



LEGAL BRIEF ON JERUSALEM

“A Legal Analysis of Bills and Legislation to Revoke the Permanent Residencies of Palestinians and Alter the Status of Jerusalem”¹

7 March 2018

Introduction

The United States President’s recognition of Jerusalem as the capital of Israel on 6 December 2017, and accompanying plans for the relocation of the US embassy from Tel Aviv to Jerusalem, is a culmination of the continuous and legally defiant posturing of the Israeli government towards Jerusalem. The United States will open the US Embassy in the Arnona neighbourhood in West Jerusalem on “Israel’s 70th Anniversary”, which is the anniversary of the Palestinian Nakba.² This legal brief seeks to highlight the current legal status of the City of Jerusalem, its conformity or non-conformity to the International Legal System, as well as to outline Israel’s unilateral measures that have changed the physical, social, economic and cultural reality of the city and the effects they have had on the local occupied Palestinian population.

1. Jerusalem 1947 – 2017

Critically the status of Jerusalem is protected under international law. According to United Nations General Assembly Resolutions 181 (1947) and 303 (1949), the whole city of Jerusalem (East and West) is to be placed under international control established as a “corpus separatum under a special international regime” administered by the United Nations and under the responsibility of the now defunct Trusteeship Council.³ The City of Jerusalem was to encompass the municipality of Jerusalem and its surrounding Palestinian villages and towns, east until Abu Dis, south until Bethlehem, west until Ein Karim and the most northern Shu’fat.⁴ However, Israel patently ignored the General Assembly resolutions and embarked almost immediately on a permanent colonization of the territory. From 1948 to 1967 Israel occupied Jerusalem, while Jordan controlled the Old City. Whereas both nations annexed the corresponding areas under their effective control, Jordan formally disengaged from the

¹ N.B.: This is a working draft of a full report to be published subsequently by Al-Haq and the Community Action Center (CAC) – Al-Quds University.

² US Department of State, Opening of US Embassy Jerusalem (23 February 2018); Louis Fishman, ‘Israel Needs to Recognize the Armenian Genocide – and the Nakba’ (Haaretz, 25 April 2016), available at: <https://www.haaretz.com/opinion/premium-israel-must-recognize-armenian-genocide-nakba-1.5440564>.

³ UN General Assembly, Resolution 181 (II), 29 November 1947.

⁴ UN, ‘The Status of Jerusalem’ (New York, 1997), Chapter 1.

West Bank in 1988, recognizing the Palestine Liberation Organization as the “sole legitimate representative of the Palestinian people”.⁵

The hallmark of Israel’s colonization was the introduction of laws to facilitate the transfer of lands from Palestinian to Israeli control. In 1948, the Palestinian population owned 48 percent of the lands in what is now Israel (excluding the now Occupied Palestinian Territories). The State of Israel and the Jewish National Fund confiscated 93 per cent of Palestinian lands, including, 349 towns and villages. Only 3-3.5 percent of the land is owned by the Palestinian population. This massive transfer of land was made possible by two primary laws, the Land Acquisition Law (Actions and Compensation) and the Absentees’ Property Law (1950). The first, from 1953, determines that properties that were illegally taken from the Palestinian population for “purposes of essential development, settlement or security”, between 1948 to 1953, were to be acquired by the Development Authority and be considered free from any charge, except for financial compensation to the owners of the acquired property. The second, determines that the property of nationals or citizens of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq, Yemen or Palestinians who were expelled, fled, or left the country after 29 November 1947, mainly due to the war, will have their property confiscated and placed under the control of the State of Israel, specifically of the public agency “Custodian for Absentees’ Property”.

With a similar purpose, the Israel Land Administration Law (1960) established the Israel Land Administration (ILA), responsible for determining the land policy that the Israeli Administration should follow. The members to the “Israel Land Administration Council” are nominated by the government, half of the council’s seats are reserved to the government and the other half to members of the Jewish National Fund, granting the body a biased and one-sided character, also a substantial role in formulating Israel’s land policies. More recently, the Land (Acquisition for Public Purposes) Ordinance - Amendment No. 10, 2010 allowed the Finance Minister to confiscate land for “public purposes”. It allows the state not to use the confiscated land for the original confiscation purpose for 17 years, and expands the Finance Minister’s authority to confiscate land for “public purposes,” which under the law includes the establishment and development of towns, and allows the Minister to declare new purposes. It was designed to prevent Palestinian citizens of Israel from submitting lawsuits to reclaim confiscated land.⁶

1.1. The Annexation of Jerusalem

In 1950, Israel declared West Jerusalem its capital, a move that naturally went unrecognized by the international community, given its internationally protected status.⁷ Following the six

⁵ Nasur et al, ‘Jordanian Foreign Policy Towards the Palestine Issue’ (2015) 20 (2) British Journal of Arts and Social Sciences 99.

⁶ Adalah, ‘New Discriminatory Laws and Bills in Israel’ (29 November 2010), available at: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/dplc/dv/adallah_discriminatory_isra/adallah_discriminatory_israel.pdf.

⁷ Antonio Cassese, ‘Legal Considerations on the International Status of Jerusalem’ in Antonio Cassese, Paola Gaeta, and Salvatore Zappalà, *The Human Dimension of International Law: Selected Papers of Antonio Cassese* (Oxford University Press, 2008) 281 (“What has just been pointed out is corroborated by the action taken over the years by several prominent members of the United Nations, including the states more directly concerned. Thus, for instance, the United Kingdom, after granting in 1950 and 1951, de facto recognition only of Israel’s

day war in 1967, Israel established its military presence and administrative authority over the West Bank, including East Jerusalem and the Gaza Strip, establishing itself de facto as belligerent occupant.⁸ However Israel rigorously objected to the factual application of the laws of belligerent occupation, in particular the Fourth Geneva Convention which it has wilfully resisted applying in toto, and has consistently denied its occupation of East Jerusalem.⁹ Nevertheless, a legal memorandum from 1967, from Israeli legal advisor (by the now famous Judge Meron) to the Israeli government, warned Israel of the illegality surrounding the colonization of the West Bank, but Israel continued to pursue an aggressive colonization practice constructing settlements deep into the West Bank.¹⁰

On 27 June 1967, Israel adopted the Law and Administration Ordinance (Amendment No 11) Law, 1967. Article 11 b of the law, amended the Law and Administration Ordinance, 1948, granting Israel the authority to extend its jurisdiction, through an order of government "to any area of Eretz Israel" (Eretz being an undefined geographical area of land, including, but also broader than Mandatory Palestine).¹¹ This effectively granted Israel the competence to annex additional territory.¹² In addition, the Municipalities Ordinance (Amendment No. 6) Law, 1967 provided for the expansion of the municipal boundaries. On this basis, of the municipality of Jerusalem was expanded, and additional occupied Palestinian territory was absorbed into the Jerusalem municipality.¹³ The inhabitants of the expanded Jerusalem municipality were conferred with a different administrative status to the rest of the West Bank

and Jordan's control of Jerusalem, in contradistinction to its de jure recognition of Israel and Jordan, did not appear to modify its position over the years. In addition, the U.S. Government consistently emphasized the need for Jerusalem to be given an international regime proving that it did not intend to recognize any sovereignty over Jerusalem. Suffice it to mention here a few U.S. statements. On 22 July 1952, in response to the proposed move of the Israeli Foreign Ministry from Tel Aviv to Jerusalem, the American Embassy stated: The Government of the United States has adhered and continues to adhere to the policy that there should be a special international regime for Jerusalem which will not only provide protection for the holy places but which will be acceptable to Israel and Jordan as well as the world community". ARIJ, '40 Years of Occupation: 1967 – 2007', available at: <https://www.arij.org/atlas40/chapter1.5.html>.

⁸ Article 42, Hague Regulations of 1907.

⁹ '1967 Meron Opinion', available at: <https://www.soas.ac.uk/lawpeacemideast/resources/> ("We must nevertheless be aware that the international community has not accepted our argument that the [West] Bank is not "normal" occupied territory and that certain countries (such as Britain in its speeches at the UN) have expressly stated that our status in the [West] Bank is that of an occupying state. In truth, even certain actions by Israel are inconsistent with the claim that the [West] Bank is not occupied territory. For example, Proclamation No. 3 of the IDF Forces Commander in the West Bank of 7.6.67, which brings into force the order concerning security regulations (in Section 35), states that: 'A military court and the administration of a military court will observe the provisions of the Geneva Convention for the Protection of Civilians in Time of War in everything relating to legal proceedings and where there is conflict between this order and the aforementioned Convention, the provisions of the Convention will prevail'.")

¹⁰ *ibid.*

¹¹ Eyal Benvenisti, *The International Law of Occupation* (Oxford University Press, 2012) 204.

¹² Israel Ministry of Foreign Affairs, 13 Law and Administration Ordinance – Amendment No. 11 – Law (27 June 1967), available at:

<http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook1/pages/13%20law%20and%20administratio%20ordinance%20-amendment%20no.aspx>.

