

Special Focus: Israel Intensifies Forced Self-Demolitions of Palestinian Homes in Occupied Jerusalem

(Reporting Period: 16-23 August 2021)

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Introduction: House Demolitions in Jerusalem, A Method of Warfare Since 1948

“In one minute, the whole life of a house ends. The house murdered is also mass murder, even if vacant of its residents. It is a mass grave for the basic elements needed to construct a building for meaning, or for an insignificant poem in a time of war [...].”

Mahmoud Darwish, “The House Murdered”



Administrative Demolitions in Jerusalem (c) Al-Haq, August 2021

Demolishing a house is not only destroying a physical structure, it is wiping out the memories of home what symbolizes a person's entire life, and sense of identity. Israel has been using home demolitions as a method of warfare since the Nakba, which built its existence on the destruction of at least 531 Palestinian towns and villages, the killing of some 15,000 Palestinians, and the forcible displacement of 750,000 to 900,000 refugees and internally displaced persons.¹ Since then, home demolitions have continued, justified by the principle of military necessity - especially in the Gaza Strip,² as collective punishment measures,³ as well as on administrative grounds. The latter has gained momentum over the past decades, particularly in Jerusalem, as a subtle method to pursue the ongoing transfer out of Palestinians from Jerusalem while grounding what amounts to gross violations of international law in a framework of law enforcement.

Jerusalem has been the core target of Israel's demographic engineering design aimed at entrenching its colonial domination over the Palestinian people as a whole, with the official intention to reaching a 70 to 30 ratio of Jewish Israelis to Palestinians within the

¹ Al-Haq, “73 Years of Ongoing Nakba, Palestinians Continue to be Steadfast against Israel's Settler-Colonial and Apartheid Regime,” 15 May 2021, <https://www.alhaq.org/advocacy/18334.html>

² In particular, more than 18,000 homes were destroyed in the course of the Operation Protective Edge in 2014, rendering 100,000 people homeless. See OCHA, Data Featured in the Report of the Independent Commission of Inquiry on the 2014 Gaza Conflict, <https://www.ochaopt.org/content/key-figures-2014-hostilities>

³ Regulation 119 of the Emergency Defense Regulations of 1945, prescribing that “a Military Commander may by order direct the forfeiture to the Government of Palestine of any house, [...] from which he has reason to suspect that any firearm has been illegally discharged [and] may destroy the house [...]” From 1987 to 2019, at least 1,193 home destructions were motivated by this provision. See Alexia Guillaume, “Administrative Demolitions of Palestinian Homes in the West Bank: Undermining Property Rights as a Path to Israeli Annexation,” (Master's Thesis, Leiden University, 2019), <https://leonhardwoltjer-stichting.nl/2.0/wp-content/uploads/2019/12/Thesis-Alexia-Guillaume.pdf>

city, as per the Jerusalem 2020 Master Plan.⁴ In violation of the *corpus separatum* status resolved under United Nations General Assembly resolution 181(II),⁵ Israel gradually tightened its grip around the city, annexing its western side in 1949,⁶ and took steps to extend its territorial sovereignty over its eastern side, notably through the Basic Law on Jerusalem and the application of Israeli domestic law – acts amounting to an unlawful annexation of Palestinian territory.⁷

House demolitions have been central tools to facilitate Israel's land appropriation and dispossession. Israeli planning and zoning laws were from the onset designed to prevent Palestinian urban development,⁸ through elaborate legal arrangements including lengthy, costly and complex building permit procedures, and several building prohibitions based on land designations as 'green areas,' or 'national parks' to limit as much as possible Palestinian construction, with the result that only 13 percent of east Jerusalem land is zoned for construction, in already heavily urbanized areas.⁹ Demographic pressure and the need for urban expansion, coupled with the Israeli authorities' denial of 93 percent of overall building permits,¹⁰ Palestinians are forced to build their homes without permits. Between 30 and 50 percent of Palestinian houses in Jerusalem are estimated to have been built without permits, putting some 100,000 individuals in jeopardy.¹¹ They are subsequently ordered to demolish their homes by the Israeli municipality or the Ministry of Interior, under the tacit complicity of settler organizations.¹² From January 2009 to November 2019, 952 Palestinian houses and structures were demolished in Jerusalem, inducing the forcible displacement of 3058 Palestinians including 1,196 children.¹³ Demolitions in Jerusalem represent some 20 percent of overall demolitions carried out in the entire occupied West Bank.¹⁴ Between 1 January 2021 and 24 August 2021, Al-Haq documented 42 homes demolished in Jerusalem, including 30 self-executed demolitions.¹⁵



Administrative Demolitions in Jerusalem (c)
Al-Haq, August 2021.

