

## EU HEADS OF MISSION REPORT ON EAST JERUSALEM

Monday, December 15, 2008

### **INTRODUCTION – JERUSALEM AND THE MEPP**

1. Long-standing Israeli plans for Jerusalem, now being implemented at an accelerated rate, are undermining prospects for a Palestinian capital in East Jerusalem and a sustainable two-state solution. Although Israel has legitimate security concerns in Jerusalem, many of its current illegal actions in and around the city have limited security justifications. Israeli “facts on the ground” – including new settlements, construction of the barrier, discriminatory housing policies, house demolitions, restrictive permit regime and continued closure of Palestinians institutions – increase Jewish Israeli presence in East Jerusalem, weaken the Palestinian community in the city, impede Palestinian urban development and separate East Jerusalem from the rest of the West Bank. Israel is, by practical means, actively pursuing the illegal annexation of East Jerusalem.

2. The daily creation of “facts on the ground” in the city undermines the credibility of the Palestinian Authority and weakens popular support for the Israeli-Palestinian peace talks. In addition, these on-going actions will further complicate the already delicate final status arrangements for the City. More Israeli settlers – and fewer Palestinian residents – in East Jerusalem will only make eventual Israeli concessions on Jerusalem much harder. Furthermore, the current pervasive Israeli presence in East Jerusalem will make Israeli-Palestinian separation much more convoluted and difficult to achieve in practical terms. Thus Israel’s actions in and around Jerusalem constitute one of the most acute challenges to Israeli-Palestinian peace making.

### **I EU POLICY ON EAST JERUSALEM**

3. The EU policy on Jerusalem is based on the principles set out in UN Security Council Resolution 242, notably the inadmissibility of acquisition of territory by force. In consequence, the EU has never recognised the Israeli annexation of East Jerusalem in 1967 nor the subsequent 1980 Basic Law (Basic Law Jerusalem Capital of Israel) which made Jerusalem the

“complete and united” capital of Israel. EU Member States have therefore placed their accredited missions in Tel Aviv.<sup>i</sup> The EU opposes measures that would prejudice the outcome of Permanent Status Negotiations, consigned to the third phase of the Road Map, such as actions aimed at changing the status of East Jerusalem.

4. In conferences held in 1999 and 2001, the High Contracting Parties to the Fourth Geneva Convention reaffirmed the applicability of the Convention to the Occupied Palestinian Territory, including East Jerusalem, and reiterated the need for full respect for the provisions of the Convention in that territory.

5. In July 2004 the EU acknowledged the Advisory Opinion of the International Court of Justice (ICJ) on the “Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory” and voted in favour of the General Assembly Resolution adopted at its Tenth Emergency Special Session that acknowledged it. While the EU recognises Israel’s security concerns and its right to act in self-defence, the EU position on the legality of the separation barrier coincides with the ICJ Advisory Opinion.

## **II. SETTLEMENTS IN AND AROUND EAST JERUSALEM**

### **SUMMARY**

6. Settlement building in and around East Jerusalem continues at a rapid pace, contrary to Israel’s obligations under international law and the Roadmap, which were reaffirmed at Annapolis. In 2008, the number of tenders in East Jerusalem has increased by a factor of nearly 40 compared to 2007<sup>ii</sup>. Out of a total of approximately 470,000 settlers in the occupied Palestinian territories, there are currently around 190,000 Israeli settlers (40%) living inside East Jerusalem<sup>iii</sup>, in addition to around 96,000 in settlements around Jerusalem, the majority living in large settlement blocks such as Givat Ze’ev, the Etzion bloc and Ma’ale Adumim.

7. Israel is continuing increased settlement activity in and around East Jerusalem, linked by new roads and a tramway:

- Expansion of settlements in the old city and the historic basin adjacent to it proceed, with most of the efforts focussing on an encirclement of the Old city in Silwan and the historic basin. Activities of settler organisations, including occupation of Palestinian homes, purchase of property through straw men and excavations in sensitive areas, are often conducted in collusion with state authorities.
- Construction and planned expansion in the existing major settlement blocs inside East Jerusalem. Since Annapolis, almost 5500 new housing units were submitted for public review, almost 3,000 of which have been approved bringing them significantly close to implementation<sup>iv</sup>;
- Construction and planned expansion in “Greater Jerusalem” – linking the city of Jerusalem to the settlement blocs of Ma’ale Adumim to the east (including the E1 plan), Atarot and Neve Yaacov East in the North, and Beitar Illit to the South.

In combination, these measures unmistakably indicate an intention to sever all of East Jerusalem and the surrounding settlement blocks from the West Bank.

## **OLD CITY & HISTORIC BASIN**

8. Relatively small in number but of particular concern are settlements being implanted in the heart of existing Palestinian neighbourhoods inside the Old City (total surface: 0.9 km<sup>2</sup>) and immediately surrounding areas (Silwan, Ras al-Amud, at-Tur, Wadi al-Joz, Sheikh Jarrah) with government assistance. Written evidence exists of the compliance, and monetary help, of individual ministries to settler activities in the Old City.