¹³ Israel Ministry of Foreign Affairs, Municipalities Ordinance (Amendment No. 6) Law, 5727-1967, <http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook1/pages/13%20law%20and%20administratio%20ordinance%20-amendment%20no.aspx>.

and Gaza Strip and issued with blue identification cards, distinct from the green cards issued by the military government in the rest of the West Bank.¹⁴ General Assembly 2253 (1967) and Security Council Resolution 267 (1969) condemned the legislative and administrative measures taken by Israel to alter the status of Jerusalem as invalid. Since the annexation, Israel has adopted policies aimed at ensuring its exclusive control over the City of Jerusalem.

1.1.1. Palestinians from Annexed Jerusalem Become Stateless Persons

Israel considers Palestinians in the now annexed Jerusalem to be foreigners and confers a status of ‘permanent residency’ under the Entry into Israel Law, 5712-1952, which is a temporary and stateless status, whereby residents are required to continuously prove that their “centre of life” is the City of Jerusalem.¹⁵ The status does not automatically pass to one’s children or non-resident spouse and can be revoked at the Interior Ministry’s discretion.¹⁶ If the residents fail to prove the “centre of life” requirements their status as permanent residents can be revoked. Although permanent residents pay public taxes, equally to any citizen, the Israeli government adopts a discriminatory policy of de-development in East Jerusalem and does not allocate the necessary resources for adequate public services and infrastructure in East Jerusalem, such as health, education, transportation, welfare and postal services and water and sewage systems.¹⁷ Since 1967, Israel has revoked residency rights of at least 14,550 Palestinian Jerusalemites,¹⁸ of these 4,577 were revoked between 2006 and 2008.¹⁹

Palestinians from East Jerusalem who do not have the permanent residency status are treated as aliens²⁰ and are susceptible to deportation. At the same time, Israel prevents family unification based on its discriminatory Nationality and Entry into Israel Law, 2003. The Law has been repeatedly renewed, and in 2007, the Knesset added provisions to deny family unification where one spouse is a resident or citizen of Lebanon, Syria, Iran or Iraq - states defined by Israeli law as "enemy states" - and/or is an individual defined by the Israeli security forces as residing in an area where current activity is liable to endanger Israeli security. Israel prohibits family unification for Palestinian men aged between 18 and 35 and for Palestinian women aged between 18 and 25 who are residents of the OPT. Relatives not excluded by age are frequently prohibited for suspicion of involvement in activities hostile to Israel, which are very broadly defined, and could include any criminal offenses, stone-

¹⁴ Jonathan Kuttub, The Legal Status of Jerusalem (1995) 2(2) Palestine-Israel Journal, available at: <http://www.pij.org/details.php?id=650>.

¹⁵ Entry into Israel Law, 5712-1952, available in English at: http://www.hamoked.org/files/2011/2240_eng.pdf.

¹⁶ Entry into Israel Law, 5712 (1952).

¹⁷ UNCTAD, Assistance to the Palestinian People: Developments in the Economy of the Occupied Palestinian Territory (12 September 2017) 1.

¹⁸ Negotiations Affairs Department of the State of Palestine, ‘50 Years of Israel's military occupation of East Jerusalem’ (25 September 2017), available at: <https://www.nad.ps/en/publication-resources/infographics/50-years-israels-military-occupation-east-jerusalem>.

¹⁹ Available at: <https://www.nad.ps/en/our-position/jerusalem>.

²⁰ Negotiations Affairs Department of the State of Palestine, ‘50 Years of Israel's military occupation of East Jerusalem’ (25 September 2017), available at: <https://www.nad.ps/en/publication-resources/infographics/50-years-israels-military-occupation-east-jerusalem>.

throwing, taking part in demonstrations and other political activity. As a result, from 2000 to 2013, over one third of family unification applications were denied and, since 2006, no Jerusalemite-Gazan couples can apply to family unification.²¹

Once permanent residencies are revoked or denied by Israel, the persons then become stateless. Under the Oslo Accords, Israel maintains control over the population registry and the Palestinian Authority can only register a person, from PA administered territory “who were born abroad or in the Gaza Strip and West Bank, if under the age of sixteen years and either of their parents is a resident of the Gaza Strip and West Bank”.²² This means that the Palestinian Authority is unable to unilaterally register the stateless persons. As a matter of policy, the PA does not coordinate with Israel to confer residency on stateless East Jerusalemites, to not incentivize and facilitate Israel’s removal of Palestinians from East Jerusalem.

1.1.2. Cutting Jerusalem from the West Bank

In 2003, Israel began the construction of an Annexation Wall to separate the Israeli Jewish population from the Palestinian population of the West Bank, dividing the original area of the City of Jerusalem, an idea that was at stake since the 1990s. The Wall substantially deviates from the 1949 Armistice Lines, with UN OCHA estimating that upon completion, only 15 percent of the Annexation Wall will be along the Green Line while 85 percent will be inside the West Bank, detaching approximately 9.5 percent of land from the West Bank.²³ The deviations from the Green Line have the purpose of fragmenting Palestinian territory, while enlarging Israeli borders, by placing 100,000 Palestinians in the Jerusalem municipality on the West Bank side of the wall and putting them at risk of losing their permanent residency status. In its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, the International Court of Justice (ICJ) proposed that the Wall represented a de facto annexation of the territory, in that it created a “fait accompli” on the ground that could well become permanent.”²⁴ By 2017, 35 percent of the Palestinian land in Jerusalem had been expropriated for Israel settlements and a further 22 percent of Palestinian land was designated for green areas by Israel, where construction is not allowed.²⁵ With such systematically discriminatory planning and zoning policies, only 13 percent of the land is available for the Palestinian population of Jerusalem, and they were granted only 7 percent of all buildings permits.²⁶

²¹ Visualizing Palestine, ‘Living under policies of colonisation in Jerusalem’ (October 2016).

²² Article 28, Israel Palestinian Interim Agreement, Annex III (28 September 1995).

²³ UN OCHA, ‘Special Focus: Barrier Update’ (July 2011), p. 3, available at: www.ochaopt.org/documents/ocha_opt_barrier_update_july_2011_english.pdf.

²⁴ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion) [2004] ICJ Reports 136 <www.icj-cij.org/en/case/131> [121].

²⁵ Evidence of this policy is that in 1974, Israel declared the Jerusalem Walls Park (1,100 dunums/ ~270 acres) nearby the Old City. In 2000, Tzurim Valley Park (165 dunums/~40 acres) was declared on an area in Mount Scopus.

²⁶ Negotiations Affairs Department of the State of Palestine, ‘50 Years of Israel’s military occupation of East Jerusalem’ (25 September 2017), available at: <https://www.nad.ps/en/publication-resources/infographics/50-years-israels-military-occupation-east-jerusalem>.

Meanwhile, Israel’s expanding settlement enterprise has also played a key role in the physical isolation of Jerusalem and its Palestinian residents from the rest of the OPT. One example is the “E1” area located to the east of the Jerusalem municipal borders, encompassing 22,000 dunums of confiscated Palestinian land, alongside the Ma’ale Adumim settlement.²⁷ For Israel, construction in the “E1” area translates into guaranteed contiguity between the Ma’aleh Adumim settlement, Jerusalem, as well as Israel.²⁸ Besides impeding on the OPT’s territorial integrity by incorporating the “E1” area and annexing it into Israel’s ‘Greater Jerusalem’,²⁹ dividing the West Bank and relinquishing the vital passage in joining parts of the northern and southern West Bank, it particularly intensifies the separation of East Jerusalem from the rest of the West Bank by surrounding it with Israeli settlements.³⁰ Furthermore, Bedouin communities residing in the “E1” area have been target to Israel’s discriminatory and arbitrary measures, resulting in their forcible transfer and displacement to allow for settlement expansion.

1.1.3. The Basic Law, 1980: Constitutional Annexation

In 1980, the Knesset (Israeli Parliament), approved the Basic Law on Jerusalem, conferring "the complete and united Jerusalem as the capital of Israel", with a semi-constitutional status.³¹ In response, the Security Council Resolution 478 (1980) called on all states “not to recognize the ‘Basic Law’ and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem” and that “those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City.” Despite resolutions of such tenor, Israel has further entrenched its annexation of Palestinian territory.³²

2. Legislation and Bills before the Knesset to alter the Demography of Jerusalem and Force Palestinians Out

Since January 2016, a number of Bills have been initiated before the Knesset with the targeted objective of revoking the residencies of Palestinians from occupied Jerusalem, to force their transfer from the territory.

²⁷ Al-Haq, Virtual Field Visit: E1 Area, 28 January 2014, available at:

<http://www.alhaq.org/advocacy/topics/settlements-and-settler-violence/774-virtual-field-visit-e1-area>.

²⁸ Jonathan Lis, Israeli Bill to Annex Jerusalem-area Settlement Will Include Controversial E1 Area (Haaretz, 19 January 2017), available at: <https://www.haaretz.com/israel-news/.premium-israeli-bill-to-annex-settlement-to-include-controversial-e1-area-1.5487449>.

²⁹ See Jonathan Lis, ‘Israeli Bill to Annex Jerusalem-area Settlement Will Include Controversial E1 Area’ (Haaretz, 19 January 2017), available at: <https://www.haaretz.com/israel-news/.premium-israeli-bill-to-annex-settlement-to-include-controversial-e1-area-1.5487449>.

³⁰ B’Tselem, ‘The E1 Plan and Its Implications for Human Rights in the West Bank’ (2 December 2012), available at: https://www.btselem.org/settlements/20121202_e1_human_rights_ramifications.

