

2000

## Facts on the Ground: An Examination of Israeli Municipal Policy in East Jerusalem

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# FACTS ON THE GROUND: AN EXAMINATION OF ISRAELI MUNICIPAL POLICY IN EAST JERUSALEM

ARDI IMSEIS\*

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We said things without meaning them, and we didn't carry them out, we said over and over that we would equalize the rights of the Arabs to the rights of the Jews in the city—empty talk. . . Never have we given them a feeling of being equal before the law. [As mayor of Jerusalem, I] nurtured nothing and built nothing [for the Arabs]. For Jewish Jerusalem I did something in the past 25 years. For [Arab] East Jerusalem? Nothing! What did I do? Nothing! Sidewalks? Nothing. Cultural Institutions? Not one. Yes, we installed a sewage system for them and improved the water supply. Do you know why? Do you think it was for their good, for their welfare? Forget it! There were some cases of cholera there, and the Jews were afraid that they would catch it, so we installed [a] sewage and a water system against cholera. . .<sup>1</sup>

## INTRODUCTION

If Teddy Kollek's ("Kollek") comments regarding the quality of municipal services in Jerusalem seem excessive, this is because the city has stood at the center of one of the twentieth century's most tumultuous political conflicts. Particularly disturbing about the former Israeli mayor's candid admission is the fact that for over a quarter-century he was not only "the most powerful actor in the city,"<sup>2</sup> but was also viewed as a champion of Palestinian rights in Jerusalem.<sup>3</sup> Among other things, the glaring contradiction between his reputation as a right-dealing moderate and his categorical acknowledgment of the role he played in perpetuating inequity amongst Jerusalem's inhabitants is indicative of the wider manner in which Israeli municipal laws and policies have been employed by the Jewish State since it conquered Arab East Jerusalem thirty-two years ago.

Although Israeli municipal authorities in Jerusalem have publicly

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1. Interview with Teddy Kollek, former Mayor of Jerusalem, in *Israeli Daily Ma'ariv* (Oct. 10, 1990), quoted in DOCUMENTS ON JERUSALEM, at 115 (Palestinian Academic Society for the Study of International Affairs) (1996) [hereinafter DOCUMENTS ON JERUSALEM].

2. IRA SHARKANSKY, GOVERNING JERUSALEM: AGAIN ON THE WORLD'S AGENDA 36 (1996) (noting Kollek was the most prominent actor in Jerusalem).

3. See *id.* at 142, 144 (explaining Kollek employed a network of contacts to keep him informed about Palestinian concerns and to provide individual Palestinians with personal contacts that could assist them with the local or national bureaucracies); see also DOCUMENTS ON JERUSALEM, *supra* note 1, at 115.

called for equality in treatment of the city's Jewish and Palestinian inhabitants, since 1967, they have outwardly pursued policies that have catered only to the former group. In turn, this has only served to further exacerbate the deep divide that exists between the two communities.<sup>4</sup> As noted by Israeli Professor Ira Sharkansky, "[t]he city's Jews are significantly better off than the Palestinians, and the [municipal] policies for Jerusalem favor Jews over non-Jews."<sup>5</sup> If this is in fact the case, than it behooves one to examine the factors which have allowed the situation to develop.

Without any doubt, the principle determinant behind the disparity in treatment between Arabs and Jews in Jerusalem lies in the Israeli government's long-held official policy that the city, "whole and united," is the exclusive capital of the Jewish State and must "remain forever under Israel's sovereignty."<sup>6</sup> This assertion would not be extraordinary were it not for the fact that before Israel's armed forces conquered East Jerusalem in 1967 that sector of the city was exclusively populated by indigenous Palestinians,<sup>7</sup> many of whom were part of the wave of approximately 60,000 Palestinians forced to flee West Jerusalem in 1948.<sup>8</sup> To this day, Jerusalem remains central to the collective narrative and identity of the Palestinian people—colonized, dispossessed, occupied—who have, for their part, always regarded the city as the natural capital of a future Palestinian State, and

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4. See, e.g., *The Status of Jerusalem*, U.N. Committee on the Exercise of the Inalienable Rights of the Palestinian People, at 25 (1997) (explaining that while the current Guidelines of the Government of the State of Israel stipulate that the government will allocate special resources to build and improve municipal services for Jewish and Arab residents, since 1967 the State has "constructed dwelling space for 70,000 Jewish families" in East Jerusalem "and only 555 dwelling units for its Palestinian residents"); see also *The Likud Party: Guidelines of the Government of Israel* (visited Nov. 20, 1998) <<http://www.likud.org.il/policy/govguide.html>> [hereinafter *Guidelines*].

5. See SHARKANSKY, *supra* note 2, at 17 (noting the economic element to the conflict between Jerusalem's communities).

6. See *Guidelines*, *supra* note 4, at pt. II, arts. 1, 3 (noting that the government will prevent any actions that counter Israel's exclusive sovereignty over Jerusalem).

7. See *The Status of Jerusalem*, *supra* note 4, at 25 (explaining that in 1967 there were no Jews in the eastern part of Jerusalem and in July 1993 there were 160,000 Jews to 155,000 Palestinians).

8. See *The Status of Jerusalem*, *supra* note 4, at 6.

have therefore refused to recognize Israeli sovereignty over it. In support of the Palestinian position, the international community has overwhelmingly and unequivocally stated that East Jerusalem is Occupied Territory and, as such, any assertion of Israeli sovereignty, in or over it, is contrary to well-established principles of international law.<sup>9</sup>

Despite this fact, however, the State of Israel has remained wedded to its conviction that all of Jerusalem—both the predominately Arab eastern sector and the largely Jewish western sector—must remain under its exclusive control.<sup>10</sup> To further this national policy, the Israeli Municipality of Jerusalem has waged an extensive campaign to entrench the Jewish State's hold on East Jerusalem through the promulgation of a number of municipal policies and land use planning laws carefully designed to alter the demographic and geographic character of the city.