The self-execution aspect raises home demolitions to another level of Israeli oppression imposed on Palestinians, obliged to carry out the dismantlement of their houses by themselves. Additional 10,000 NIS

⁴ Binkom, "Trapped by Planning: Israeli Policy, Planning and Development in the Palestinian Neighborhoods of East Jerusalem" (2014), 20, <http://binkom.org/eng/wp-content/uploads/TrappedbyPlanning.pdf>; see Al-Haq, House Demolitions and Forced Evictions in Silwan: Israel's Transfer of Palestinians from Jerusalem (2020), 18, https://www.alhaq.org/cached_uploads/download/2021/08/17/silwan-webversion-1-page-view-1629184473.pdf

⁵ Resolution 181(II). Future Government of Palestine, United Nations General Assembly, 29 November 1947, A/RES/181(II), <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253>

⁶ Al-Haq, Annexing a City: Israel's Illegal Measures to Annex Jerusalem Since 1948 (2020), 23, https://www.alhaq.org/cached_uploads/download/2020/05/11/annexing-a-city-web-version-1589183490.pdf

⁷ See Basic Law: Jerusalem, Capital of Israel (Unofficial Translation), Knesset, http://www.knesset.gov.il/laws/special/eng/basic10_eng.htm

⁸ See Planning and Building Law, 5725-1965 (No.79), https://knesset.gov.il/review/data/eng/law/kns5_planning_eng.pdf

⁹ Al-Haq, Annexing a City (n 6) 36-39.

¹⁰ Ibid. p. 38.

¹¹ OCHA, "High Numbers of Demolitions: the Ongoing Threats of Demolition for Palestinian Residents of East Jerusalem," 15 January 2018, <https://www.ochaopt.org/content/high-numbers-demolitions-ongoing-threats-demolition-palestinian-residents-east-jerusalem>

¹² Al-Haq, House Demolitions and Forced Evictions in Silwan: Israel's Transfer of Palestinians from Jerusalem (2020), 29, https://www.alhaq.org/cached_uploads/download/2021/08/17/silwan-webversion-1-page-view-1629184473.pdf

¹³ Al-Haq, Annexing a City: (n 6) 37.

¹⁴ Since 2009, 7,919 structures have been destroyed in the whole of the occupied West Bank, including Jerusalem. OCHA, "Record number of demolitions, including self-demolition in Jerusalem," 2009- August 2021, <https://www.ochaopt.org/data/demolition>

¹⁵ Al-Haq Monitoring and Documentation Department, Figures on file

(about \$2,500 USD fines) and up-to-18-months imprisonment are applicable for an individual who refuses to demolish his home by himself, which in fact, amounts to a State coerced demolition.¹⁶

Between 16 and 23 August 2021, Al-Haq documented four cases of self-demolition of Palestinian houses. This special focus examines Israel's policies and practices of administrative home demolitions as gross violations of international law, perpetrated under law enforcement considerations for the purpose of executing the forcible transfer of the protected Palestinian population from Jerusalem.

1. Reported House Demolitions in Jerusalem between 16 - 23 August 2021

Al-Haq documented four cases of self-house demolitions in Jerusalem between the 16 - 23 August 2021, which caused the displacement of 12 people including seven children. The demolitions took place in several neighborhoods of Jerusalem, including Silwan, Beit Safafa, Jabal Mukaber and Al-Tur.

On the 16 August 2021, Muhammad Salman, from the town of Beit Safafa, south of Jerusalem, began demolishing a newly-constructed kindergarten that would have started being used at the beginning of the school year. The demolition order concerned an area of about 60 square meters of concrete adjunct to a stone building. Muhammad Salman nonetheless demolished an essential part of the structure. On the 17 August, the Jerusalem municipality staff demolished what had remained of the structure.

