reinforce its “security” narrative through the militarization of Damascus Gate (as discussed in Section II). One shopkeeper told Al-Haq “They want to make Jaffa Gate the main entrance, and expand the New Gate... Damascus Gate and the Muslim Quarter will slowly be closed, step by step.”<sup>184</sup> This was reiterated by another business owner who stated, “They want the area outside of Damascus Gate to be as marginalized as possible.”<sup>185</sup>

Businesses also play a role in reinforcing Israel’s policies towards Jerusalem and the Old City. Although the primary attraction in Jerusalem is the Old City, which is in east Jerusalem in the occupied Palestinian territory, travel companies such as TripAdvisor and Booking.com define the city center as west Jerusalem. This not only prioritizes Israeli hotels, but likely also impacts where tourists enter the Old City - with Jaffa Gate being closest to the defined “city center” and what other recommendations for the city tourists receive, such as for shopping and food.

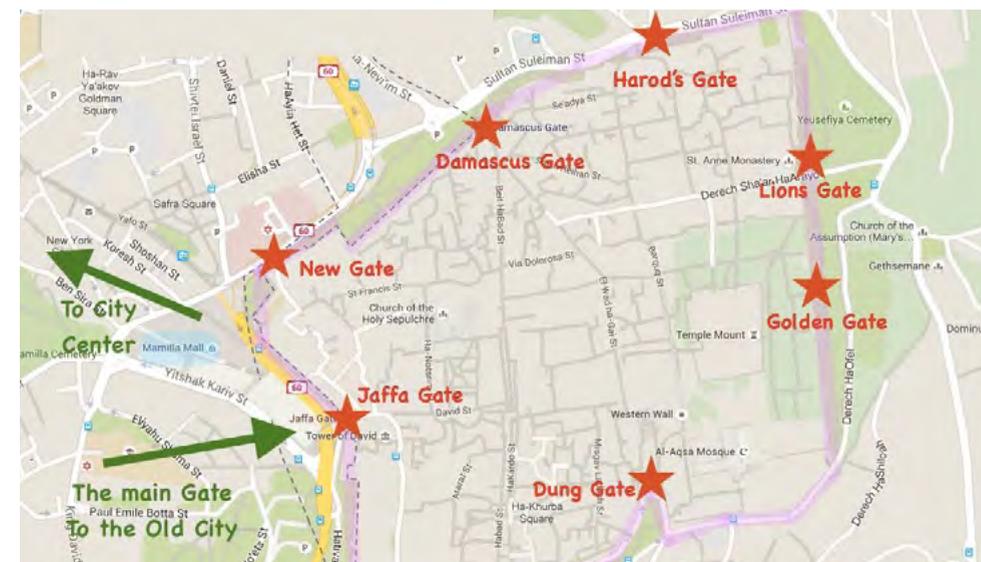
The pictures below highlight the concentration of hotels appearing in west Jerusalem when filtering for “city center”.



Screenshot taken 16 May 2019 from Booking.com.



Screenshot taken 16 May 2019 from TripAdvisor.



Map from Visitjeru.com<sup>186</sup> which highlights Israel’s policies of positioning the Old City in a manner that supports the Israeli economy, by both defining the city center as west Jerusalem and Jaffa Gate as the main point of entry to the Old City.

184 *Supra* note 137.

185 Interview with Raed Saadeh, 29 July 2018.

186 Available at: <http://www.visitjeru.com/maps-of-jerusalem/>

## 2. Influence of Tour Guides in Directing Sales

As a result of Israel's annexation of Jerusalem, tour guides are licensed and regulated by the Israeli Ministry of Tourism. Accordingly, licensed tour guides are required to recite a narrative of the city and its inhabitants that is created by the State of Israel. Tour guides that Al-Haq spoke with noted that they are careful with how far they may deviate from this narrative in order to describe to tourists the reality on the ground, while being aware of the consequences for doing so. In 2016, it was reported that the Ministry of Tourism conducted almost 400 enforcement inspections on a daily basis, both at "classic tourist sites, and also based on complaints", with about 1,000 tourist groups being checked to prevent "illegal" guiding.<sup>187</sup> "Illegal" guides and the tourism agencies that employ them, may be heavily fined by the ministry.<sup>188</sup>