9. Jewish settler groups, such as El Ad and Ateret Cohanim, use a variety of means to expand settlements, often with foreign funding.

- One method used to expropriate Palestinian property is the “Absentee Property Law”.<sup>v</sup> Previously only applied inside Green Line Israel, the policy changed during the 1980’, and this law was used in a covert government campaign headed by Ariel Sharon to target Palestinian properties in the Old city and Silwan, subsequently turning over those properties to the settlers. In 1992, these policies were stopped as a result of a governmental board of enquiry, only to be resumed by the Sharon government in 2002. A definitive

ruling by the Israeli Supreme Court to resolve conflicting court decisions on the legality of this practice is pending.<sup>vi</sup> In the meantime, properties such as the Shepherds Hotel in Sheikh Jarrah and several houses inside the Old City remain in the control of settlers.

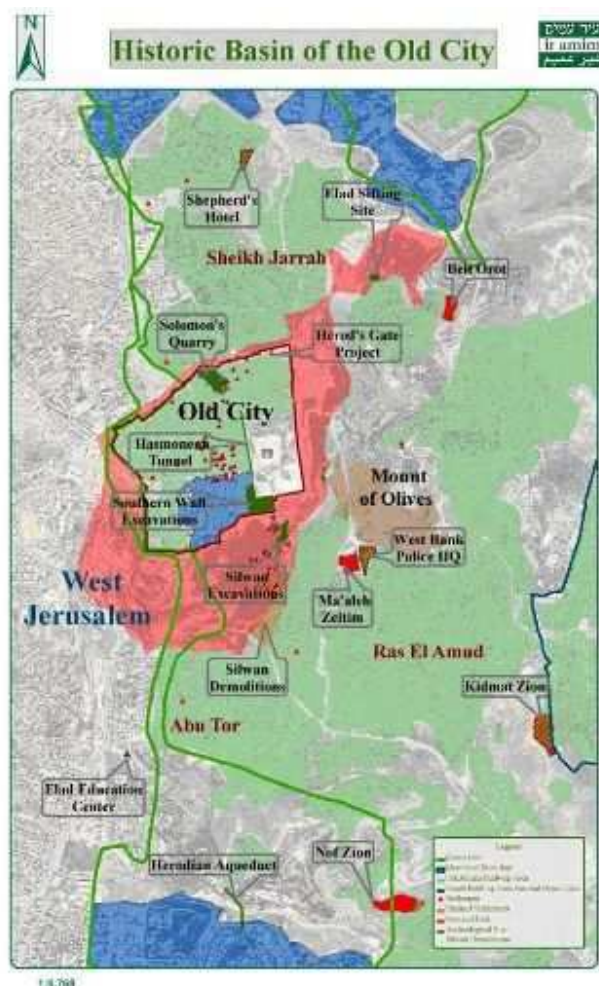
- Another method is to purchase land from Palestinians either directly or via Arab middlemen. In both cases, the Palestinians residing in the house usually do not know that the house is being sold to settlers until they are expelled from it.
- A third method is to build inside Palestinian neighbourhoods. Some of the Jewish settlements lack building permits, but are rarely demolished – in marked contrast to the situation for Palestinians.<sup>vii</sup>

10. According to the Israel Ministry of Construction and Housing, there are currently approximately 75 families and 600 Yeshiva students in settler enclaves in the Old City (outside of the extended Jewish Quarter). There are also plans to build a large new Jewish settlement within the Muslim Quarter consisting of 35 housing units. A new synagogue in the immediate vicinity of the Haram Al Sharif/Temple Mount has been inaugurated in October 2008, increasing Palestinian concerns about long-term plans to take over the Muslim Sanctuary, which are being openly promoted by some settler groups. Moreover, there are an additional approximately 60 settler families in Silwan, just outside the Old City Walls (a number of these recent acquisitions) with activities recently expanded to the Mount of Olives where last year two homes were taken over. A plot of 29 dunum (3,9 ha) known as the “Mufti’s Grove” was confiscated by the Israeli Land Authority after Palestinian developers had been co-ordinating a private sector development of the site, and leased to the Ateret Cohanim settler organisation.<sup>viii</sup>

11. Incursions into the Haram Al Sharif on the Temple Mount by radical settler groups have increased in 2008. Particularly during the Jewish high holiday season, settlers paraded on the Haram compound on a frequent basis, sometimes with protection from Israeli security forces, in what appeared to be a show of strength, sometimes leading to clashes with Palestinians.

12. Current settler activities around the Old City indicate a plan to create territorial contiguity between the Inner Settlement Ring and the Old City. Several Palestinian properties have been targeted by various settler groups, among them the Shepherd Hotel and the Mufti’s Groove in Sheikh Jarrah as well as numerous properties in Silwan and elsewhere. The most prominent case is that of the Al-Kurd family in Sheikh Jarrah, that has been evicted on 9 November 2008

from its home, which it had been allocated by UNRWA in 1956, after the Israeli High Court issued an eviction order. Settlers, claiming property to the land on the basis of alleged pre-1948 ownership, took over the house immediately.