On the 7 August 2021, Ali Sari, 26 from Jabal Mukaber town, east of Jerusalem, received a demolition notice. After receiving the order from the occupation municipality and to avoid paying the demolition fine, he demolished a part of his home, which had been built in April 2021, on the 16 August. The municipality demolished the rest the following day on 17 August. The house was built of concrete over an area of about 100 square meters. Ali Sari and his family of five, including three children, temporarily moved to his brother's house until he found a permanent housing alternative. Although the house was demolished under the pretext of building without a permit, Sari did not get an order to stop building the house in April 2021.

Muhammad Dweik, a man from Al-Tur town, east of Jerusalem, whose house had been built of concrete and added next to his family's house with an area of about 70 square meters in January 2021, was also forced to self-demolish his house on the 16 August, in order to avoid paying the demolition fine. He received a demolition order from the Jerusalem municipality placed on the building on the 14 August. The cost of the house is estimated at 350,000 shekels. Dweik hired a lawyer for an amount of 30,000 ILS to object to the demolition order before the Israeli District Court, but his request was rejected under the pretext of building without a permit.

On the 23rd of August, Muhammad Othman, 33 years old, from Silwan, south of the Old City of Jerusalem, was forced to self-demolish his house to avoid paying a demolition fine. His home was estimated at 350,000 ILS and had an area of about 80 square meters. Muhammad lived with his family of six, including four children, one of whom is a baby. The house was built in 2012 and the demolition order was issued by the municipality on 21 July 2021. Othman had hired a lawyer with a sum of 30,000 ILS to object to the demolition order before the Israeli District Court, but his request was rejected under the pretext of building without a permit.

2. Administrative House Demolitions and Their Illegality Under International Law

Israel's escalation of house demolition practices in occupied Jerusalem since the beginning of 2021 should not be mistaken as law enforcement measures aimed at regulating planning and zoning policies. The eastern

¹⁶ See National Planning and Building Law 5725/1965, Article 210, http://knesset.gov.il/review/data/eng/law/kns5_planning_eng.pdf

part of Jerusalem is recognized as occupied territory as per Article 42 of the 1907 Hague Regulations,¹⁷ and the Israeli occupying power is entrusted to “restore, and ensure, as far as possible, public order and safety while respecting, unless absolutely prevented, the laws in force in the country,” as stipulated under Article 43 of the Hague Regulations.¹⁸ Within the framework of its illegal *de jure* annexation, Israel has been justifying home demolitions under a law-enforcement narrative to hide what in reality constitutes flagrant breaches of international humanitarian law and international human rights law in occupied territory.

The destruction of private property, including house demolitions in occupied territory is strictly prohibited according to Article 23(g) of the 1907 Hague Regulations,¹⁹ and Article 53 of the Fourth Geneva Convention, which prescribes that “any destruction by the Occupying Power of real [...] property belonging individually or collectively to private persons [...] is prohibited, [...]”.²⁰ Property destruction is further strictly prohibited under customary international law.²¹ The increasing scale and magnitude of these demolitions amounts to grave breaches of the Fourth Geneva Convention under Article 147, and may be prosecuted as war crimes.²²

From an international human rights law perspective, house demolitions contradict Article 17 of the Universal Declaration on Human Rights on the prohibition of arbitrary deprivation of property.²³ It further violates its Article 25(1),²⁴ taken in conjunction with Article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination and Article 11(1) of the International Covenant on Economic, Social and Cultural Rights, which protect the right to adequate housing.²⁵

Finally, the self-implementation dimension of house demolitions should be particularly underlined, as it is tantamount to forcing Palestinians to actively participate in the violation of their own rights, with expected

¹⁷ Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, The Hague, 18 October 1907, Annex to the Convention: Regulations Respecting the Laws and Customs of War on Land - Section III: Military Authority over the Territory of the Hostile State - Regulations, Article 42, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=01D426B0086089BEC12563CD00516887>

¹⁸ Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, The Hague, 18 October 1907, Annex to the Convention: Regulations Respecting the Laws and Customs of War on Land - Section III: Military Authority over the Territory of the Hostile State - Regulations, Article 43, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=01D426B0086089BEC12563CD00516887>

¹⁹ Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, The Hague, 18 October 1907, Annex to the Convention: Regulations Respecting the Laws and Customs of War on Land - Section III: Military Authority over the Territory of the Hostile State - Regulations, Article 23(g), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=01D426B0086089BEC12563CD00516887>

²⁰ Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/ART/380-600060?OpenDocument>

²¹ See Rules 50 and 51, in Henckaerts and Doswald-Beck, Customary IHL, Volume I: Rules (Cambridge, Cambridge University Press, 2005), 176.

²² Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Article 147, <https://ihl-databases.icrc.org/ihl/WebART/380-600169>

²³ “No one shall be arbitrarily deprived of his property.” UNGA, Universal Declaration of Human Rights, 10 December 1948, 217A(III), Article 17, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

²⁴ “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including [...] housing [...]” UNGA, Universal Declaration of Human Rights, 10 December 1948, 217A(III), Article 25(1), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

²⁵ International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx> ; International Covenant on Economic, Social and Cultural Rights, 16 December 1966, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

socio-psychological impacts on their well-being. It infringes on Article 7 of the International Covenant on Civil and Political Rights that prohibits torture and inhuman or degrading treatment.²⁶

3. Advancing and Developing Jewish-Israeli Settlements in Occupied Jerusalem

House demolition policies must be considered within the context of Israel's demographic engineering designed to gradually depopulate occupied Jerusalem from its Palestinian people and replace them with Jewish-Israeli settlers. Whereas only 13 percent of lands are assigned for Palestinian urban development, official plans nominate 35 percent of occupied east Jerusalem for the expansion of Jewish-Israeli settlements.²⁷ As much as the displacement of Palestinian populations from occupied east Jerusalem constitutes unlawful forcible transfer of the population under Article 49(1) of the Fourth Geneva Convention,²⁸ likewise, the transfer-in of the Occupying Power's own population within the occupied territory is strictly prohibited under customary law as well as Article 49(6) of the Fourth Geneva Convention.²⁹ They constitute war crimes under Article 8(2)(a)(vii) of the Rome Statute, and crimes against humanity under Article 7(1)(d).³⁰

4. Conclusion: Administrative House Demolitions, a Means of Demographic Engineering in Occupied Jerusalem

House demolitions in Jerusalem perfectly exemplify Israel's recurring attempt to cover forcible transfer policies under a veneer of law enforcement. Administrative home demolitions are far from constituting lawful administrative measures aimed at maintaining the rule of law, but practices that should be considered within a broader apartheid system imposed by Israel over the Palestinian people with the objective to assert its domination over the people and appropriation of their lands.

As much as Israel attempts to justify the house demolitions policy, or any other discriminatory measures through the application of its domestic law, the reality is that these discriminatory policies even within a legal text, breach the principle of military necessity and amount to collective punishment on administrative grounds. Israel's measures are illegal under international law and violate the Palestinian people's right to adequate housing, development, and their right to self-determination. As such, Israel is effectively forcing the Palestinian population in Jerusalem out of their homes and rendering them homeless for the benefit incoming settler colonists. Al-Haq therefore calls on the international community to denounce Israel's unlawful imposition of its set of domestic laws to occupied Jerusalem, the destruction of Palestinian houses and the forcible transfer of the Palestinian population and work to take concrete and immediate steps to

²⁶ International Covenant on Civil and Political Rights, 16 December 1966, Article 7, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

²⁷ Al-Haq, House Demolitions and Forced Evictions in Silwan: Israel's Transfer of Palestinians from Jerusalem (2020), 15, https://www.alhaq.org/cached_uploads/download/2021/08/17/silwan-webversion-1-page-view-1629184473.pdf

²⁸ "[...] individual or mass forcible transfers, as well as deportations of protected persons from occupied territory [...] are prohibited, regardless of their motive." See Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Article 49, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=77068F12B8857C4DC12563CD0051BDB0>

²⁹ "[...] the occupying power shall not deport or transfer parts of its own population into the territory it occupies." See Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Article 49, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=77068F12B8857C4DC12563CD0051BDB0>

³⁰ Rome Statute of the International Criminal Court Article 8(2)(a)(vii) and Article 7(1)(d), <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

ensure the Palestinian people's right to self-determination and to end the occupation of Palestine and dismantle the apartheid regime.