While it may not be part of the 'official' narrative spun by the Ministry of Tourism, tour guides themselves play an important role in where tourists shop and the impressions they have of the Palestinian market in the Old City. A 2001 article noted that tour guides, the majority of whom are Jewish, play off of stereotypes that tourists may have, "Jewish guides don't encourage them to come to our area. The tour companies tell tourists not to walk in the Old City because there are thieves."<sup>189</sup>

This was reaffirmed by interviews conducted in 2018 by Al-Haq. One shop owner stated:

*"When there are tourists that pass by with a guide, I often hear the guide tell them 'you should not buy from here or you should not buy from Arabs, I'll take you somewhere else'... I've complained to the police about this a few times, and they told me I had to bring the guide to the police station... Once, I took a picture of a guide that was saying this, and I showed it to the police. The guide no longer says such things in front of me, but the tourists that he is with never buy anything either."<sup>190</sup>*

In addition to individual or small groups that may be guided, merchants in the Old City also noted that they do not feel the benefits of larger "packaged tour"

<sup>187</sup> Rina Rozenberg Kansel, "Off the Licensed Track: Israel's Tour Guides Feel Pinch From Unauthorized Competition" (Haaretz, 18 March 2016), available at: <https://www.haaretz.com/israel-news/business/.premium-israels-tour-guides-feel-pinch-from-unauthorized-competititon-1.5419356>

<sup>188</sup> Id.

<sup>189</sup> *Supra* note 157.

<sup>190</sup> *Supra* note 143.

groups. Al-Haq was told, "Most packaged tours do not shop in the Old City; they are taken to bigger businesses."<sup>191</sup> One shop owner in Souk Al-Qatanin noted the various policies that he regularly confronts, "Once right in front of me, I heard the guide tell the tourists not to buy scarves from me... Large groups don't buy from us. If there is a single tourist, or maybe a family, then they might purchase something."<sup>192</sup> He went on to state that most of his sales were from local Palestinians during holiday periods, such as Ramadan and Eid.

## C. Applicable International Law Standards

The right to work is guaranteed under the ICESCR, and "includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts."<sup>193</sup> The CESCR affirmed that part of a State's core obligations are to "ensure non-discrimination and equal protection of employment," which include, in part the requirements:

- "(a) To ensure the right of access to employment, especially for disadvantaged and marginalized individuals and groups, permitting them to live a life of dignity;
- (b) To avoid any measure that results in discrimination and unequal treatment in the private and public sectors of disadvantaged and marginalized individuals and groups or in weakening mechanisms for the protection of such individuals and groups."<sup>194</sup>

Article 52 of the Fourth Geneva Convention also protects the rights of workers in occupied territory; and aims to prohibit practices that have "the effect of creating unemployment artificially or of lessening the possibility of finding work."<sup>195</sup>

Israel's policies and practices purposefully target Palestinian business owners, merchants, and street vendors in the Old City in order to threaten and harass them and their customers, and attempt to create an environment where Palestinians must choose between maintaining their business for presence in the Old City and having an adequate standard of living for themselves and their family.

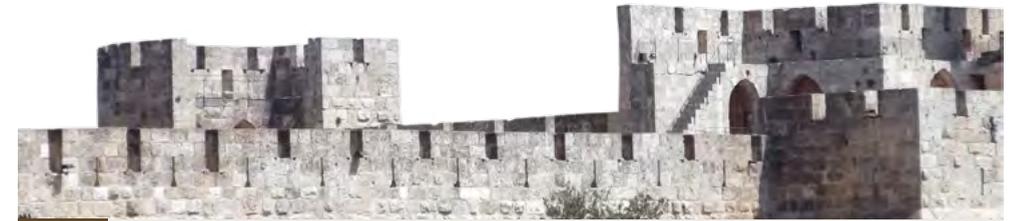
<sup>191</sup> Interview with Raed Saadeh, 29 July 2018.