³¹ Basic Law: Jerusalem Capital of Israel (30 July 1980), available at: https://www.knesset.gov.il/laws/special/eng/basic10_eng.htm.

³² Security Council resolution 252 of May 21, 1968; 267 of July 3, 1969; 271 of September 15, 1969; 298 of September 25, 1971; 452 of July 20, 1979; 465 of March 1, 1980; and General Assembly 2253 of July 4, 1967.

2.1. Proposed Entry into Israel Law (Amendment – Revocation of Residency of a Person or his/her Relative who Breached Allegiance to the State of Israel), 2016

The bill was tabled as a draconian measure to quash the Palestinian resistance in Jerusalem in the aftermath of Israeli attacks on Al-Aqsa mosque in September 2015.³³ In January 2016, the breach of allegiance bill was submitted to the Knesset to revoke the residencies of holders of blue identity card, who may have engaged in “terrorist activities” such as “the pelting/throwing of stones on the residents and citizens of the state for the sole purpose of harming the State of Israel and its sovereignty”.³⁴ The law will locate broad powers to revoke the residencies of “a person – or his/her relative – who is convicted of a breach of allegiance to the State of Israel”.³⁵ A persons “relative” in this respect refers to a “spouse, parent or child”.³⁶ In addition to revoking the Jerusalem residencies of stone throwers and their relatives, the Explanatory Note to the Bill strongly recommended removing “all their rights related to the National Insurance Law and other laws because there is no logic behind granting equal rights to residents who act against the State and giving them the ability to enjoy the social benefits which accompany one’s being a permanent resident in the State of Israel”.³⁷

The measures represent an attempted collective penalty against stone throwers and their families for rising up against Israel’s attacks on the Al-Aqsa Mosque compound. As such, the overall objective is to silence dissent and inflict brute force and excessive legal penalties for minor law enforcement infringements arising from protests against Israel’s annexationist measures.³⁸ The Bill represents a measure to facilitate Israel’s alteration of the status of Jerusalem, by silencing resistance to the occupation while forcing ‘loyalty’ to the State of Israel.

2.2. Proposed Entry into Israel Law (Amendment – Revocation of a Permit for Permanent Residency of Terrorists and Their Families), 2016 and 2017

To date seven Bills have been placed on the Knesset table for preliminary discussion to revoke permanent residencies of persons and relatives of persons considered a terrorist threat. The amendment to the Entry into Israel Law will provide for the punitive revocation of Jerusalem residencies of so-called terrorists and their families. The proposed bills are intended to legalize an existing and recent practice whereby Israel’s Ministry of the Interior has revoked permanent residencies of the alleged perpetrators of crimes and their family members. For example, on 21 January 2016, the Israeli Ministry for the Interior punitively

³³ Times of Israel Staff, ‘Abbas Decries Israel’s “Attack” on Al-Aqsa Mosque’ (Times of Israel, 14 September 2015), available at: <https://www.timesofisrael.com/abbas-decries-israels-attack-on-al-aqsa-mosque/>; Middle East Monitor, ‘Timeline: Israel’s Attacks on Al-Aqsa Mosque’ (1 August 2017), available at: <https://www.middleeastmonitor.com/20170801-israeli-attacks-on-al-aqsa-mosque/>.

³⁴ Explanatory Notes, Proposed Entry into Israel Law (Amendment – Revocation of Residency of a Person or his/her Relative who Breached Allegiance to the State of Israel) – 2016 (5776).

³⁵ Proposed Article 11(1)(c)(1).

³⁶ Proposed Article 11(1)(4).

³⁷ Explanatory Notes, Proposed Entry into Israel Law (Amendment – Revocation of Residency of a Person or his/her Relative who Breached Allegiance to the State of Israel) – 2016 (5776).

³⁸ Al-Haq, East Jerusalem, Exploiting Instability to Deepen the Occupation (2015) 13.

revoked the residencies of four Palestinians from East Jerusalem on the grounds of their alleged involvement in criminal attacks.³⁹ Two months later on 21 March 2016, a Bill was tabled to cancel the visas and permanent residencies of so-called terrorists. A “terrorist act” is loosely defined according to the bill which finds:

“A terrorist act” is an act which was committed or was planned to be committed in order to influence a political, ideological or religious matter and in which the following elements exist:

(1) The act was implemented or planned for in order to cause public fear or panic or to force a government or another authority – including the government or authority of a foreign country – to do a certain act or refrain from doing something. In this context, it is very likely that such acts or threats which cause public fear and panic will also cause fear and panic in similar societies as well.

(2) That the implemented or planned act was characterized as such:

(a) Physically injuring a person or restricting his/her freedom, or to threaten a person’s life or seriously traumatizing him/her;

(b) To pose a serious threat to the health and safety of the public.

“Relative” means any of the following: [the offender’s] spouse, parents and all children (minors) who are looked after by their parents.⁴⁰

The Explanatory Notes provide for the extension of the penalty to family members of “a person who commits a terrorist act or has contributed to committing that act through knowledge, help, encouragement and support before, during or after committing the terrorist act.” The Explanatory Note warns that once a visa or a residency is revoked, the person becomes an illegal resident “and Article 13 of the law will apply to him/her and will require his/her deportation as soon as possible”.⁴¹

In January 2017, the Israeli Minister of Interior punitively revoked the residency of Manwa Qunbar, the mother of Fadi Qunbar, who allegedly was involved (and also killed) in an attack which led to the killing of four Israeli soldiers. In the aftermath of the attack, the State of Israel filed a 2.25 million USD lawsuit against the wife of Fadi Qunbar, and his four children, one of a number of punitive measures against the family. At the time, the Jerusalem District Prosecutors Office stated:

³⁹ Prime Ministers Office, Security Cabinet Approves Series of Additional Measures to Deal with the Wave of Terrorism (14 October 2015), available at: http://www.hamoked.org/files/2015/1159861_eng.pdf. See also, HCJ 1635/16, *Abu Kaf et al. v. Government of Israel et al. Petition for Order Nisi*.

⁴⁰ Proposed Article 11(1)(e), Bill for the Entry into Israel Law (Amendment – Cancellation of Visa and Permanent Residence Permits of Terrorists and their Families after their Participation in Terrorist Activities) – 2016 [5776]. Submitted to the Knesset Chairman and deputies and presented to the Knesset table on the date of 21 March 2016 [11 Adar II, 5776].

⁴¹ Bill for the Entry into Israel Law (Amendment – Cancellation of Visa and Permanent Residence Permits of Terrorists and their Families after their Participation in Terrorist Activities) – 2016 [5776]. Submitted to the Knesset Chairman and deputies and presented to the Knesset table on the date of 21 March 2016 [11 Adar II, 5776].

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“This lawsuit, which stems from a terrorist incident in which soldiers were murdered, is designed to recover the expenses incurred in events of this kind to the state’s coffers, as well as sending a clear message that the state will also settle accounts on a civil level with the perpetrators of hostile acts[...]. In light of the fact that the [terrorist] caused the damage, his legal heirs are the ones who need to bear it and indemnify the state for it.”⁴²

In addition, 10 members of Fadi’s extended family living in Jerusalem had their family unification permits revoked amounting to a direct forcible transfer from Jerusalem.⁴³

Two months after the incident, on 14 March 2017, another similar Bill was tabled in the Knesset, to target and revoke the residencies of so-called terrorists and their family members. Bill Number P/20/3994 will amend Article 11 of the Entry into Israel Law, 5712-1952 creating a new subsection 1(d) in section 11 (1). It will allow the Minister of the Interior:

(d) Without undermining what was mentioned in sub-section (a), the Minister of Interior is entitled to cancel the visa or permanent residence permit of the relatives of a person who commits a terrorist act or contributes to it (whether through an act or by knowledge) before, during or after the undertaking of that act, provided that the Minister would not cancel the aforementioned visa or permanent residence permit before giving the terrorist’s relative the chance to plead and state his/her claims before him...

(e) In this article...

“Relative” means any of the following: [the offender’s] spouse, parents and all children (minors) who are looked after by their parents.⁴⁴ (emphasis added)

On 24 July 2017, a further Bill on the subject, the Bill for the Entry into Israel Law (Amendment – Revocation of Visa and Permanent Residence Permits of Terrorists and their Families), 2017 outlined in its Explanatory Notes, that ‘terrorists’ are able to move freely throughout Israel on blue identity cards, allocated to those with permanent residencies. Underscoring the bill is the intended deterrent effect of the practice, and a punishing attribute, where the Note explains that the State should no longer, after an attack, be obliged to support the family members of the accused. The Bill is intended to plug a ‘gap’ in the Entry into Israel law, whereby the accused and family members of the accused, continue to

⁴² In First, ‘Israel Files \$2.3 Million Lawsuit Against Palestinian Terrorist’s Widow and Children’ (Haaretz, 2 July 2017), available at: <https://www.haaretz.com/israel-news/.premium-1>.

⁴³ Al-Haq, ‘Collective Punishment in Jabal Al-Mukabir’, (25 January 2017), available at: <http://www.alhaq.org/documentation/weekly-focuses/1097-field-report-collective-punishment-in-jabal-al-mukabir>.