This Essay will attempt to illustrate the efficacy with which these laws and policies have been employed by Israeli municipal authorities to create a situation in East Jerusalem that will not be reversed in the future.<sup>11</sup> To this end, a brief examination of the history of Israel's control over East Jerusalem will be undertaken, followed by a broader analysis of Israeli municipal policy and activity in the city. Among other things, it is the intent of this Essay to serve as a reminder of the enormous impact Israeli municipal and land use planning laws and policies have had on the natural development of local Palestinian space in East Jerusalem. This point should also be considered in light of the fact that Israel and the Palestine Liberation Organization ("PLO") have committed themselves in good-faith to negotiate the "final status" of Jerusalem under the framework of the current Oslo peace process.<sup>12</sup>

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9. See *id.* at 29-41; see also *The Question of the Observance of the Fourth Geneva Convention of 1949 in Gaza and the West Bank Including Jerusalem Occupied by Israel in June 1967*, U.N. Committee on the Exercise of the Inalienable Rights of the Palestinian People, at 1 (1979).

10. See *Guidelines*, *supra* note 4, at pt. II, art. 3 (stating the government will thwart any attempt to undermine the unity of Jerusalem).

11. See John Quigley, *Sovereignty in Jerusalem*, 45 CATH. U. L. REV. 765, 780 (1996).

12. See Israel-Palestine Liberation Organization: Declaration of Principles on

## I. BACKGROUND

### A. ISRAELI LAW, INTERNATIONAL LAW AND EAST JERUSALEM SINCE 1967

East Jerusalem was captured by the Israeli armed forces when they conquered the West Bank and Gaza Strip in the Arab-Israeli war of June 1967 (See Map I).<sup>13</sup> Immediately following the hostilities, Moshe Dayan, then Israeli Defense Minister, proclaimed that “[t]he Israeli Defense Forces have liberated Jerusalem. We have reunited the torn city, the capital of Israel . . . never to part from it again.”<sup>14</sup>

Thereafter, on June 27, 1967, the Israeli government passed the Law and Administration Ordinance (Amendment No. 11) Law, which provided for the extension of its law, jurisdiction, and admini-

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Interim Self-Government Arrangements, Sept. 13, 1993, 32 I.L.M. 1525 (entered into force Oct. 13, 1993) [hereinafter DOP]. The Oslo Peace Process emerged out of the “historic” pronouncement of the DOP, concluded on Sept. 13, 1993, between Israel and the PLO, in Washington, D.C. See *id.* Under the DOP, Israel and the PLO agreed to bring the conflict between their peoples to an end through a series of ‘interim negotiations’ and ‘agreements’ in preparation for a permanent settlement of the conflict that was to be reached no later than five years after the signing of the Gaza-Jericho Agreement. *Id.* Although permanent status negotiations were initially opened on May 4, 1996, they were almost immediately thereafter brought to a standstill by the Israeli government. *Id.* On September 13, 1999, six years to the day after the signing of the DOP, the permanent status negotiations were re-opened by the parties, but have yet to produce any concrete results. *Id.* To date, several interim agreements have been concluded. See, e.g., Protocol on Economic Relations, Israel-Palestine Liberation Organization Agreement on the Gaza Strip and the Jericho Area, Apr. 29, 1994, 33 I.L.M. 696 (forming Annex IV of the Gaza-Jericho agreement); Israel Palestine Liberation Organization: Agreement on the Gaza Strip and the Jericho Area, May 4, 1994, 33 I.L.M. 622; Israel-Palestine Liberation Organization: Agreement on Preparatory Powers and Responsibilities, Aug. 29, 1994, 34 I.L.M. 455; Israel-Palestine Liberation Organization: Interim Agreement on the West Bank and Gaza Strip, Sept. 28, 1995, 36 I.L.M. 551; Israel-Palestine Liberation Organization: Agreement on the Temporary International Presence in the City of Hebron, Jan. 21, 1997, 36 I.L.M. 547; Israel-Palestine Liberation Organization: Protocol Concerning the Redeployment in Hebron, Jan. 17, 1997, 36 I.L.M. 650; Israel-Palestine Liberation Organization: Wye River Memorandum, Oct. 23, 1998, 37 I.L.M. 1251; *Israel-Palestine Liberation Organization: Sharm El-Sheikh Memorandum*, 38 I.L.M. 1465.

13. See Quigley, *supra* note 11, at 772-74 (discussing Israel’s taking of the West Bank from Jordan and the Gaza Strip from Egypt).

14. See *The Status of Jerusalem*, *supra* note 4, at 14.

stration to newly captured Arab East Jerusalem.<sup>15</sup> The next day the Israeli government enacted the Municipalities Ordinance (Amendment No. 6) Law, which authorized the Interior Minister to unilaterally enlarge the municipal boundaries of East Jerusalem “at his discretion and without an inquiry” into any impact it may have on the indigenous Palestinian populace.<sup>16</sup> Armed with this broad power, the minister proceeded to enlarge East Jerusalem’s 6.5 square kilometer land area to encompass 71 square kilometers of expropriated Palestinian land (See Map II).<sup>17</sup> Subsequently, the Israeli government amalgamated the newly expanded East Jerusalem with West Jerusalem,<sup>18</sup> and, on June 29, 1967, the Assistant Israeli Commander of Jerusalem, Yaacov Salman, issued an order dissolving the twelve-member elected Arab Municipal Council of East Jerusalem, including its duly elected mayor, Mr. Rawhi al-Khatib.<sup>19</sup>

In the years that followed, both the General Assembly and Security Council of the United Nations (“U.N.”) issued numerous resolutions declaring Israel’s annexation of East Jerusalem to be contrary to international law, specifically the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War.<sup>20</sup> For instance, in Resolution 2253 (ES–V) of July 4, 1967, the General Assembly declared all “measures taken by Israel to change the status of

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15. 21 L.S.I. 75 (1967).