<sup>192</sup> Interview with storeowner in Souk Al Qatanin (name withheld), 31 July 2018.

<sup>193</sup> Article 6, ICESCR.

<sup>194</sup> The Right to Work, General Comment 18, Adopted on 24 November 2005, E/C.12/GC/18 para. 31.

<sup>195</sup> Commentary to Article 52 of the Fourth Geneva Convention



## VI Conclusion

In the course of its 52-year occupation and annexation of Jerusalem, Israel has implemented an array of methods in order to isolate and intimidate Palestinians, and transform the city into its so-called “united capital.” In doing so, Israel has unlawfully appropriated and demolished properties, closed Palestinian institutions, restricted religious practice, obstructed the economy, and implemented countless other measures with the aim of forcibly transferring Palestinians from Jerusalem. At the same time, Israel has attempted to Judaize the city through establishing residential and tourism settlements, changing the names of streets, and altering the landscape. Nowhere are these policies more apparent than in Jerusalem’s Old City, which has been a central target of Israel’s objective of erasing Palestinian presence.

As throughout the OPT, accountability for such abuses is absent. Accordingly, Israel’s “success” in implementing its illegal policies in the Old City in particular is not only demonstrated by its continued impunity, but by the countless tourists that visit annually and fail to see or even question what is happening around them.

As Israel continues to escalate its persecution of Palestinians in Jerusalem, the international community must begin to take effective action to ensure the protection of Palestinians, an end to the occupation, and accountability for Israel’s ongoing crimes.

Damascus Gate, 28 March 2013, prior to the implementation of some of the Israeli policies described in the report.



**Accordingly, Al-Haq calls on third States to:**

- Reject Israel’s unilateral sovereignty over Jerusalem, in line with international law and UN resolutions specific to the status of Jerusalem;
- Ensure that non-profit organizations registered within their territory do not provide funding for Israeli settler organizations;
- Ensure that all institutions that are linked to or receive funding from the State, including religious institutions, do not contribute to Israel’s unlawful settlement enterprise;
- Publicly condemn the move of the US Embassy and others to Jerusalem and refrain from visiting such embassies;
- Regulate tourism operators and other businesses domiciled within their territory to ensure that their operations respect both domestic law, including that regarding the status of the OPT and Jerusalem, and international law; and
- Cooperate with the preliminary examination of the International Criminal Court.

**Al-Haq further calls on the Palestinian Authority to:**

- Develop a comprehensive plan that supports Palestinian livelihood in Jerusalem, and ensure that a sufficient budget is allocated that will serve to realize such a plan;
- Bolster the tourism sector throughout the OPT, including Jerusalem, and end its one-sided cooperation with Israel on tourism-related matters, including by disallowing Israeli tour guides to enter PA-controlled areas; and
- Continue to recognize Jerusalem, including the Old City, as occupied, annexed territory, and ensure that any future agreements are in line with international law.







AL-Haq's Website: [www.alhaq.org](http://www.alhaq.org)



AL-Haq on Facebook: [www.facebook.com/alhaqorganization](http://www.facebook.com/alhaqorganization)



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AL - HAQ

### About AL-HAQ

Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank. Established in 1979 to protect and promote human rights and the rule of law in the Occupied Palestinian Territory (OPT), the organisation has special consultative status with the United Nations Economic and Social Council.

Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT, irrespective of the identity of the perpetrator, and seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable. Al-Haq conducts research; prepares reports, studies and interventions on the breaches of international human rights and humanitarian law in the OPT; and undertakes advocacy before local, regional and international bodies. Al-Haq also cooperates with Palestinian civil society organisations and governmental institutions in order to ensure that international human rights standards are reflected in Palestinian law and policies. Al-Haq has a specialised international law library for the use of its staff and the local community.

Al-Haq is the West Bank affiliate of the International Commission of Jurists - Geneva, and is a member of the Euro-Mediterranean Human Rights Network (EMHRN), the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH), Habitat International Coalition (HIC), the Palestinian Human Rights Organizations Council (PHROC), and the Palestinian NGO Network (PNGO). In 2018, Al-Haq was a co-recipient of the French Republic Human Rights Award.



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