⁴⁴ Bill Number: P/20/3994, Bill for the Entry into Israel Law (Amendment – Cancellation of Visa and Permanent Residence Permits of Terrorists and their Families after their Participation in Terrorist Activities) – 2017 [5777]. Submitted to the Knesset Chairman and deputies and presented to the Knesset table on the date of 14 March 2017 [16 Adar 5777]. Translation on File with Al-Haq.

‘enjoy’ social and other benefits, gifted by the State of Israel.⁴⁵ In doing so, the Explanatory Note purports that:

“the revocation of one’s permit will also lead to the cancellation of their legal rights stated in the National Insurance Law (Consolidated version), 1995 [5755], such as the dependents pension and burial fees, because there is no logic behind providing any state support to them and their relatives”.⁴⁶

According to the Bill, relatives of the accused, including spouses, parents and minor children may have their residencies revoked. Such measures will render the affected persons stateless and will force their transfer from Jerusalem.

In their prescriptive forms, the Bills as they stand, provide for collective penalties. Under the laws of occupation collective penalties are prohibited. Article 33 of the Fourth Geneva Convention codifies the general principles of domestic law on collective penalties and provides that “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited”. The prohibition is echoed in Article 50 of the Hague Regulations, which is also declaratory of customary international law.⁴⁷ Commentary to the 1949 Fourth Geneva Convention outlines that the prohibition ensures that “ Responsibility is personal and it will no longer be possible to inflict penalties on persons who have themselves not committed the acts complained of”.⁴⁸

2.3. The Entry into Israel Law (Amendment No. 28) (Boycott Law), 2017

On 6 March 2017, the Knesset passed a law to revoke the permanent residencies or visas of persons with permanent residency permits and prohibits the grant of permanent residencies or visas to those who call for or have an affiliation with an organization that has called for the boycott of Israel. The law is broadly articulated to include revocations of residencies of those whose employers have called for a boycott of Israel establishing, “if s/he; or his/her organization; or the body in which s/he works for has knowingly published a public call to boycott the State of Israel as defined in the Law for Prevention of Damage to the State of Israel through Boycott – 2011 (5771)”.⁴⁹ The law further revokes the residencies and

⁴⁵ See Text of Bill for Preliminary Discussion, Proposed Entry into Israel Law (Amendment – Revocation of a Permit for Permanent Residency of Terrorists and Their Families, 5767 – 2017, available at: <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2018572>.

⁴⁶ P/20/4479, Bill for the Entry into Israel Law (Amendment – Revocation of Visa and Permanent Residence Permits of Terrorists and their Families) – 2017[5777], Submitted to the Knesset Chairman and deputies and presented to the Knesset table on the date of 24 July 2017 [1 Av 5777].

⁴⁷ Article 50, Hague Regulations of 1907 (“No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.”)

⁴⁸ Convention Relative to the Protection of Civilians in Time of War (Geneva, 12 August 1949). Commentary of 1958, Article 33 – individual responsibility – collective penalties – pillage – reprisals, available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwtreatiesbytopics.xsp>.

⁴⁹ Received at the Knesset on the date of 6 March 2017 (8th of Adar, 5777); the bill and its explanations were published in the Knesset proposed laws (bills) – 664 on the date of 9 November 2016 (8th of Cheshvan, 5777), page 8.

prohibits the grant of residencies and visa of persons who have individually committed to participate in a boycott, amounting to measures which would also affect family unifications.

The laws represent a direct breach of the right to freedom of expression, as articulated in Article 19 of the International Covenant on Civil and Political Rights and Article 19 of the Universal Declaration of Human Rights. In addition, the law also breaches the right to work as protected in Article 6 of the International Covenant on Economic, Social and Cultural Rights.

2.4. Bill for the Entry into Israel Law (Amendment – Applicability to East Jerusalem’s Residents and Resorting to the Interior Minister’s Judgment), 2017

In 2006, Israel pursued Jerusalem-residents elected members from Hamas to the Palestinian Legislative Council through the Israeli High Court of Justice, seeking the revocation of their residencies on grounds of breach of allegiance. On 13 September 2017, some eleven years later, the Israeli High Court of Justice (HCJ) found in favour of retaining the residency rights of the politicians, on the grounds that there was no specific legislative basis providing for the revocations.⁵⁰ However, the Court granted Israel a six month leeway to adopt legislation to provide for the residency revocations premised on beach of allegiance grounds, while suspending temporarily the decision of the Minister of the Interior.⁵¹

On 13 November 2017, two months after the ruling of the HCJ, a bill was introduced into the Knesset to grant the Israeli Minister of the Interior sweeping powers to revoke the permanent residency status of Palestinians in East Jerusalem and Syrians in the occupied Golan Heights for “breach of loyalty to the State of Israel.”⁵² The bill is currently in preparation for the first reading of the Committee. An amendment to Article 11 of the Entry into Israel law will provide for revocations of permanent residency on grounds of breach of allegiance in the following cases:

- (1) An act of terror as defined in the Israeli Counter-Terrorism Law of 2016 [5776], or the assistance or attempt or incitement to commit such an act, or to actively participate inside a [known] terrorist organization or any organization which meets the aforementioned law’s definition of a terrorist organization; including political parties or organizations which are affiliated with them.
- (2) Any act which is considered an act of treason according to articles (97) until (99) of the Israeli Penal Code of 1977 [5737], or an aggravated espionage as mentioned in Article (113) (B) of the aforementioned law.

⁵⁰ H CJ 7803/06, *Abu ‘Arafa et al. v. The Minister of Interior and Others*.

⁵¹ See generally, Hamoked, ‘The HCJ ruled that the Minister of Interior is not authorized to revoke permanent status due to breach of allegiance to the state: however, the decision to revoke the status of four East Jerusalem youths on this ground will not be cancelled for now, to allow the Knesset to make it legal’ (6 November 2017), accessed 19 February 2018.

⁵² Proposed Article 11(1)(1).

- (3) The acquisition of citizenship or a right to permanent residency in a country or territory mentioned in the Annex of the Israeli Nationality Law of 1952 [5712].⁵³ (emphasis added)

While the Explanatory Notes to the bill outlines that the authority of the Minister of Interior includes the competence to revoke permanent residencies, as well as benefits such as National Insurance Payments and allowances owed to Hamas members.⁵⁴

The revocation of permanent residency status on the above grounds, amounts to a formal punitive revocation of residency in contravention of international human rights and international humanitarian law. To date there have been 14 documented cases of punitive residency revocations.⁵⁵ In particular, Article 45 of the Hague Regulations states that it is “forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power”. In addition, Article 68(3) of the Fourth Geneva Convention finds that accused persons are not nationals of the Occupying Power and are therefore not bound by any duty of allegiance. More notably, the bill is an attempt to unlawfully force the transfer of Palestinians from Jerusalem, and remove all opposing Palestinian political representation from Jerusalem, to prevent civic engagement.

3. Knesset Bills to Alter the Status of Jerusalem

Currently, and during the year of 2017, the Knesset has initiated a number of bills that will permanently alter the demographic balance of the City of Jerusalem. Plans to enlarge the Jerusalem municipality will allow the legal incorporation of Israeli settlements in city borders.⁵⁶ The following subsections outline the bills which are currently tabled for consideration before the Knesset, and if passed, they will radically alter the legal status and demography of Jerusalem.

3.1. Proposed Greater Jerusalem Law, 2017

On 22 March 2017, MK Yehuda Glick placed the Proposed Greater Jerusalem Law, 2017 – 5777 on the Knesset table for preliminary discussion. The objective is to extend the jurisdiction of the State of Israel to the ‘Greater Jerusalem’ area to include Jerusalem “and its attached authorities”. The so-called “attached authorities” comprise of the settlements and local councils across the West Bank which include (1) Municipality of Beitar Illit, (2) Municipality of Ma’ale Adumim, (3) Local Council of Giv’at Ze’ev, (4) Local Council of Mevaseret Zion, (5) Gush Etzion Regional Council, (6) Local Council of Efrat, (7) Kfar Adumim, (8) Alon, (9) Nofei Prat, (10) Kedar, (11) Ma’ale Mikhmas, (12) Mitzpe Yeriho.

⁵³ Bill submitted to the Knesset Chairman and deputies and presented to the Knesset’s table on the date of 13 November 2017 [Hebrew Calendar: 24 Cheshvan 5778] (unofficial translation from Hebrew), available at: <http://m.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2021253>.

⁵⁴ Explanatory Note, Proposed Entry into Israel Law (Amendment – Revocation of a Permit for Permanent Residency of Terrorists and Their Families, 5777 – 2017.

⁵⁵ See, CAC, Punitive Residency Revocation: The Most Recent Tool of Forcible Transfer.

⁵⁶ Available at: <http://www.haaretz.com/misc/haaretzcomsmartphoneapp/.premium-bill-would-allow-parts-of-jerusalem-to-be-transferred-to-new-israeli-local-authority-1.5434517>.