16. 21 L.S.I. 75 (1967).

17. See ALLISON B. HODGKINS, *THE JUDAIZATION OF JERUSALEM* 6 (Palestinian Academic Society for the Study of International Affairs) (1996) (stating that the purpose of this exception of municipal Jerusalem was to include the maximum contiguous territory with the minimum non-Jewish population into Jerusalem’s boundaries).

18. See Quigley, *supra* note 11, at 775.

19. See DOCUMENTS ON JERUSALEM, *supra* note 1, at 100 (setting forth the order dissolving the Jerusalem municipality).

20. See Aug. 12, 1949, 75 U.N.T.S. 287 (ratified by Israel, 6 July 1981). See generally S.C. Res. 267, U.N. SCOR, 24th Sess., U.N. Doc. S/INF/24/Rev.1 (1969); S.C. Res. 298, U.N. SCOR, 34th Sess., U.N. Doc. S/10338/Rev.1 (1971); S.C. Res. 478, U.N. SCOR, 35th Sess., U.N. Doc. S/14113 (1980); G.A. Res. 35/169E, U.N. GAOR, 35th Sess., U.N. Doc. A/35/L.42/Rev.1 (1980); G.A. Res. 41/162C, U.N. GAOR, 41st Sess., U.N. Doc. A/41/L.45, addendum pt. 1 (1986); G.A. Res. 49/36B, U.N. GAOR, 49th Sess., U.N. Doc. A/49/49 (1995); G.A. Res. ES-10, U.N. GAOR, 10th Emer. Sess., U.N. Doc. A/ES-10/L.5/Rev.1 (1999).

the City” to be “invalid,”<sup>21</sup> and in Resolution 252 of May 21, 1968, the Security Council proclaimed that “all legislative and administrative measures and actions taken by Israel . . . which tend to change the legal status of Jerusalem are invalid and cannot change that status.”<sup>22</sup> Notwithstanding these clear expressions of international opposition, however, Israeli authorities continued to implement policies designed to integrate Arab East Jerusalem with Jewish West Jerusalem, remaining unequivocally of the opinion that this process “was irreversible and not negotiable.”<sup>23</sup>

The high-water mark of Israeli legislative attempts to consolidate this “unification” policy came with the passing of the so-called “Basic Law” on Jerusalem on July 30, 1980.<sup>24</sup> According to this law, “united” Jerusalem was declared to be the eternal capital of the State of Israel. Much like its reaction following the passing of the Law and Administration Ordinance (Amendment No. 11) Law and the Municipalities Ordinance (Amendment No. 6) Law in 1967, the international community reacted quickly to condemn the State of Israel through Resolution 478.<sup>25</sup>

In this Resolution, the U.N. Security Council affirmed the principle of the inadmissibility of the acquisition of territory by war and the continued applicability of the Fourth Geneva Convention<sup>26</sup> to “Palestinian and other Arab territories occupied since June 1967, including Jerusalem” [emphasis added]. It further declared that “the enactment of the ‘basic law’ by Israel” constituted “a violation of international law” and was “null and void and must be rescinded forthwith.”<sup>27</sup> Again, the State of Israel chose to ignore this clear

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21. See G.A. Res. 2253 (ES-V), U.N. GAOR, 22d Sess., Supp. No. 1, U.N. Doc. A/6789 (1967).

22. See S.C. Res. 252, U.N. SCOR, 23d Sess., U.N. Doc. S/8590/Rev.2 (1968) (calling upon Israel to rescind measures already taken and to desist from taking any further action that would change Jerusalem’s status).

23. See *The Status of Jerusalem*, *supra* note 4, at 15.

24. See *Basic Law: Jerusalem, Capital of Israel* 34 L.S.I. 209 (1980).

25. See S.C. Res. 478, U.N. SCOR, 35th Sess., U.N. Doc. S/14113 (1980) (censuring Israel’s enactment of its “basic law” on Jerusalem and the refusal to comply with relevant security council resolutions).

26. See Aug. 12, 1949, 75 U.N.T.S. 287.

27. See S.C. Res. 478, U.N. SCOR, 35th Sess., U.N. Doc. S/14113 (Aug. 19,



demonstration of international resolve and continued to pursue policies aimed at annexing occupied East Jerusalem to its larger Jerusalem Municipality. Contrary to what many hoped, the signing of the Oslo peace accords did not dampen Israel's insistence on maintaining its program of forced demographic and geographic re-engineering of the city. On the contrary, despite its agreement to refrain from initiating "any step that will change the status of the West Bank and Gaza Strip" during the interim phase of negotiations with the PLO,<sup>28</sup> since 1993, Israeli policies aimed at altering the status of Jerusalem have been pursued at an unprecedented pace and scope, resulting in even further displacement and dispossession of the city's Palestinian inhabitants. This situation has impelled the General Assembly to continue its condemnation of Israel's annexation policies in Jerusalem as "illegal," "null and void," and having "no validity whatsoever."<sup>29</sup>

As will be illustrated below, "the strategies for ensuring" the Jewish State's national/political objectives in Jerusalem were, and have continued to be, "developed and enacted on the municipal level."<sup>30</sup> For this reason, it is important to examine Israeli municipal govern-

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1980) (expressing concern over the enactment of a "basic law" in the Knesset declaring a change in the character and statute of Jerusalem).

28. See *Israel-Palestine Liberation Organization: Interim Agreement on the West Bank and Gaza Strip*, Sept. 28, 1995, 36 I.L.M. 551, at art. 31(7) (stating that the two sides view the West Bank and Gaza Strip as a single territorial unit, and its integrity and status will be preserved during the interim period).