### INNER SETTLEMENT RING

13. There are currently around 190,000 Israeli settlers living in the large settlement neighbourhoods inside the municipal boundaries,<sup>ix</sup> such as Pisgat Ze'ev, Har Homa and Gilo. Settlement expansion in these areas continues at a rapid pace.

14. Since Annapolis, almost 3,000 housing units have been approved for implementation in Har Homa, Pisgat Ze'ev, East Talpiot, Ramot and Gilo, out of which the tenders have already been granted for 1,700 units. Some other planning schemes have been submitted for public review, which would represent more than 3,000 new housing units if approved and funded. Of the approved and pending plans, more than 3,000 units are intended for Givat Hamatos<sup>x</sup>.

Some of these settlements (like Neve Ya'acov East) will expand beyond even the Israeli-defined municipal boundary of Jerusalem, further into the West Bank. These activities risk altering the character and status of East Jerusalem.

15. The expansion of settlements is continuing, too, in the heart of the Palestinian population, with new constructions in the settlement of Ma'aleh Zeitim in Ras Al-Amud and in the settlement of Nof Zion in Jabal Mukabbar, and plans for expansion in Sheikh Jarrah, Silwan and Abu Dis<sup>xi</sup>

[Map of East Jerusalem Expropriations Since 1967 – Source Ir Amim]

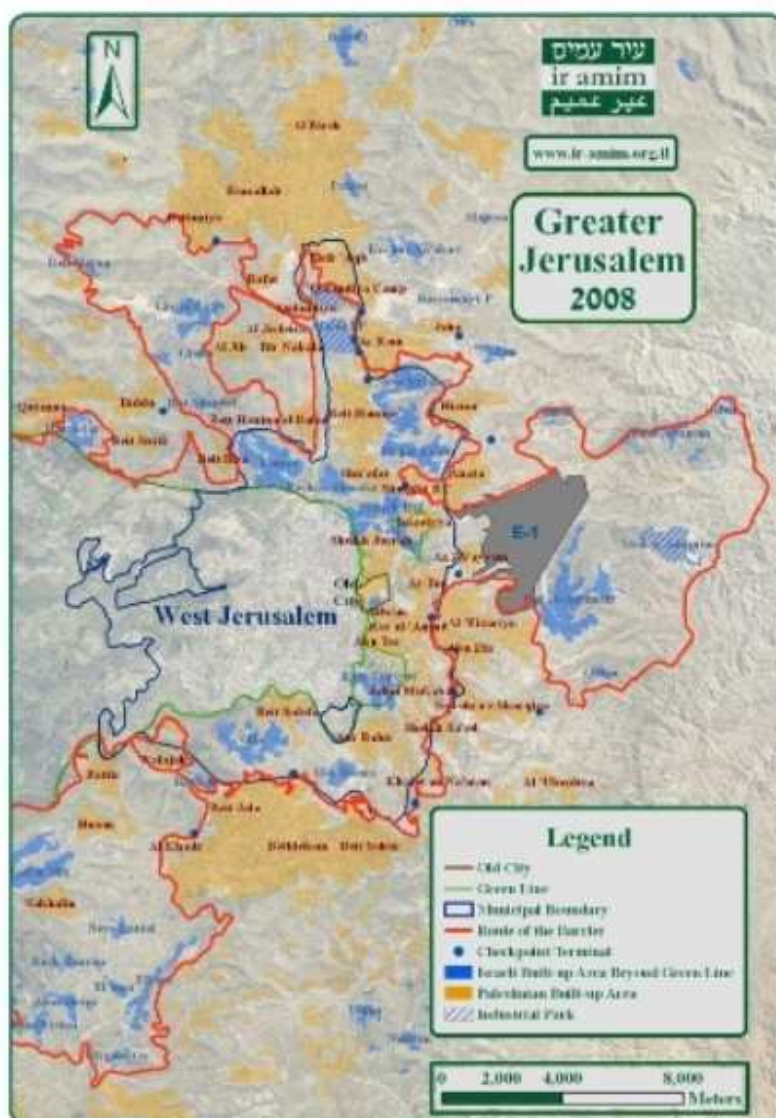
#### OUTER SETTLEMENT RING

16. About 96,000 Israelis live in West Bank settlements around Jerusalem. The most contested of these settlements is that of Maale Adumim (31,000 inh.) which accounts for about one third of the population of the outer settlement ring (see below). Other Settlements in the outside the municipal boundaries include Giv'at Ze'ev (11,000 inh.), and Geva Benjamin (2,850 inh.; also known as "Adam"). Reports of a planned expansion of the settlement of Giv'at Benjamin, Har

Gilo as well as the construction of several thousand housing units in the industrial zone of Atarot have been circulated by informed NGOs but have not yet been officially confirmed.