The Bill intends to create a new Council of Greater Jerusalem, which will be presided over by the Mayor of Jerusalem. Further, the Bill requires that the government in partnership with the Council of Greater Jerusalem encourage residential and economic development “including the development of new industrial areas”, the expansion and creation of transportation routes, the promotion of educational, cultural and artistic institutions, improved welfare service and “significantly increase the land reserves which are available for residential buildings in the areas of Greater Jerusalem”.⁵⁷ In doing so, the Bill addresses a perceived problem in preserving the “demographic balance”. According to the Explanatory Note:

“[T]he position of Jerusalem as the leading and most vital city in Israel was undermined, and its strong and leading population has been moving to the Shfela (Lowland) cities. The proposed bill will enable the changing of this trend and will help Jerusalem reclaim its position as the symbol and heart of the Jewish people, and will gather up the finest forces of Israel and world Jewry for the purpose of strengthening the city of Jerusalem.”⁵⁸

As such, the Bill plans to absorb unlawful Israeli settlements and councils into the Jerusalem municipality and alter the demography of Jerusalem, to radically alter facts on the ground, in violation of Palestinian rights to self determination and permanent sovereignty over Jerusalem and the West Bank.

3.2. The Bill for the “Jerusalem and Its Daughters” Law, 2017

Also on 22 March 2017, the Bill for the “Jerusalem and Its Daughters” Law, 2017 (also known as the Jerusalem Towns Law) was submitted to the Knesset Chairman and deputies. On 10 July 2017, the Bill was placed before the Knesset for preliminary discussion.⁵⁹ The Bill seeks to radically expand the jurisdiction of Jerusalem by incorporating annexed local authorities outside of Jerusalem, i.e. unlawful Israeli settlements located in the West Bank into the Jerusalem municipality. The municipalities cited include; (1) the municipality of Beitar Illit; (2) Municipality of Ma'aleh Adumim; (3) Giv'at Ze'ev Local Council; (4) Gush Etzion Regional Council; (5) Local Council of Efrat. The bill also considers that the Palestinian municipalities of Shu'fat Camp, Kufr 'Aqab; and 'Anata currently part of the Jerusalem municipality, but separated by the Annexation Wall, will also be considered daughter municipalities of Jerusalem.⁶⁰

Underpinning the bill, is the Israeli plan to alter the demography of Jerusalem. By incorporating the settlement areas around Jerusalem, as autonomous sub-municipalities of the city, these will become part of Jerusalem. They will have a degree of municipal authority

⁵⁷ P/20/4158, Proposed Greater Jerusalem Law, 2017 – 5777. Submitted to the Knesset Chairman and deputies and presented to the Knesset's table on the date of 22 March 2017 [24th of Adar, 5777].

⁵⁸ Explanatory Note, P/20/4158, Proposed Greater Jerusalem Law, 2017 – 5777. Submitted to the Knesset Chairman and deputies and presented to the Knesset's table on the date of 22 March 2017 [24th of Adar, 5777].

⁵⁹ Knesset, National Legislation Database, available at:

<http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2019455>.

⁶⁰ Proposed Jerusalem Law and its Towns, 5767 – 2017, Bill for Preliminary Discussion, available at: <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2019455>.

while also being considered part of the Jerusalem municipality.⁶¹ For example, the residents of the included areas may have the right to participate in Jerusalem municipal elections, while maintaining their local autonomy. The Minister of the Interior will decide on the division of powers between the Jerusalem municipality and the five newly incorporated settlement blocs.⁶² The Bill appears to have little effect on the current status of the three listed Palestinian municipalities, which are listed separately, but will remain in the Jerusalem municipality.

The policies carried out by the laws will completely transform the current demographic balance between Jews and Palestinians, since the two bills would add some 120,000 Jews to Jerusalem.⁶³ The new borders of the City of Jerusalem would alter the legal status of the areas inhabited by Palestinian population, without consent of the affected population. The bill seeks to de facto annex areas in the West Bank, already occupied by settlers, while conducting a massive ‘transfer in’ of Israeli settlers into Jerusalem. These measures contribute to a shift in the demographic balance of the City of Jerusalem, in order to accomplish the Israeli demographic goals of engineering a population of 70 percent Jews and 30 percent Palestinians in Jerusalem, as stated in the Jerusalem Outline Plan 2000.

The Knesset bills follow the party policy of the Likud party to annex the West Bank settlements. On 31 December 2017, the Likud Central Committee, the party of Israeli Prime Minister Netanyahu decided in a non binding party resolution to annex the settlements located in the West Bank to Israel. Israel’s Labor and Welfare Minister Haim Katz, stated "Judea and Samaria and Greater Jerusalem ...are an inseparable part of the land of Israel and will remain so forever."⁶⁴

3.3. Basic Law Bill: Jerusalem, Capital of Israel (Amendment – Supermajority [i.e. Qualified Majority]), 2017

On 26 June 2017, a Bill was initiated to amend Article 7, of the Basic Law: Jerusalem Capital of Israel. The Amendment provides:

1. In Article 7 of the Basic Law: Jerusalem, Capital of Israel, before the words “Clauses 5 and 6 shall not be modified” will come the words “Despite what was mentioned in any other law”. Also, “Clauses 5 and 6” will be replaced with “Clauses

⁶¹ Proposed Jerusalem Law and its Towns, 5767 – 2017, Bill for Preliminary Discussion, available at: <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2019455>.

⁶² Proposed Jerusalem Law and its Towns, 5767 – 2017, Bill for Preliminary Discussion, available at: <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2019455>.

⁶³ Naomi Chazan, ‘Don’t mess with Jerusalem’ (Times of Israel, 6 November 2017), available at: <http://blogs.timesofisrael.com/dont-mess-with-jerusalem/>.

⁶⁴ Moran Azulay, Elior Levy, ‘Likud party calls for de-facto annexation of Israeli settlements: Likud's Central Committee votes to adopt non-binding resolution to apply Israeli sovereignty to the West Bank; “We have the moral right and obligation towards our settler brothers,” says Public Security Minister Erdan’ (Ynet News, 1 January 2018), available at: <https://www.ynetnews.com/articles/0,7340,L-5064594,00.html>.

5, 6 and 7”, and “by a majority of the members of the Knesset” will be replaced with “by a majority of 80 Knesset members”.⁶⁵

The Bill is intended to place additional impediments on the transfer of “the Jerusalem-related authority” in final status negotiations “to a foreign body”.⁶⁶ In this respect, the insertion of a “defensive clause” will require a supermajority of 80 Knesset members, as opposed to the current majority required.⁶⁷ The objective is to make it more difficult to secure a Knesset vote to alter the status of the annexed and ‘unified’ Jerusalem in Israel’s Basic Law.

⁶⁵ Basic Law Bill: Jerusalem, Capital of Israel (Amendment – Supermajority [i.e. Qualified Majority], Submitted to the Knesset Chairman and deputies and presented to the Knesset’s table on the date of 26 June 2017 [Hebrew Calendar: 2 Tamuz 5777]).

⁶⁶ Explanatory Note, P/20/4346, Basic Law Bill: Jerusalem, Capital of Israel (Amendment – Supermajority [i.e. Qualified Majority]).

⁶⁷ Explanatory Note, P/20/4346, Basic Law Bill: Jerusalem, Capital of Israel (Amendment – Supermajority [i.e. Qualified Majority]).

3.4. Proposed Basic Law: Jerusalem Capital of Israel Amendment – Referendum, 2017

The Jerusalem Capital of Israel Amendment – Referendum was tabled for preliminary discussion at the Knesset on 26 July 2017.⁶⁸ The bill aims to amend Article 71 of the Basic Law, on the voting required to alter the status of Jerusalem in the Knesset. The bill proposes that in addition to a Knesset vote, it will also be required to put the amendment to a public referendum. This will require that a majority vote is secured in the Knesset and also that a majority of Israeli citizens approve the amendment in a referendum before the status of Israel is altered in Israel’s domestic law.⁶⁹

3.5. Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017

On 26 July 2017, Knesset Member, Yoel Hasson initiated a Bill to cut a number of strategic Palestinian villages in Jerusalem from the city, to swiftly alter the demography of Jerusalem by placing them “outside the jurisdiction of the State of Israel and the Municipality of Jerusalem in order to preserve the full Israeli sovereignty over Historical Jerusalem which includes the Jewish holy sites”.⁷⁰ According to the Bill, ‘Historic Jerusalem’ is the geographic space which includes “the Old City and the Jewish holy areas, including the Holy Basin, Mount Scopus, Mount of Olives, Silwan and other areas specified by the Israeli government. Notably all these areas are located in the occupied Palestinian territory. The Bill proposes that the government draft an outline plan to establish:

- (1) A detail of the Palestinian villages which will be excluded from the jurisdiction of the Municipality of Jerusalem and the State of Israel, as well as the necessary arrangements for moving them to areas “B” and “C” under the civil responsibility of the Palestinian Authority;
- (2) Guaranteeing the security interests of the State of Israel; and in particular the maintenance of a maximum freedom of action by the Israeli Defense Forces in the Palestinian villages and minimizing the friction between Israeli and Palestinian populations as much as possible.
- (3) The revocation of the permanent residency status of Palestinian village residents who will be outside the jurisdiction of the State of Israel and the Municipality of Jerusalem;
- (4) The required changes in legislation in order to implement the outline.⁷¹ (emphasis added)

The Explanatory Note to the Bill presents the issue of Jerusalem, a city which is “impossible to govern” due to the “hundreds of thousands of Palestinians who live in the city of Jerusalem and have a permanent residency status despite their strong attachment to and identification with the Palestinian Authority”.⁷² Estimating the Palestinian presence in

⁶⁸ P/4524/20, Proposed Basic Law: Jerusalem Capital of Israel Amendment – Referendum.