29. See, e.g., G.A. Res. 49/87A, U.N. GAOR, 49th Sess., U.N. Doc. A/49/49 (1995); G.A. Res. 50/22A, U.N. GAOR, 50th Sess., U.N. Doc. A/50/L.37, addendum pt.1 (1995); G.A. Res. 51/27, U.N. GAOR, 51st Sess., U.N. Doc. A/51/49 (1996); G.A. Res. ES-10/2, U.N. GAOR, 10th Emer. Sess., U.N. Doc. A/RES/ES-10/2 (1997) (discussing illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory); G.A. Res. ES-10/3, U.N. GAOR, 10th Emergency Special Sess., U.N. Doc. A/RES/ES-10/3 (1997); G.A. Res. ES-10/4, U.N. GAOR, 10th Emer. Sess., U.N. Doc. A/RES/ES-10/4 (1997) (reiterating the demands made in resolutions ES-10/2 and ES-10/3); G.A. Res. 52/53, U.N. GAOR, 52d Sess., U.N. Doc. A/RES/52/53 (1997); G.A. Res. ES-10/5, U.N. GAOR, 10th Emer. Sess., U.N. Doc. A/RES/ES-10/5 (1998) (reaffirming its resolutions ES-10/2, ES-10/3, and ES-10/4); G.A. Res. ES-10, U.N. GAOR, 10th Emer. Sess., U.N. Doc. A/ES-10/L.5/Rev.1 (1999) (reiterating its condemnation of the failure of the Israeli government to comply with the provisions of resolutions ES-10/2, ES-10/3, ES-10/4, and ES-10/5).

30. See HODGKINS, *supra* note 17, at 15 (asserting that the municipality is the "engine driving the incorporation of East Jerusalem into Israel proper").

ment policies in East Jerusalem.

## B. ISRAELI MUNICIPAL POLICY IN EAST JERUSALEM

Since 1967, Israeli municipal policy in East Jerusalem “has been dominated by one overriding purpose: to secure and maintain exclusive Israeli sovereignty over all parts of the city.”<sup>31</sup> To this end, municipal governance is primarily concerned with the dual policy goals of achieving a decisive demographic superiority of Jews over Palestinians in the city<sup>32</sup>—historically, a central tenet of Zionist colonial policy for the whole of Palestine—and maintaining its geographic integrity as one single and indivisible administrative unit.<sup>33</sup>

During his twenty-six year tenure as mayor, Kollek emerged as the chief architect of the Jewish State’s municipal policy in Jerusalem. According to Allison Hodgkins (“Hodgkins”), “the Kollek municipality pursued planning policies intended to cut Greater Jerusalem [i.e. expanded East Jerusalem] off from the West Bank and facilitate its easy annexation into Israel proper.”<sup>34</sup> It was under his administration that the long-held Israeli policies of Jewish settlement and land expropriation were cemented to transform Palestinian East Jerusalem into “a city that would largely be[come] Jewish.”<sup>35</sup> Because “demography was a key element in the perceived imbalance between Jewish and ‘non-Jewish’ residents of the city,” Kollek continually insisted that “making the city more conducive to Jewish settlement” would be the only effective policy course if the broader national goal of entrenching exclusive Israeli sovereignty was to be realized.<sup>36</sup> With this policy in mind, “Kollek era planners set [out] to fill” expanded East Jerusalem “with Jewish facts” in the form of exclusively Jewish settlements built, in the main, on illegally expropriated Palestinian land.<sup>37</sup> Invariably, “Kollek’s municipality” pursued this policy so that

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31. See *id.* at 20 (explaining Israel’s policy goals for Jerusalem).

32. See SHARKANSKY, *supra* note 2, at 21.

33. See HODGKINS, *supra* note 17, at 19.

34. See *id.* at 15.

35. See SHARKANSKY, *supra* note 2, at 21.

36. See HODGKINS, *supra* note 17, at 17.

37. See *id.* at 17-18.

“united” Jerusalem would “be difficult to take apart” in the future.<sup>38</sup>

For the most part, throughout Kollek’s term, he was concerned with publicizing his municipal policies as “benevolent and democratic.”<sup>39</sup> As part of this strategy, it was Kollek who coined the idea that Jerusalem was an “ethnic and cultural mosaic” belonging equally to all of its inhabitants, both Jews and Arabs.<sup>40</sup> As noted earlier, this image of Jerusalem was designed to present the Israeli municipality as being truly concerned with the well being of the city’s Palestinian inhabitants. Nevertheless, as pointed out by former Israeli municipal planner Sara Kaminker—and as betrayed by Kollek’s very own words quoted at the outset of this Essay—the “mosaic” epithet was little more than “a beautiful marketing ploy for selling segregation.”<sup>41</sup>

The current Israeli mayor of Jerusalem, Ehud Olmert (“Olmert”), ousted Kollek from office in 1993 but continued to effectuate the policies developed over the course of Kollek’s long career. Thus, from the very outset of his administration, Olmert declared his intent to “make things happen on the ground to ensure the city will remain under Israeli sovereignty for eternity.”<sup>42</sup> Supported unconditionally by the national governments of the late Prime Minister Yitzhak Rabin, former Prime Ministers Shimon Peres and Benjamin Netanyahu, and the current Prime Minister Ehud Barak, Olmert has unabashedly pursued the same dual policy objectives in East Jerusalem that were established by his predecessor: namely, achieving demographic superiority and maintaining geographic integrity. As noted by former Israeli municipal planner Yisrael Kimchi, “there is no tangible difference between Kollek and Olmert” with respect to their policies on East Jerusalem.<sup>43</sup> Both desired to sever the city from its natural West Bank hinterland, and at the same time infuse it with

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38. See SHARKANSKY, *supra* note 2, at 142.

39. See HODGKINS, *supra* note 17, at 18.

40. See KHADER ABUSWAY ET AL., SIGNED, SEALED, DELIVERED: ISRAELI SETTLEMENT AND THE PEACE PROCESS 25 (1997) (analyzing Kollek’s municipal policies).