17. The total area of the Adumim block and E1 plan included in the current route of the barrier (as approved by the Israeli government in April 2006) covers 61 km<sup>2</sup>. The E1 plan envisages the construction of a new Israeli settlement in the West Bank (El Eizariya Az-Zaim, At-Tor and Issawiya) with 3,500 housing units, an industrial park, two police stations, large-scale infrastructure, commercial development and recreational facilities. Almost all of the construction was halted in 2004 under intense international – particularly US – pressure. However, the construction of a police station and some transport infrastructure has been completed. In April 2008, the “Judea and Samaria District Police” headquarters were moved to E1. At that time, a government plan to turn over the old Police headquarters in Ras El Amud to the settlers was thwarted, apparently due to international pressure.

18. Current Israeli measures in and around the Adumim/E1 area are one of the most significant challenges to the Israeli-Palestinian peace process. The completion of the Barrier and the E1 plan would establish Israeli territorial contiguity between the Adumim settlement block and Jerusalem, while splitting the West Bank in half and separating East Jerusalem of its hinterland. The implementation of this plan would further impede Palestinian urban development, by depriving East Jerusalem of most of the still vacant areas available for economic and demographic growth.



## TRANSPORT INFRASTRUCTURE

19. Construction of a tramway linking East Jerusalem's Arab neighbourhoods as well as Israeli settlements to the centre of West Jerusalem has continued unabated throughout 2008. The current route of the tram passes through the Arab neighbourhood of Shu'fat (ca. 20,000 inh.), and connects the Israeli settlements of Pisgat Ze'ev and Neve Ya'akov (ca. 40,000 and 20,000 inh. Resp.), north-east of Jerusalem. The tram will substantially raise the costs of separating these areas from West Jerusalem as well as from each other.

20. Israel is also building a bypass road East of Jerusalem that will connect Palestinian agglomerations outside of the wall north and south of Jerusalem. The apparent aim of this road is to secure 'transport contiguity' for Palestinians living in the North and the South of the Westbank by travelling from Ramallah to Bethlehem through tunnels without passing through East Jerusalem. In the near future the completion of that bypass road might be used by Israel to pretend that a "contiguity" between the north and the south of the Westbank has been established, and that the construction of E1 is no longer a problem for the "Palestinian fabric of life".

21. The road is separated by a wall from a parallel road which is reserved for Israeli vehicular use. This parallel road connects the Westbank settlement of Ma'aleh Adummim to Jerusalem.

22. Moreover, Land confiscations for another bypass road for Palestinian traffic have taken place south of the Adumim / E1 area (s. map below). This road will complement the one under construction, diverting Bethlehem-Jericho traffic outside the Ma'aleh Adummim salient.

*Source: Ir Amim*

23. The cumulative effect of this new road grid will be to allow Israel to ban all Palestinian Traffic from the Adumim / E1 area. Arab Bedouin have already been displaced from this area.

[Greater Jerusalem Security Barrier May 2008 map – Source: Ir Amim]

### **III SEPARATION BARRIER/ WALL**

24. The separation barrier and the accompanying permit regime continue to have a serious humanitarian, social and economic impact on Palestinian life. In July 2008, OCHA reported that 409km (57%) of the barrier's total planned length of 725 km (double the length of the Green line) was complete and a further 9% is under construction. The barrier consists of nine metre high concrete slabs around towns and cities, and technical fencing in rural areas with military access roads alongside. On average the barrier/fence is 60 metres wide.

25. When plans for the barrier were approved in 2002, the stated purpose was to provide a temporary security barrier to prevent suicide attacks in Israel by Palestinian militants. The presence of the wall and the permit regime is designed to restrict the movement of Palestinians into Israel. However, 86% of the planned route of the barrier, including East Jerusalem, is inside the 1949 Armistice (Green Line) i.e. in the West Bank. The barrier deviates from the Green line to include around 80 Israeli settlements, including 12 in East Jerusalem,

home to 385,000 Israeli settlers on the Israeli side of the wall. Israel has repeatedly made clear that they intend to keep these settlements and the 240 square kilometres of land that they annex (8.5% of the West Bank) under any final status agreement. The Wall in the Jerusalem area de facto annexes 3.9% of the West Bank. So it is not difficult to understand the concerns of many Palestinians that the separation barrier will become the future border with the State of Israel. Indeed, in September 2008, Vice Premier Haim Ramon even said “the barrier was Israel’s new eastern border”.

26. By taking in these illegal settlements, the separation barrier cuts off 285,000 Palestinians, including East Jerusalem, from the West Bank. Although not completed, the Barrier is already creating geographical and bureaucratic hardships for hundreds of thousands of Palestinians. Some towns inside the Barrier are surrounded on three or four sides by the wall restricting access to the rest of the West Bank and making natural expansion almost impossible. In other areas the Barrier deviates inside East Jerusalem away from the municipal borders to leave densely populated Palestinian areas, such as Shuafat Refugee Camp, in the West Bank. In some cases it runs completely through the middle of towns as in Abu Dis in East Jerusalem severing Palestinian communities.