⁶⁹ P/4524/20, Proposed Basic Law: Jerusalem Capital of Israel Amendment – Referendum.

⁷⁰ P/20/4546, Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 – 5777.

⁷¹ P/20/4546, Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 – 5777.

⁷² P/20/4546, Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 – 5777.

Palestinian villages such as Shu’fat, Al-‘Eisawiyya, Jabal Al-Mukabir, Beit Hanina, Sur Baher and others at “more than 200,000 Palestinians but not a single Jew” – the Note portrays the problem of an increasing Palestinian population who “see themselves as part of the Palestinian nation.” Meanwhile part 4 of the Bill ensures that the removed Palestinian population will not be able to apply for Israeli citizenship:

Furthermore, in Article 4 of the bill, we propose to adopt a temporary order which authorizes the Minister of the Interior to freeze the procedures related to citizenship requests and address changes of Palestinian residents until the approval of the outline. The purpose of this arrangement is to prevent a situation in which, after the approval of the proposed law, the residents of the Palestinian villages would start applying for Israeli citizenship in great numbers and changing their addresses in a manner which would cause a failure to the main purpose of this bill.⁷³

Although rejected, at the core of the Bill was the plan to force the displacement of hundreds of thousands of Palestinians from Jerusalem to manipulate the boundaries in order to engineer an increase in the Jewish population, which would “guarantee a substantial Jewish majority for the coming generations”.⁷⁴ Worryingly, the Bill was introduced by Yoel Hasson, a member of Knesset for Kadima and Hatnuah, who are considered to be more politically ‘liberal’.

3.6. Higher Education Bill (Amendment No. 20), 2018

On 7 February 2018, an Israeli bill was approved for a second and a third reading, which will provide for the dismantling of the Council for Higher Education in Judea and Samaria, as defined in the Emergency Regulations and incorporating the competence for higher education in the settlements directly under the Israeli Council for Higher Education.⁷⁵ The Council for Higher Education in Judea and Samaria, has accredited three illegal settler universities in the West Bank, “Orot Israel” Academic College of Education, the Yaakov Herzog College (at the Har-Etzion Yeshiva) and Ariel University.⁷⁶ The bill passed all three rounds of the Knesset and was finally passed with 56 votes in its favour and 36 against.⁷⁷ Israeli Member of the Knesset, Moalem-Refaeli explained the objective to integrate universities in the settlements into the State of Israel:

⁷³ Explanatory Note, P/20/4546, Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 – 5777.

⁷⁴ Explanatory Note, P/20/4546, Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 – 5777.

⁷⁵ The Education, Culture and Sports Committee approved for the Second and Third Reading, the Proposed Law of the Council for Higher Education, Amendment No. 20, available:

<http://main.knesset.gov.il/Activity/Committees/Education/News/Pages/%D7%94%D7%95%D7%93%D7%A2%D7%94-%D7%97%D7%95%D7%A7-%D7%94%D7%9E%D7%95%D7%A2%D7%A6%D7%94-%D7%9C%D7%94%D7%A9%D7%9B%D7%9C%D7%94-%D7%92%D7%91%D7%95%D7%94%D7%94.aspx#>.

⁷⁶ Council for Higher Education, Institutions of Higher Education, available at:

http://lang.che.org.il/en/?page_id=15417#Higher+Education+Institutions+Accredited+by+The+Council+for+Higher+Education+of+Judea+and+Samaria+%28Malag+Yosh%29.

⁷⁷ Ellie Bothwell, ‘New legislation will extend Israeli law to academic institutions in the West Bank’ (Times Higher Education, 14 February 2018), available at: <https://www.timeshighereducation.com/news/israel-approves-west-bank-settlement-university-law#survey-answer>.

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“Today, the law does not see Ariel University as an Israeli academic institution, and therefore, it cannot open a medical school affiliated with Israeli hospitals for clinical work... Cancelling the Judea and Samaria Council for Higher Education and putting the university under the [general] Council for Higher Education’s authority will remove the obstacle and allow the establishment of a medical school that will meet the needs of Israel’s medical system.”⁷⁸

The transfer of competence of over institutions of higher education in the settlements amounts to an extension of Israel’s sovereignty over the West Bank, and an annexationist measure in violation of international law.

3.7. Attorney General’s Directive Applying Israeli Law Directly to Settlements

On 3 January 2018, a House Committee meeting was held in the Knesset to discuss the application of Israeli legislation directly to the settlements. Currently, legislation is adopted, and then transposed into a military order, for application to the West Bank settlements. However, since January 2018 Israel’s Attorney General has circulated guidelines to examine the possibility that all government sponsored bills explain how legislation will apply directly to the settlements. Each bill would state whether it would apply to the settlements by means of legislation or military order. A department has been established in the Justice Ministry, presided over by Deputy Attorney General Nizri, “tasked with applying Israeli law to Judea and Samaria”.⁷⁹ Minister for Tourism, Yariv Levin stated:

“The natural state should have been that every law that is passed would automatically apply to Judea and Samaria, unless there is a good reason to act differently, but because the existing legal arrangement is not implemented in practice, the result is that the legislation is not applied, not because someone decided it should not be applied, but because of foot-dragging. The right thing to do is to apply our sovereignty on all parts of the Land of Israel, and I’m certain that this will be done soon. But until it happens, we must do everything we can to narrow the current gap. Equality and civil rights are not a political issue.”⁸⁰

Justice Minister Shaked outlined, “We’re not in Judea and Samaria in order to disappear one day. We’re here for 50 years already, and we will be here for another 5,000 years. Our policy is clear: Settlement in the entire Land of Israel and normalization of life in Judea and Samaria.”⁸¹

⁷⁸ Lahav Harkov, ‘West Bank Sovereignty Push Continues in Knesset with Higher Education Bill’ (Jerusalem Post, 30 January 2018), available at: <http://www.jpost.com/Israel-News/West-Bank-sovereignty-push-continues-in-Knesset-with-higher-education-bill-540200>.

⁷⁹ Knesset, ‘Knesset committees to monitor implementation of Attorney General’s directive regarding application of new laws to Judea and Samaria’ (3 January 2018), available at: http://knesset.gov.il/spokesman/eng/PR_eng.asp?PRID=13713.

⁸⁰ Knesset, ‘Knesset committees to monitor implementation of Attorney General’s directive regarding application of new laws to Judea and Samaria’ (3 January 2018), available at: http://knesset.gov.il/spokesman/eng/PR_eng.asp?PRID=13713.

⁸¹ Knesset, ‘Knesset committees to monitor implementation of Attorney General’s directive regarding application of new laws to Judea and Samaria’ (3 January 2018), available at: http://knesset.gov.il/spokesman/eng/PR_eng.asp?PRID=13713.

4. Jerusalem After US Recognition

The US recognition in December 2017, effectively gave Israel the green light to herald in a host of Knesset bills to alter the status of Jerusalem, which previously faced US objection, and had been delayed by Israel on this basis. Notably Israel’s alteration of the status of Jerusalem violates numerous Security Council resolutions, General Assembly resolutions and international law.

4.1. Second Amendment to the Basic Law on Jerusalem

On 1 January 2018, the Knesset approved a Second Amendment to the Basic Law on Jerusalem. The Bill was first tabled for preliminary discussion in the Knesset on 26 June 2017. On 1 January 2018, the amendment was voted through in the Knesset, altering clauses regarding the area of Jerusalem and the required majority for changing them. The Basic Law 1980 provides that “Jerusalem, complete and united, is the capital of Israel” and is the seat of the “President of the State, the Knesset, the Government and the Supreme Court”. The Basic Law further prohibits the transfer of authority over Jerusalem “to a foreign body, whether political, governmental or to any other similar type of foreign body”. Only a “majority of the members of the Knesset” could modify the existing law on Jerusalem.⁸²

The new amendment to the Basic Law was introduced in an attempt to prevent the transfer of the current appropriated area of Jerusalem in a future peace deal. Instead of allowing amendments to the Basic Law on Jerusalem based on a majority vote, the amendment now requires a supermajority [i.e. qualified majority] of 80 Knesset members to transfer portions of the Jerusalem from Israeli sovereignty to “a foreign body”, most likely Palestinian. The amendment distinguishes between territorial-political concessions that are prohibited, and hampered by the amendment, with respect to the entire area of Jerusalem at present and what are implied to be permitted “municipal changes” to the city’s boundaries – whether expanding or minimizing them, without transferring them to a foreign body.

4.2. Changing Facts on the Ground: Kufr ‘Aqab

On 29 January 2018, a spokesperson for the Israeli army outlined that they would redeploy troops into Kufr Aqab, a Palestinian village in the Jerusalem municipality with a population of approximately 140,000 Palestinians.⁸³ The Binyamin and Etzion brigades of the Israel Occupying Force (IOF) will patrol the areas that Israel refers to as the ‘Jerusalem Envelope’ – parts of Jerusalem, which it has de facto separated from the City through the construction of the Annexation Wall. Notably, this is one of the key areas which has been cited to be removed from the Jerusalem municipality, to alter the demography and attain a Jewish majority.⁸⁴

⁸² Basic Law: Jerusalem Capital of Israel (30 July 1980), available at: https://www.knesset.gov.il/laws/special/eng/basic10_eng.htm.