41. See HODGKINS, *supra* note 17, at 18.

42. See KAREN ARMSTRONG, JERUSALEM: ONE CITY, THREE FAITHS 418 (1996) (noting that Olmert has no need to woo Israeli liberals).

43. See HODGKINS, *supra* note 17, at 20.

Israeli-Jewish settlers to manipulate its demographic character in a manner favorable to the Jewish State.

In sum, it must be understood that since taking control of East Jerusalem in 1967, successive Israeli municipal administrations in Jerusalem have sought to entrench their hold on the city through the promulgation of a "broad series of policy initiatives" designed "to create irreversible facts on the ground."<sup>44</sup> With respect to the Israeli government's current commitment to negotiate the final status of Jerusalem under the framework of the Oslo peace process, the Israeli Deputy Defense Minister recently expressed his opinion that the "consolidation of the existing territorial continuity [of the city] through [the] expansion of settlements as well as [the] construction of roads, tunnels and bridges and further land acquisition" must all "be presented in the future negotiations as a geographic fact" if Israel is to retain exclusive control over the city.<sup>45</sup> Although briefly alluded to above, the following section will explore in greater detail the principle methods by which Israeli municipal authorities in Jerusalem have pursued this policy of creating a *fait accompli* in the city.

## II. FACTS ON THE GROUND: ISRAELI MUNICIPAL ACTIVITY IN EAST JERUSALEM

Since 1967, Israeli municipal planners in East Jerusalem have devised and implemented a host of mechanisms designed to manipulate land use and demography to ensure that the city remains under exclusive Israeli control in the future. As previously noted, the international community has declared Israel's use of these mechanisms to be illegal under international law.<sup>46</sup> The following is a brief examination of just six of these methods, and the practical impact they have had on the indigenous Palestinian residents of occupied East Jerusalem.

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44. *See id.* at 21.

45. *See The Status of Jerusalem, supra* note 4, at 23.

46. *See* S.C. Res. 252, U.N. SCOR, 23d Sess., U.N. Doc. S/8590/Rev. 2 (1968); S.C. Res. 478, U.N. SCOR, 35th Sess., U.N. Doc. S/14113 (1980) (demonstrating that the U.N. and the international community have consistently condemned Israel's efforts to retain control of East Jerusalem).

## A. EXPROPRIATION OF PALESTINIAN LAND

It will be recalled that immediately following the conquest of East Jerusalem in 1967, Israeli authorities unilaterally expanded the municipal boundaries of the occupied city from 6.5 square kilometers to 71 square kilometers—an increase of approximately eleven times the city's original size (See Map II).<sup>47</sup> “[T]hese new boundaries became the framework within which the Israeli government would alter the existing layout of the city . . . in an attempt to physically secure their control over” it.<sup>48</sup> As early as 1968, Israeli municipal authorities recognized that if expanded Arab East Jerusalem was to be converted into a Jewish city, the expropriation of Palestinian land would be imperative. According to the Jerusalem Master Plan of 1968:

The majority of the [expanded] municipal land reserves that are amenable to [Israeli-Jewish] development are in private [Palestinian] hands. The effective development of the city will require the expropriation of substantial areas [emphasis added].<sup>49</sup>

With this strategic principle in mind, Israeli municipal planning committees set out to develop and effectuate a mass expropriation policy aimed at divesting Palestinian owners of vast tracts of land in expanded East Jerusalem for exclusive Jewish use.<sup>50</sup> Over the course of Israel's thirty-two year occupation of the city, this policy has taken shape in five separate stages and accounted for the expropriation of over 60,000 dunums of Palestinian land without compensation.<sup>51</sup> Altogether, this amounts to approximately 86.5 percent of the land area of East Jerusalem as defined by the city's expanded mu-

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47. See HODGKINS, *supra* note 17, at 6 (documenting the expansion of Jerusalem's municipal boundaries in 1967).

48. See *id.* at 22.

49. See ETAN FELNER, A POLICY OF DISCRIMINATION: LAND EXPROPRIATION, PLANNING, AND BUILDING IN EAST JERUSALEM 30 (1995), quoting 1 JERUSALEM MASTER PLAN (1968).

50. See HODGKINS, *supra* note 17, at 22-23 (documenting the strategic zoning and planning practices of Israel to block Palestinian development).

51. See *The Status of Jerusalem*, *supra* note 4, at 22-23 (recounting the history of Israel's expropriation of Palestinian land; one dunum is approximately equal to one thousand square meters or 0.274 acres).

nicipal boundaries.<sup>52</sup>

Because Israel emerged the victor in the June 1967 war, it could have conceivably acquired all of East Jerusalem's land through force of arms. However, as pointed out by Hodgkins, "the desire to foster international legitimacy for their claims prompted [the Israelis] to use what they defined as legal methods of transferring Arab lands to Jewish ownership."<sup>53</sup> Although the majority of these "legal" methods were orders issued by local military commanders, Israeli municipal authorities in East Jerusalem relied quite heavily on these methods to acquire Palestinian land for exclusive Jewish use. For example, Military Order No. 70 (1967) allows the authorities to declare any portion of East Jerusalem land a "closed military area," thereby prohibiting anyone other than state authorities from making use of it.<sup>54</sup> Likewise, Military Order No. 150 (1968) allows a body known as the Israeli Custodian of Absentee Property to expropriate land belonging to Palestinians who were not recorded in the official East Jerusalem census conducted by Israel following the 1967 war.<sup>55</sup> Under this military order, once land is declared as belonging to an "absentee," it is reverted to the Custodian of Absentee Property (i.e. the state). Similarly, Military Order 321 (1968) affords authorities the right to expropriate any tract of land required for "public" use,<sup>56</sup> which is "almost always synonymous with exclusive Jewish use" in the context of land expropriation.<sup>57</sup> Again, it is important to emphasize that although in most cases the expropriating authority is usually a state actor (as opposed to a municipal one), the Israeli municipality of Jerusalem is regularly given the power to dispose of expropriated Palestinian property as it wishes. This implied authority is consistent with the general Israeli policy that once the state acquires land it automatically becomes the "inalienable property of the Jewish peo-

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52. *See id.*

53. *See* HODGKINS, *supra* note 17, at 25.