27. As more of the barrier is erected, the checkpoint and permit regime imposed on West Bankers is being tightened. These restrictions constrain Palestinian daily life, which in return increases frustration and can breed extremism. For the minority granted permits, access to East Jerusalem and Israel is through a limited number of designated gates and checkpoints currently open on a daily, weekly and/ or seasonal basis. Many of the gates are in rural areas to enable farmers to access their land on the other side of the barrier. However, only around 20% of farmers have been granted permits and opening times for the gates are restricted, which limits the time they can work on their land. This is having a serious impact on rural economies.

28. The area between the Barrier and the Green Line has been declared a closed military area. Any Palestinian over the age of 12 living here is required to obtain a permanent residence permit to reside there. Once the barrier is fully constructed it is estimated that 35,000 Palestinians will need a permit to stay in own home.

29. The permit regime has also had negative effects in other areas. Since September 2000, there has been a 70% drop in the number of students attending the Beit Hanina Campus of Al Quds University in East Jerusalem. Fewer Palestinian Christians and Muslims are able to access religious sites in Jerusalem. During Ramadan Israel often places age restrictions on Palestinians wishing to visit the Haram al Sharif. Anecdotal evidence indicates that the economy of East Jerusalem and West Bank towns such as Bethlehem has also declined now that customers are cut off from markets and services. Goods for export into Israel and overseas are regularly held up or turned away at checkpoints and in many cases perishable goods spoil in the heat. Recently, altar wine which for the past 125 years has been produced by a Roman Catholic order at a winery in Bethlehem has not been allowed through for fears that it constitutes a security risk. .

30. East Jerusalem's hospitals which provide specialist healthcare such as cancer care and dialysis, which are not available in the West Bank, are also facing increasing difficulties in providing services for patients. 70% of their patients are West Bankers who require permits to come to Jerusalem for treatment. These permits are frequently delayed or only given for a day when overnight or repeat visits are necessary. Since July 2008 all medical personnel and patients who live in the West Bank but have permits to come into Jerusalem, are only allowed to cross at Qalndiya or Zeitun checkpoints. The change was implemented in response to the alleged terror attacks in Jerusalem over the summer. Palestinians have to drive to the checkpoints from their homes and often have to wait in long queues to cross on foot, before finding transport on the other side or they have to travel on specially designated buses. These policies cause many patients and medical staff to miss appointments and have a serious effect on the provision of healthcare to Palestinians.

#### **IV RESTRICTIONS ON AND DEMOLITIONS OF PALESTINIAN HOUSING**

31. The Jerusalem municipality is responsible for providing services in East Jerusalem. Palestinian East Jerusalemites represent 34% of the population of Jerusalem but only 5% - 10%<sup>xii</sup> of the municipal budget (depending on which model is followed) is spent in Palestinian areas. Palestinian areas of the city are characterised by poor roads, little or no street cleaning, limited sewage systems, few public services such as parks, pavements, clinics, libraries,

community centres, youth clubs, sports fields, playgrounds or adequate school classrooms and an absence of well-maintained public spaces. This is in sharp contrast to areas where Israelis live both in West Jerusalem and East Jerusalem settlements. The provision of services in what is, according to Israeli definition, a single municipality, reflect discriminatory practices.

32. The municipality places severe restrictions on the building of Palestinian housing in East Jerusalem. It only issues building permits for areas that have zoned master plans. Since Israel annexed East Jerusalem, more than 35% of its territory has been expropriated (more than 24 sq. km). Of the remaining areas, much is unzoned. In the zoned areas, development has been artificially “capped” – towards the goal of “maintaining the demographic balance”, leaving only 12% of East Jerusalem (most of which is originally Palestinian owned land) for Palestinian residential purposes. This 12% of Palestinian land is already densely built upon, and thus Palestinians build on this land (for which they pay municipal and other taxes) without building permits. They have no options but to adopt illegal behaviour against their will, even, in some cases, after having spent thousands of dollars to submit requests to the planning authorities and hiring lawyers in attempts to build legally. During the past years Palestinians have received fewer than 200 building permits per year; even these require a wait of several years and are usually a costly affair. The increasing Palestinian population means that many new Palestinian homes are built without permits<sup>xiii</sup> and are therefore considered “illegal” by the Israeli authorities (although under the 4<sup>th</sup> Geneva Convention occupying powers may not extend their jurisdiction to occupied territory).