⁸³ Yaniv Kubovich, ‘Israeli Army to Take Control of Palestinian Neighbourhoods in East Jerusalem (Haaretz, 29 January 2018), available at: <https://www.haaretz.com/israel-news/.premium-israeli-army-to-take-control-of-palestinians-neighborhoods-in-e-j-lem-1.5770730>.

⁸⁴ P/20/4546, Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 – 5777.

5. Legal Analysis

5.1. Legal Framework

Contrary to international law, Israel does not consider itself as an occupying power. Consequently, it denies the applicability of the Fourth Geneva Convention, which applies to cases of declared war, armed conflict or occupation of territory, despite having ratified the Convention.⁸⁵ Nonetheless, according to International Law, Israel is a belligerent occupant in such areas and is therefore obliged to conform its conduct to the applicable International Humanitarian Law in the occupied territories.⁸⁶ In particular, Articles 4 and 47 of the Fourth Geneva Convention prohibit the occupant from annexing occupied territory, imposing its sovereignty over it or taking any measures of a sovereign nature.

Such determinations are congruent with the basic principle that occupation is a temporary state, since the authority of the occupying power over the occupied territories is a *de facto* power and not a matter of right *de jure*.⁸⁷ That is to say, international law prohibits an occupant from taking any measures which may change the status quo of the occupied territory.⁸⁸ Accordingly, the annexation of Jerusalem during a belligerent occupation is illegal. According to Pictet's Commentary to Article 47 of the Fourth Geneva Convention, a fundamental principle emerges from the prohibition of annexation: “an Occupying Power continues to be bound to apply the Convention as a whole even when, in disregard of the rules of international law, it claims during a conflict to have annexed all or part of an occupied territory”.⁸⁹ Therefore Israel continues as a belligerent occupier in Jerusalem, and has continued obligations to ensure the rights of the protected population inhabiting the occupied territory. Israel has ostensibly ignored its obligations, in the occupied Palestinian territory.

Israel has orchestrated a number of illegal acts against the Palestinian residents of Jerusalem, such as confiscations of their property, the imposition of Israeli jurisdiction, including the airspace and the electromagnetic field (for mobile phones, Internet and satellite signals), closure of city to non-Jerusalemite Palestinians⁹⁰, and also the forced dependency

⁸⁵ Israel Ministry of Foreign Affairs, ‘Israeli Settlements and International Law’ (30 November 2015), available at: <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israeli%20settlements%20and%20international%20law.aspx>.

⁸⁶ UN General Assembly, ‘Assembly calls for Parties to Fourth Geneva Convention to Meet on Measures to Enforce its Application in Occupied Palestinian Territory’ (9 February 1999).

⁸⁷ Article 42, Hague Regulations of 1907.

⁸⁸ Andrea Carcano, *The Transformation of Occupied Territory in International Law* (Brill Nijhoff, 2015) 179.

⁸⁹ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Commentary of 1958, available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=C4712FE71392AFE1C12563CD0042C34A>.

⁹⁰ Since March 1993, Israel has prohibited non-Jerusalemite Palestinians from entering the city unless they obtain an Israeli-issued permit, which is rarely granted. As such, over 4 million Palestinians are denied access to our holy places in Jerusalem, are prohibited from studying in East Jerusalem and are denied certain medical treatments that are only available in East Jerusalem hospitals, available at: <https://www.nad.ps/en/our-position/jerusalem>.

of the Palestinian economy, imports and exports on Israel. Similar measures have been adopted in the West Bank, but without its formal annexation.⁹¹ Such administrative measures were gradually incorporated in the Israeli legal system, creating a legality veil. Evidently, measures of this kind have a major impact on the lives of Palestinians. The international community repeatedly rejected those steps and declared Jerusalem an integral part of the Occupied Palestinian Territories, whose status under the rule of belligerent occupation cannot be unilaterally altered. Nonetheless, no sanctions were applied, and Israel persists to violate international humanitarian and international human rights law.

5.2. Alteration of Legal Status of Jerusalem and Residency Revocations as Forcible Transfer

The new Bills intend to force the displacement of the Palestinian population from the Jerusalem municipality and change the city's borders to annex Jewish settlements to the city's area and exclude Palestinian neighbourhoods from its borders. Such measures will de facto further entrench Israel's annexation of Jerusalem and “Judaize” the region, despite the non recognition and condemnation of the international community.

As shown, Israel has disrespected and continues to disrespect the prohibition of transfer and deportation in occupied territory. The forced displacement of Palestinians is a historic and ongoing process that affects the lives of every Palestinian, more so for those currently living in occupied Jerusalem, the West Bank and Gaza Strip. The tactics of forcible displacement have changed in intensity, form and geographical area of application. Some already discussed are: denial of residency, instalment of a permit regime, confiscation and denial of use of property, discriminatory zoning and planning, segregation, denial of access to services, denial of reparations including property restitution, compensation and non-repetition. Also, non-state actions have had a major role in the forcible displacement of Palestinians, with the implicit consent of the Israeli state, such as the transfer in and presence of corporations in the settlements.⁹²

For the second time since the occupation, the Israeli government plans to radically alter the boundaries of Jerusalem in order to exclude the Palestinian population from the municipality. These new discriminatory laws and bills need to be analysed, to determine whether they reach the threshold of gravity of prohibited and criminalized conduct of forcible displacement. The prohibition of transfer and deportation in occupied territory established in Article 49 paragraph 1 of the Fourth Geneva Convention is clear: “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive”. The prohibition of mass and individual transfer or deportation was confirmed by the International Committee of the Red Cross Study to be customary international humanitarian law. According to its Rule 129, “parties to an international armed conflict may not deport or forcibly transfer the civilians population of an occupied territory, in

⁹¹ See Susan Power, ‘Israel’s Degrees of Economic Control over the Occupied Palestinian Territory: Colonizing the Economic Space’ (Heinrich Böll Stiftung, The Perspective, August 2017).

⁹² BADIL, ‘Forced Population Transfer: The Case of Palestine’ (Press Release, December 2015), available at: <https://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp18-FPT-Israeli-permit-system.pdf>.

the whole or in part, unless the security of the civilians involved or imperative military reasons so demand”.⁹³

It is important to establish that the destination of the transfer and deportation⁹⁴ is irrelevant and includes forcible displacement of civilians within the occupied territory, an interpretation that has been confirmed by the Statute of the International Criminal Court.⁹⁵ Similarly, the motive of the forcible displacement is considered irrelevant. As such, the transfer can be direct, such as from the displacement of persons from revocation of their residency rights, or indirect.

5.2.1. Direct Forcible Transfer

The proposed Amendment to the Bill for the Entry into Israel Law, presented to the Knesset’s table on November of 2017, suggests the applicability of the Entry into Israel Law to the residents of East Jerusalem and of the Golan Heights, determining the revocation of the permanent residency permits or authorizations of those who are found to have committed a breach of loyalty to the State of Israel. Accordingly, “breach of loyalty to the State of Israel” includes “[a]n act of terror as defined in the Israeli Counter-Terrorism Law of 2016⁹⁶, the assistance, attempt or incitement to commit such an act, or to actively participate inside a terrorist organization or any organization which meets the Counter-Terrorism Law’s definition of a terrorist organization, including political parties or organizations which are affiliated with them, and any act which is considered an act of treason or an aggravated espionage, according to the Israeli Penal Code⁹⁷, or the acquisition of citizenship or a right to permanent residency in one of the nine Arab and Muslim states which are listed by the Israeli Nationality Law of 1952, and the Gaza Strip. As stated in the Explanatory Note, the new legislation will provide a legal basis for the revocation of the permanent residency permits of Hamas members, without necessarily proving their relation or participation in terrorism actions.

⁹³ ICRC, IHL Database, Rule 129, The Act of Displacement, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule129.

⁹⁴ Transfers take place within the territory of a state, whereas deportations presuppose the crossing of an international border from one state to another. Transfer and deportation can be understood as modalities of the same reality: forcible displacement.

⁹⁵ Art 8 (2)(b)(viii), Rome Statute of the International Criminal Court.

⁹⁶ The Israel Counter-Terrorism Law defines terrorism as: “An act [that] constitutes an offense, or threat thereof, if it satisfies all the following: 1. Committed with a political, religious, nationalist or ideological motive; 2. Committed with the aim of stirring fear or panic among the public or coercing a government or a governing authority, including the government or a governing authority of a foreign State, or a public international organization, to take action or to refrain from taking action; 3. The act or threat satisfies one of the following, or creates a substantial risk that one of the following occurs: 1. Serious injury to a person’s body or freedom; 2. Serious disturbance to public safety or public health; 3. Serious damage to property, if there is a substantial possibility that such damage will cause serious injuries and disturbances as provided in a or b, and the damage was inflicted with the purpose of causing such injuries or disturbances; 4. Serious damage to religious artefacts; for the purposes of this paragraph, “religious artefacts” are places of worship or burial and ceremonial objects; 5. Serious damage to essential infrastructure, systems or services, or their severe disruption, or severe damage to the nation’s economy or to the environment.”