54. *See id.* at 79 (discussing the Israeli method of confiscating and expropriating Palestinian land).

55. *See id.*

56. *See id.*

57. *See id.* at 23.

ple” and cannot be owned or leased by a non-Jew.<sup>58</sup>

On June 11, 1998, in conjunction with national authorities, the Israeli municipality of Jerusalem approved a proposal to formalize what it calls the “Greater Jerusalem Plan.”<sup>59</sup> Under this plan, the current municipal boundaries of the city are to be expanded to include “approximately 10 percent of the land area of the West Bank” (See Map III).<sup>60</sup> Invariably, tens of thousands of dunums of more Palestinian land will be expropriated to impose more “facts on the ground” that will transform the demographic and geographic character of the area even further, thereby consolidating the Jewish State’s exclusive “sovereignty” over the whole of the city.

## B. THE IMPOSITION OF JEWISH SETTLEMENTS

Since the city’s occupation began, “the key element” of Israeli municipal planning in East Jerusalem “has been the construction of more than 15 [Jewish] settlements in and around the boundaries ille-

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58. See Atef Kubrusi, *An Economic Assessment of Total Palestinian Losses*, in SAMI HADAWI, *PALESTINIAN RIGHTS AND LOSSES IN 1948: A COMPREHENSIVE STUDY* 117-188 (1998) (documenting a consistent pattern of Zionist policies by Israel preventing the owning and leasing of land by non-Jews). Article 3 of the Constitution of the Jewish Agency provides that:

(d) [I]and is to be acquired *as Jewish property* and subject to the provisions of Article 10 of this Agreement, the title to the lands acquired is to be taken in the name of the Jewish National Fund, to the end that the same shall be held as the *inalienable property of the Jewish people*.

*Id.* (emphasis added).

Likewise, Article 23 of the lease provisions of the Jewish National Fund provide, in part that:

[T]he lessee undertakes [that]. . . *the holding shall never be held by any but a Jew*. If the holder, being a Jew, leaves as his heir a non-Jew, the Fund shall obtain the right of restitution. Prior to the enforcement of the right of restitution, the Fund must give the heir three months notice, within which period the heir shall transfer his rights to a Jew, otherwise the Fund may enforce the right of restitution and the heir may not oppose such enforcement.

*Id.* (emphasis added).

59. See generally MUNA HAMZEH-MUHAISEN, *Preempting Jerusalem*, 3 JERUSALEM QUARTERLY FILE (1999) (visited Jan. 18, 1999) <<http://www.jqf-jerusalem.org/journal/1999/jqf3/muhaisen.html>>.

60. See *The Status of Jerusalem*, *supra* note 4, at 23.

gally established in 1967.”<sup>61</sup> Driven by the desire to maintain the geographic integrity of Jerusalem as a “united” city under exclusive Israeli control, these settlements are strategically arranged in locations around the northern, eastern, and southern outskirts of East Jerusalem to dismember it from its surrounding West Bank hinterland (See Map III). Benignly referred to by Israeli municipal planners as “neighborhoods,” these exclusively Jewish settlements were constructed on expropriated Palestinian land, “completely alter[ing] the [geographic and demographic] landscape of East Jerusalem.”<sup>62</sup>

Similar to the method used to expropriate Palestinian land, the construction of Jewish settlements by Israeli municipal authorities was largely accomplished in five distinct stages.<sup>63</sup> Today, major settlements exist at Ramat Eshkol, French Hill, Ma’aleh Dafna, Mount Scopus, Ramot, East Talpiot, Gilo, Neve Ya’acov, and Pisgat Ze’ev.<sup>64</sup> Together, these and other smaller settlements account for approximately 180,000 Jewish settlers<sup>65</sup> and comprise what is known as the “inner-ring” settlements encircling Arab East Jerusalem.<sup>66</sup> With the Israeli municipality’s recent decision to begin construction of massive new settlements at Har Homa (indigenously known as Jabal Abu-Ghneim) and Ramat Shu’fat, the number of Jewish settlers in expanded East Jerusalem is projected to reach approximately 220,000 by the end of this year.<sup>67</sup> The Har Homa settlement is of particular significance because it represents the final “southern link” in the chain of inner-ring settlements surrounding the city (See Map

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61. See HODGKINS, *supra* note 17, at 22.

62. See *id.* at 37.

63. See *The Status of Jerusalem*, *supra* note 4, at 22-23 (documenting the strategic construction of Jewish settlements).

64. See *id.* (discussing a report indicating that a majority of the Palestinian property in East Jerusalem and its surroundings were seized in five stages).

65. See *id.* at 23 (stating the number of Jewish settlers expected by the end of 1995).

66. See HODGKINS, *supra* note 17, at 39 (stating that the number of Jewish settlers was expected to expand by the end of the century after the status negotiations were completed).

67. See *The Status of Jerusalem*, *supra* note 4, at 23 (stating that the number of Jewish settlers was expected to expand by the end of the century).