33. Since 2004 around 400 houses have been demolished. “Administrative demolitions” have also intensified since Annapolis, particularly in and around Jerusalem. According to the Israeli Committee Against House Demolitions (ICAHD), since Annapolis Israeli Authorities have demolished 95 houses in East Jerusalem out of a total of 330 house demolitions in the OPT (this represents an overall increase of 25 percent over the 11-month period prior to Annapolis). 420 homes are currently threatened with demolitions in the Mount of Olives neighbourhood. Legal proceedings temporarily halted 300 demolitions. During the first week of November new demolitions occurred in Silwan neighbourhood as part of the 80 demolition orders planned by the Israeli authorities in June 2005, claiming that they are

illegal structures. If implemented, these demolitions would displace 1,000 people, including more than 700 children in Silwan. The number of pending demolition orders that have yet to be carried out in East Jerusalem is around 1000.

34. House demolitions in occupied East Jerusalem are illegal under international law, serve no obvious purpose, have severe humanitarian effects, and fuel bitterness and extremism. The EU adopted a declaration on this issue on the 10<sup>th</sup> November of 2008 and expressed its concern to the Israeli authorities through an official demarche to the Israeli Ministry of Foreign Affairs on the 1<sup>st</sup> December of 2008.

## **V ID CARDS, ACCESS AND RESIDENCY STATUS**

35. Palestinians from East Jerusalem have blue Israeli ID cards that give them the right to live in Israel (in practice, in East Jerusalem), but not to vote in Israeli national elections or to have an Israeli passport. The renewal of these blue ID cards is a lengthy process to be carried out at the East Jerusalem office of the Israeli Ministry of Interior. Unlike citizenship, residency status expires after seven years, for people residing abroad. Therefore Jerusalemites who move abroad risk permanently losing their status as Jerusalem residents and the rights that go with it. A new law enacted in July 2007 by the Israeli Knesset explicitly denies rights on the basis of national origin. According to Israeli NGO's such as Hamoked and Betselem, this law is "racist and discriminatory"<sup>xiv</sup>.

36. According to the Israeli "centre of life" policy, Palestinian blue ID holders found living or working outside East Jerusalem, for example in Ramallah, would lose their ID (and so their Jerusalem residency rights). Palestinian blue ID holders outside the barrier are increasingly unable to access East Jerusalem, forcing them to access educational, medical and religious services in the rest of the West Bank. The policy has serious humanitarian consequences. Couples in which one spouse has a blue Jerusalem ID and the other a green West Bank ID are placed in a precarious position. While, technically, Israel permits the transfer of blue ID status to spouses and children the process is excessively slow and cumbersome putting the family under extreme pressure. Since the beginning of the second Intifada, Israel has frozen all family reunion programmes.

37. An increasing enforcement of the “centre of life” policy, and the construction of the barrier around Jerusalem has led to a second wave of “immigration” of blue ID card-holders into the city. Palestinian Jerusalem ID holders are moving into areas on the west side of the wall and into the Old City in order to safeguard their residency rights, leading to rapid rent increases in East Jerusalem areas, overcrowding and a housing shortage. These factors risk further degradation of the urban environment.

38. Palestinians who have green West Bank ID cards or Gaza ID cards, must apply for a permit to enter East Jerusalem. Even for those West Bankers and Gazans regularly employed in East-Jerusalem, these entry permits have to be renewed every three months. West Bank ID holders who are granted permits to enter Jerusalem are subject to a number of conditions, e.g. a time limit on the hours they can spend in Jerusalem, and ban on driving and staying overnight. Access to and from Jerusalem and the West Bank has become increasingly difficult for both Jerusalem and West Bank ID card-holders.

39. Stricter implementation of existing Israeli policy has also seen foreign spouses of Palestinians and foreign nationals wishing to visit or work in the Occupied Territories denied entry at Israeli controlled border crossings with Israel and the Occupied Territories. Furthermore and in defiance of the general principle of reciprocity, some of the foreigners denied entry are holders of EU passports, whereas Israeli citizens face no restriction while circulating in the EU.

## VI PALESTINIAN INSTITUTIONS

40. With disregard to the provisions of the Roadmap, which sets for their reopening<sup>xv</sup>, the Israeli Ministry of internal security has renewed, on the 8<sup>th</sup> of February 2008, and on the 5<sup>th</sup> of August 2008, the order of closure of the Palestinian institutions in East-Jerusalem closed in 2001, claiming that they were affiliated to the Palestinian Authority and therefore in violation of the Oslo agreements.

41. Since 2001, around ten Palestinian institutions in East-Jerusalem remain closed, whereas they were playing an essential role inside the Palestinian civil society, in the economical, social

and cultural fields, in particular: the Orient House, the Arab Studies Society, the Arab Chamber of Commerce and Industry, the Palestinian Center for Development of Micro-Projects, the Arab Higher Council for Tourism.

42. The “New Orient House”, commonly known as “Orient House” and established in the late 70’s under the leadership of Palestinian philanthropist Faisal Hussein, was the main civil society institution in East Jerusalem. It served as the unofficial headquarters of the PLO in Jerusalem and included 12 departments, covering a variety of fields (charitable, social, cultural, economic). It also directed financial and material assistance to Palestinian Jerusalemites excluded from Israeli healthcare and social security systems, those struggling to pay taxes or education fees, as well as those who were victims of home demolitions.