⁹⁷ Israeli Penal Code of 1977 [5737], articles (97) until (99) - Act of Treason, and Article (113) (B) - Aggravated Espionage.

Similarly, another proposed Amendment to the Entry into Israel Law⁹⁸ suggests the cancellation of visa and permanent residence permits of terrorists and also to their families, including minors, if the family members have “contributed to committing that act through knowledge, help, encouragement and support before, during or after committing the terrorist act”, it must be underlined that the penalization of “encouragement and support before, during or after” the action considered a terrorist act gives margin to untenable accusations. The proposers of the bill have also highlighted that “the person whose rights were revoked immediately becomes an illegal resident, and Article 13 of the law will apply to him/her and will require his/her deportation as soon as possible”, clearly indicating its connection to the Israeli policies of population forcible displacement.

5.2.2. Indirect Forcible Transfer

The question regarding indirect transfer is whether the redrawing of the municipal boundaries, amounts to a forcible transfer for the purposes of the Rome Statute. As such, the question may be framed, whether the redrawing of the boundary to place unwanted communities in a different area, equates to the uprooting of persons from their location, for the purposes of the law prohibiting forcible transfer.

During the course of the occupation, Israel has employed various methods of forcible displacement. Firstly, the Jerusalem 2000 Master Plan aims to reduce the city's Palestinian population to 30 percent of city residents.⁹⁹ This policy is effectively implemented by the legislators of the Jerusalem and its Daughters Bill¹⁰⁰, which aims to “add a population which will preserve the demographic balance”.¹⁰¹ Similarly, the Proposed Greater Jerusalem Law, 2017 seeks to “add to Jerusalem a population which will preserve its democratic balance”.¹⁰² While the Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 proposes that only the “separation from, the hundreds of thousands of Palestinians who were added to its territory without any justification can guarantee the remaining of Jerusalem as a unified, safe and prosperous city for the coming generations”.¹⁰³ Thus, there is a compatibility of motives between current Bills that aim to alter the municipal borders of Jerusalem and the previous policies set to create demographic reduction of Palestinians in Jerusalem.

Although the displacement of civilians can be justified by humanitarian or military reasons, these cannot be confused with Israel’s political objectives: it is prohibited to move a

⁹⁸ Bill for the Entry into Israel Law (Amendment – Cancellation of Visa and Permanent Residence Permits of Terrorists and their Families after their Participation in Terrorist Activities) – 2017 [5777]. Bill number: P/20/3994. Submitted to the Knesset Chairman and deputies and presented to the Knesset table on the date of 14 March 2017.

⁹⁹ Local Outline Plan Jerusalem 2000, Report No. 4, The Proposed Plan and the Main Planning Policies, 32.

¹⁰⁰ Explanation of the Bill initiated by the Knesset members Yoav Kish, Amir Ohana; Bezalel Smotrich and Yoav Ben-Tzur and submitted on 22 March 2017 (“This bill stipulates that the residents of Jerusalem’s surroundings within the First Addition will be added to Israel and will become part of Jerusalem. This way, Jerusalem will add a population which will preserve the demographic balance”).

¹⁰¹ P/20/4386, The Bill for the “Jerusalem and Its Daughters” Law – 2017 [5777].

¹⁰² P/20/4158, Proposed Greater Jerusalem Law, 2017 – 5777, Explanatory Note.

¹⁰³ P/20/4546, Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 – 5777.

population in order to exercise more effective control over a dissident ethnic group.¹⁰⁴ The continued Israeli policies of forcible displacement, regardless of its form, and the new legislation under analysis have clear purposes of exercising control over a dissident ethnic group, in offense to international law. Consequently, one could not possibly say that the forcible displacement of Palestinians is justified by military reasons.

The central aspect of forcible displacement is its forcible character, as well as the rights protected by its prohibition: the right to freedom of movement and choice of residency. Article 8(2)(a)(vii) Element 1 of the Elements of Crimes to the Rome Statute outlines that “the perpetrator deported or transferred one or more persons to another State or to another location”.¹⁰⁵ The Commentary to Article 45 of the Fourth Geneva Convention of 1949, clearly outlines that “[t]he term “transfer”, for example, may mean internment in the territory of another Power, repatriation, the returning of protected persons to their country of residence or their extradition”. The Convention makes provision for all these possibilities”.¹⁰⁶ In this vein, the tabled Jerusalem Bills impose clear limitations to the rights of freedom of movement and choice of residency for Palestinian Jerusalemites. Even though they will continue to reside fiscally in the same place, it will no longer be located within the borders of the city that they are culturally, historically and socially related. The new borders of the city ultimately signify the loss of the permanent residency status of the Palestinians residents of the excluded neighbourhoods, and the consequent deprivation of their right to freely enter the city.

The status of the areas excluded from the municipality of Jerusalem, under the Proposed Law for the Rescue of Jerusalem as a Jewish and Democratic Capital City, 2017 is not clear and was not specified by the proposed legislation. It should be noted that the Bill was also later removed from the agenda, however, the future status of these areas has dominated Israeli media and is a consideration of some concern. Since this Bill is unprecedented, it is only possible to suppose the future legal status of the areas. They could be reassigned to the Palestinian Authority as Area A (under Palestinian civil and security control¹⁰⁷), but this is an unlikely option to be carried out by the State of Israel, since it would create a Palestinian Area under full control of the Palestinian Authority. Accordingly, the Explanatory Note to the Bill proposes that the area would be allocated to Areas B or C under joint Palestinian and Israeli or full Israeli control. If the area is to be designed as Area B, it will be under full

¹⁰⁴ Article 49(2), Fourth Geneva Convention (1949): “Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.”

¹⁰⁵ Article 8(2)(a)(vii), Element 1 of the Elements of Crimes to the Rome Statute, p. 16, available at: <https://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>.

¹⁰⁶ Convention Relative to the Protection of Civilians in Time of War (Geneva, 12 August 1949). Commentary of 1958, Article 45, available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=23363510D674996DC12563CD0042C251>.

¹⁰⁷ Since 2002, Israel has retained responsibility for overall security in all areas of the West Bank, and has not abdicated full authority over Area A.

Palestinian civil control, disavowing Israel of the responsibility of providing public services. Another and more likely possibility is to place the areas under full Israeli control over security, planning and construction (Area C). Nevertheless, it is also possible that another legal framework is given to the areas excluded from the municipality of Jerusalem. Notably, the transfer of a current area of the municipality to a foreign body, would infringe the new protection under the Basic Law: Jerusalem, Capital of Israel by the 2nd Amendment, and would thus require a supermajority vote of the Knesset to pass.

Nonetheless, should the new Bills be voted into law, it may result in the forcible transfer of Palestinians by the Israeli government. As illustrated above, Israel has continually eroded the permanency of the Palestinian residents of Jerusalem in the city. Nevertheless, the adopted policies so far have been unable to achieve Israel’s goal of having a demographic balance of 30 percent Palestinians and 70 percent Jews in the municipality. More aggressive policies towards this question were previously blocked by the United States Government. Trump’s declaration was a green light for more discriminatory and segregationist legislation, such as the Bill for the Basic Law: Jerusalem, Capital of Israel – Amendment no. 2 and Jerusalem and its Daughters Bill. Following the recognition, it remains to be seen whether the series of bills to alter the status of Jerusalem initiated in the Knesset in 2017 will be voted through in the next months. The uncertainty created by the Bills also feeds into the creation of a coercive environment in Jerusalem, to force the transfer of Palestinians from the City.

Conclusion

This legal brief concludes that the Israeli Bills discussed are unlawful under international human right, international humanitarian and international criminal law. The annexation of East Jerusalem was never recognized by the international community. Therefore, Israel’s unlawful exercise of sovereignty must not be recognized. For that matter, the policies of the Israeli Government in Jerusalem are to be seen as violations to the Laws of Belligerent Occupation, and also represent evidence if a criminal policy in support of the forcible transfer of Palestinians from Jerusalem.

It is clear that Israel’s policies and practices in Jerusalem have violated Palestinian economic, social, cultural, civil and political rights. Israel has further violated Palestinian property rights, freedom of movement and of control over the planning regime of the City, as well as their right to participate in the decision making process, and, finally, the fulfilment of the Palestinian people right to self determination.

The recent noticeable worrying rise in human rights violations over the past few years, particularly in on or revolving Jerusalem,¹⁰⁸ indicates that it is time for the international community to do more than formally reject unlawful Israeli policies and apply criminal

¹⁰⁸ Al-Haq, *East Jerusalem: Exploiting Instability to Deepen the Occupation* (3 December 2015), available at: <http://www.alhaq.org/component/content/article/85-field-updates-2015/1002-east-jerusalem-exploiting-instability-to-deepen-the-occupation>; see also Al-Haq, ‘Thirteen Killed by the IOF and Thousands Injured in the OPT in December 2017’ (5 January 2018), available at: <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/1166-thirteen-killed-by-the-iof-and-thousands-injured-in-the-opt-in-december-2017>

sanctions as provided for in the Fourth Geneva Convention and economic sanctions as provided for under the UN Charter.¹⁰⁹

¹⁰⁹ See Geneva Convention (GC) I, Article 49; GC II, Article 50; GC III, Article 129; and GC IV, Article 146.