III).<sup>68</sup>

The imposition of Jewish settlements in East Jerusalem has had a tremendous impact on the demographic composition of the city.<sup>69</sup> “Whereas in 1967 there were no Jews in East Jerusalem, in July 1993, the Government announced that it had achieved a Jewish majority there (160,000 Jews to 155,000 Palestinians).”<sup>70</sup> Since the establishment of Israel’s Inter-ministerial Committee to Examine the Rate of Development in Jerusalem in 1973,<sup>71</sup> it has been a policy objective of successive Israeli municipal planners to maintain the population ratio in Jerusalem at approximately 78 percent Jews to 22 percent Palestinians.<sup>72</sup> Moreover, the recent approval of the Greater Jerusalem Plan will only serve to increase Jewish numbers in the expanded city, as the scheme calls for the absorption of four of the largest settlements in the Jerusalem area—Giv’at Ze’ev in the north, Ma’ale Adumim in the east, and Betar and Efrat in the south, collectively known as the “outer-ring” settlements (See Map III).<sup>73</sup>

To make rapid occupancy of the settlements possible, Israeli municipal planners and other governmental authorities have devised a number of substantial economic incentives aimed at attracting Jewish citizens to establish roots in East Jerusalem.<sup>74</sup> For example, new Jewish settlers are exempt from paying the arnona, the principal municipal tax, for a period of five years from the date of settlement, after which time they are assessed at a reduced rate.<sup>75</sup> Furthermore,

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68. *See id.* (discussing the United Nations’ inability to stop the construction of Har Homa settlement, which created great concern over the future of Arab East Jerusalem).

69. *See id.* (arguing that the increasing number of Jewish settlers in Arab neighborhoods has disturbed Palestinian residents of East Jerusalem).

70. *See id.* at 25.

71. *See* HODGKINS, *supra* note 17, at 46 (stating that the committee determined that it was important for Jerusalem’s future to ensure “the relative proportion of Jews and Arabs [in Jerusalem] as it was at the end of 1972”).

72. *See The Status of Jerusalem*, *supra* note 4, at 25 (stating that after 1967, there was an increase of Jewish settlers in East Jerusalem).

73. *See* HAMZEH-MUHAISEN, *supra* note 59 (discussing the Israeli government’s plan of settlement expansion and land confiscation).

74. *See* ABUSWAY ET AL., *supra* note 40, at 38 (discussing Israeli settlement strategies to attract Jewish settlers to East Jerusalem).

75. S. Kaminker, “Housing and Community Development Through Land Rec-

since 1967, over 70,000 Jewish settler families in the city have been provided with subsidized housing by the national government.<sup>76</sup> Similarly, in 1990, under the title of "On the Way to a Jewish Majority in Jerusalem," the government approved a plan that offered a 100 percent guarantee against losses incurred by contractors willing to construct settlements for new Jewish immigrants from the former Soviet Union.<sup>77</sup>

In what has been described as a "classic example of racial gerrymandering,"<sup>78</sup> the highly efficient manner in which Israeli municipal planners have constructed and populated illegal Jewish settlements in occupied East Jerusalem has been the single most important factor in the realization of the broader policy goal of ensuring that the city remains under exclusive Israeli control in the future.

### C. ZONING PALESTINIAN LANDS AS "GREEN AREAS"

In addition to the expropriation methods outlined above, Israeli municipal officials are also exercising their planning authority to impose severe restrictions on Palestinian land use to eventually transfer such land to Jewish ownership.<sup>79</sup> Since 1967, one of the most popular forms of this type of land use restriction has been the so-called "green area" zoning designation.<sup>80</sup> Under this planning scheme, Israeli municipal authorities may zone any unexpropriated tract of Palestinian land as a "green area," effectively restricting it to agricul-

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lamation" in M. Kothari and J. Abu-Shakrah, *Planned Dispossession: Palestinians, East Jerusalem and the Right to a Place to Live* (Geneva: COHRE, Occasional Paper No. 4, 1995) at 8.

76. *See id.* at 9.

77. *See* HODGKINS, *supra* note 17, at 48 (stating that in 1990, the Ministerial Immigration Committee objected to plans to provide housing for Soviet Union immigrants in Jerusalem).

78. *See id.* at 6.

79. *See* R. SHEHADEH, OCCUPIERS LAW: ISRAEL AND THE WEST BANK 217 (Institute for Palestine Studies, 1985) (discussing how the Antiquities Department has extensive powers to impose severe restrictions on land use based on archeological considerations).

80. *See* HODGKINS, *supra* note 17, at 26 (discussing Israel's tools for blocking Palestinian land development).

tural and other forms of agrarian use.<sup>81</sup> Although these zoned areas are theoretically “to be planted and to serve as public open spaces . . . in reality this designation is used to block Palestinian development” of lands desired by the municipality for future Jewish settlement.<sup>82</sup> The idea is to ensure that such lands remain free and clear of any physical impediments, such as Arab homes or buildings, which would make Jewish settlement construction difficult if and when expropriation decisions are finally made. In this manner, Israeli municipal planners have stunted the natural growth and development of East Jerusalem’s Palestinian community to acquire more land to build future Jewish settlements.

The following two examples serve as good illustrations of how this process actually takes shape on the ground. In 1968, approximately 2000 dunums of Palestinian owned land in the East Jerusalem village of Shu’fat were designated as a “green area.” Under this designation, the land was sowed with cypress seedlings and left undisturbed for twenty-six years. In 1994, the restrictive zoning was “suddenly changed” by the municipal government, which subsequently issued expropriation orders for it and proceeded to authorize the construction of Reches Shufaat, a new settlement for religious Jews.<sup>83</sup> Similarly, in 1968, a further 2000 dunums of Palestinian land at Jabal Abu-Ghneim on the southern outskirts of East Jerusalem were zoned as a “green area” by the Israeli municipality. Like the lands in Shu’fat, these tracts were left undeveloped for over two decades. Subsequently, in 1991, Israeli municipal authorities informed the Palestinian owners of the lifted “green area” designation and that the land would be expropriated to begin construction of the Jewish settlement of Har Homa (See Map III).<sup>84</sup>

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81. *See id.* (defining “green areas” as Palestinian land where any development other than agriculture is strictly prohibited).

82. *See id.* at 27.