43. Established in 1936, the Arab Chamber of Commerce and Industry played an important role in the economic field, providing legal and administrative services, facilitating the participation of local companies and businessmen in national and international fairs and exhibitions, promoting local products and creating investment opportunities.

44. In addition, the Israeli Authorities closed during the year 2008 some additional Palestinian institutions in East-Jerusalem, in particular the Culture Forum Organization in Sur Baher, closed on the 4<sup>th</sup> of February 2008, and the Palestinian Housing Council, specialized in financing social housing, closed on the 2<sup>nd</sup> of July 2008.

45. Even if some of them managed to continue their activities by moving their headquarters outside Jerusalem, the closure of these institutions had a very deep and negative impact on the Palestinian society in East-Jerusalem, particularly since public events organized by the Palestinian civil society in East-Jerusalem are regularly prohibited. Since Annapolis, the Israeli authorities have prohibited about thirty Palestinian events and gatherings in East Jerusalem. In particular, in March 2008, a meeting for the launching of the manifestation “Jerusalem, cultural capital of the arab world 2009”, has been prohibited by the Israeli authorities. The targeting of mostly secular and moderate Palestinian institutions and activities in the city

contributes to creating an institutional vacuum in East Jerusalem, leaving the room free to religious and radical forces. Moreover, the prolonged closure of the Palestinian institutions in East-Jerusalem prejudices the final result of the negotiations on the status of the city.

## VII RELIGIOUS FREEDOM

46. As described above, Christians and Muslims living east of the Separation Barrier/ wall are increasingly unable to reach their holy sites in East Jerusalem. Permits are only granted in limited numbers on the occasion of great celebrations. In addition, males under the age of 45, even if they can get into Jerusalem, are seldom allowed onto the Haram Al-Sharif compound in the old city (a site considered the third holiest in Islam). Indeed, Israel effectively exercises a veto on who enters the compound. Cameras have been placed at the entrance of the other gates to the Haram Al-Sharif, pointing inwards towards the compound, and Israeli Security personnel are stationed at the entrance to all of the gates determining who is granted access. In addition, by their control of the Mughrabi gate, Israel imposes an unregulated influx of tourists on the Haram without prior negotiation with the Waqf, the Jordanian Islamic authority with jurisdiction over the compound.

47. The Old City and Holy Basin are subject to extensive unilateral Israeli excavations, including at the Haram Al-Sharif/Temple Mount. Moreover, in the last few years, the Israeli Antiquities Authorities have increasingly “privatised” excavation rights to non-governmental Israeli organisations associated with the extreme settler organizations. Several excavation sites in the Holy Basin are now operated and co-financed by private settler organisations or affiliated extremist bodies, including Ateret Cohanim, Western Wall Heritage Fund, Temple Mount and El Ad.<sup>xvi</sup> Links between settlement expansion and the excavation of “archaeological tunnels” in sensitive areas are of particular concern. These private or quasi-private entities have obtained sovereign responsibilities for excavation activities in several religiously sensitive areas of the Holy Basin, including at the Mughrabi Gate, under the Damascus Gate, around the Western Wall and in Silwan. These privatised, and often opaque, practices risk undermining the archaeological status quo in and around the Old City, as well as contributing to increasing distrust and tensions between the religious communities in the city.

Those ongoing projects are oblivious to Christian and Muslim holy sites. Although they do not directly harm those holy sites, they threaten their viability, integrity and the public domain in their immediate vicinity. UNESCO has continuously encouraged Israel to abide by international declarations on the protection of World Heritage under occupation.<sup>xvii</sup> In this manner, archaeology is becoming an ideologically motivated tool of national and religious struggle carried out in a manner that modifies the identity and character of the city and threatens to undermine its stability.

48. In January 2008 excavations commenced towards the construction of a synagogue in the Western Wall tunnel, seven meters under the Muslim quarter, at the level of the Roman era road. It is immediately adjacent to the Haram Al Sharif/Temple Mount. The Israeli Antiquities Authorities are deeply involved in its planning and construction.

49. In 2008 the building of The Ohel Yitzhak synagogue started on the Western Wall Plaza, in the immediate vicinity of the Haram Al Sharif/Temple Mount. A tunnel already being dug will connect this synagogue to the Western Wall tunnel.

50. In 2005 Israel announced the construction of a new ramp at the Mughrabi gate, ostensibly to improve access for tourists but strong and wide enough to support security vehicles. Work began, despite the protests of the Waqf. The Israeli regional planning board decided in July 2008 to amend the initial project in order to retain all historical strata or archaeological remains lying under the planned new ramp – including remains of the modern Mughrabi quarter -, and not to build a synagogue in that place, as initially planned. However, the planning procedure is still ongoing, and one might fear that – even if the current policy is being retained – the Western Wall prayer area might be extended in the vicinity of the new ramp, instead of highlighting the Muslim remains. The Islamic authority also fear that a hidden agenda of the Western Wall Heritage Fund might change the pattern of movement through the Mughrabi gate and increase the access of Israelis on the Haram Al Sharif/Temple Mount without prior coordination with the Waqf.

51. Israel has also impinged on the rights of Christian Churches to operate freely in Jerusalem in a number of ways.

52. Christian Churches experience, for various reasons, difficulties in obtaining or extending long-term visas, mainly for their priests. Since 2002, priests and members of Catholic religious communities requesting long term visas to Israeli authorities, particularly nationals of Third World countries, and even more in particular those of Arab descent, are subject to long and complicated procedures with very limited results. Lately, the length of the visa has been reduced to a maximum period of one year. Moreover, multiple entry visas have been progressively suppressed, except for dignitaries which necessitate a special request. These restrictive measures heavily affect the functioning of Churches institutions which have increasing difficulties in bringing community members from Arab states. None of the requests submitted by the Latin Patriarchate have received an answer to date.

53. United Nations General Assembly Resolution 181 in 1947 (“the partition plan”) specified that no taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the creation of the State. Israel in December 2002 passed a law imposing taxes on religious properties that up to that point had been exempt, though at reduced rates for spaces used exclusively for worship. In some cases, Israel is seeking the retroactive payment of taxes. Most Churches would not be able to pay. For example, should the various hospitals and social institutions operated by Churches in East Jerusalem be forced to do so, their future would be uncertain. Many of those hospitals provide specialist care for Palestinians unavailable in any other part of the West Bank.

54. The ability of local Churches to guide pilgrims and faithful inside the holy places had never been seriously questioned until recently. For the fulfilment of this mission, Churches issue since many years “green cards” to the clergy and the guides leading pilgrims in the holy places. The Israeli Ministry of Tourism is increasingly questioning this practice and trying to reduce or suppress it through various administrative measures. It seems the Israeli Ministry of Tourism considers the holy places as any other tourist attraction or “national heritage”, and therefore want to put in place the rules applying in any “national heritage” site, refusing to recognise the essentially religious nature of the holy places for Christians, universally. Inside the Holy Sepulchre church, on various occasions, civil servants of the Israeli Ministry of Tourism tried to prevent foreign or local prices from guiding the groups of pilgrims they were accompanying, under the pretence that they were not officially registered as Israeli guides.

55. The vitality of smaller religious communities and institutions disclose issues that transcend those of religious freedom, as important as this might be. The decline of the religious minorities in Jerusalem is threatening its historical diversity, legacy, and its iconic significance as a place where civilizations meet rather than clash.

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<sup>i</sup> As did all of the other countries: since Costa Rica and El Salvador moved their Embassies from Jerusalem to Tel Aviv in 2006, there are no Embassies in Jerusalem.

<sup>ii</sup> Source: "Peace Now" report, August 2008

<sup>iii</sup> Source: Negotiations Support Unit. "East Jerusalem" is the common term for the area outside the Green Line but inside the municipal boundary drawn unilaterally by Israel in 1967..

<sup>iv</sup> Source: Ir Amim report, November 2008.

<sup>v</sup> Israel passed the Absentee Property Law in 1950. It states that any landowner who left her/his permanent residence at any time following November 29, 1947 to any Arab State, or to any area of the Land of Israel, which is not part of the State of Israel (i.e. West Bank and Gaza) automatically forfeited any property within the State of Israel to the Absentee Property Custodian – a public body, which subsequently transferred title to these properties to the State. Most of these lands – primarily in the Negev and the Galilee– were used to build kibbutzim, moshavim and development towns for the Jewish population.

<sup>vi</sup> Source: Negotiations Support Unit.

<sup>vii</sup> A case in point is the seven- story building in Silwan, a few hundred meter from the Al-Aqsa Mosque, that is in the process of being "legalised" at Israeli courts.

<sup>viii</sup> Sources: Negotiations Support Unit, Haaretz, Sami Abu Dayyeh (owner of the "Mufti's Grove"), Ir Amim

<sup>ix</sup> ICBS census of 2005 (no later census published)

<sup>x</sup> Source: "Ir Amim" report and "Peace Now" website.

<sup>xi</sup> Source: Ir Amim monitoring report, April 2008.

<sup>xii</sup> Unpublished study by the Jerusalem Institute of Israel Studies. The figures are from the 1990s but visual and anecdotal evidence suggests the figures are still accurate.

<sup>xiii</sup> Some 1,000 buildings each year, giving a current figure of some 20,000 buildings without permits, out of a total of some 60,000 Palestinian homes in East Jerusalem.

<sup>xiv</sup> Hamoked / Betselem report, Forbidden Families, January 2004

<sup>xv</sup> "Government of Israel reopens Palestinian Chamber of Commerce and other closed Palestinian institutions in East Jerusalem based on commitment that these institutions operate strictly in accordance with prior agreements between the parties".

<sup>xvi</sup> Ir Amim: Jerusalem Bulletin, March and November 2007.

<sup>xvii</sup> Including the Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954).