83. *See id.* (discussing how zoning laws changed and how, as a result, a new neighborhood for religious Jews was built).

84. *See id.* (stating that some tracts of land between Bethlehem and Jerusalem were zoned as green areas but were later made available for municipality construction).

## D. TOWN PLANNING SCHEMES

The Town Planning Scheme ("TPS") is another effective tool utilized by Israeli municipal authorities to restrict Palestinian development in East Jerusalem.<sup>85</sup> As in most urban centers, TPSs (or documents similar to them) are required by the municipality in order to "supervise the development of an area in accordance with its zoning designation, expected population growth, housing needs, and infrastructure requirements."<sup>86</sup> In Jerusalem, it is impossible to acquire a development permit for an area that does not have a TPS approved by the Israeli municipal authorities.<sup>87</sup> The municipality's overarching desire to cement Israel's exclusive control over the occupied city dominates the TPS procedure in East Jerusalem because the main purpose of the process is to ensure that areas are developed in accordance with "the overall planning goals of the municipality."<sup>88</sup> As such, the needs of its Palestinian residents are simply not figured into planning considerations.<sup>89</sup>

For instance, because the TPS is an expensive ten-step process that "requires a high level of coordination and cooperation with the municipal authorities,"<sup>90</sup> (See Appendix) the Israeli government regularly provides Jewish settlers in East Jerusalem with substantial resources to put TPSs together, including the allocation of funds and the contracting of urban planners and architects.<sup>91</sup> With respect to development proposals for East Jerusalem's Arab neighborhoods, however, "all costs and resources needed to draw up a TPS fall on the

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85. See Y. Stein, *The Quiet Deportation: Revocation of Residency of East Jerusalem Palestinians* (Jerusalem: The Israeli Information Center for Human Rights in the Occupied Territories, 1997) at 8 (discussing how planning schemes restrict the development of Palestinian neighborhoods).

86. See HODGKINS, *supra* note 17, at 29.

87. See *id.* (discussing how the TPS is used as a means of restricting development in Palestinian areas).

88. See *id.* at 30.

89. See Stein, *supra* note 85, at 8 (stating that planning schemes are primarily based on national and political considerations rather than on Palestinian needs).

90. See HODGKINS, *supra* note 17, at 29.

91. See *id.* at 30 (discussing how the Israeli government has the responsibility for re-parceling land).

Palestinians themselves.”<sup>92</sup> As a result, the TPS process has proved to be an economic and bureaucratic obstacle for Palestinians, while at the same time “an efficient and successful exercise in urban planning” for Jewish settlers.<sup>93</sup> This is highlighted by the fact that over the past twenty-one years, Palestinian neighborhoods in East Jerusalem have received approval for only thirteen TPSs.<sup>94</sup>

Even where approved, the Israeli municipality has “invariably delayed and/or dramatically minimized TPSs for Palestinian neighborhoods.”<sup>95</sup> For instance, although municipal authorities are legally required to issue a decision on TPSs within three years of an application, it took thirteen years for the Palestinian town of Shu’fat to be approved in 1996. Additionally, the plan called for the construction of 17,000 housing units, however, under the directive of Israeli Interior Minister Eli Suissa, the plan was eventually pared down to a mere 500 units.<sup>96</sup> Likewise, “[p]lanning procedures which began in Beit Safafa in 1977 also took 13 years to reach approval in 1990,” plans “in Abu Tor took 12 years and a plan submitted in 1987 for Ras al-Amud has not [yet] received final approval.”<sup>97</sup>

Not surprisingly, the TPS process profoundly impacts Palestinian growth and development in East Jerusalem, most notably with respect to housing shortages. As noted by a U.N. report, “since 1967 Israel has constructed dwelling space for 70,000 Jewish families on expropriated Arab land in East Jerusalem, and only 555 dwelling units for its Palestinian residents.”<sup>98</sup> The same report noted that onerous municipal policies “and land use restrictions resulted in a situation in which at least 21,000 Palestinian families were practically homeless and had to live in tents and hovels, or share with other

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92. *See id.*

93. *See id.*

94. *See id.*, at 31 (stating that since 1978, only 13 plans “have been approved which have any bearing on Palestinian neighborhoods”).

95. *See id.*

96. *See id.* (noting the decrease in Palestinian housing units from 17,000 to 500 units).

97. *See id.* at 31-32.

98. *See The Status of Jerusalem, supra* note 4, at 25.

families.”<sup>99</sup> When confronted with statistics similar to these during an examination of a TPS for the Palestinian villages of Um Tuba and Sur Baher, Israeli municipal sub-committee member, Elinor Barazaki, summed up the opinion of the municipality succinctly:

There is a government decision to maintain the proportion between the Arab [minority] and Jewish [majority] populations in the city. . . The only way to cope with that ratio is through the housing potential. The growth potential is defined on this basis and the [housing] capacity is a function of that here as well.<sup>100</sup>

### E. DEMOLITION OF PALESTINIAN HOMES

Because of the Israeli municipality’s massive expropriation campaigns, onerous land use restrictions, and discriminatory planning schemes, many Palestinian landowners are forced to build houses without permits only to later face demolition orders.<sup>101</sup> Knowing that its policies have directly caused the overcrowding and severe housing shortages in Palestinian neighborhoods, Israeli municipal authorities in East Jerusalem have observed a policy of demolishing Palestinian homes constructed without the required building permit or built on land not zoned for residential use (i.e. “green areas”).<sup>102</sup>

What makes this practice most unpalatable, aside from its obvious human rights implications, is the fact that the Israeli municipality publicizes its activity as redressing the consequences of “illegal” Palestinian construction, despite the fact that it is an agent of a state that is illegally occupying Arab East Jerusalem.<sup>103</sup> This political whitewash is what has allowed municipal officials to destroy an average of fifty East Jerusalem Palestinian homes per year between

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99. *See id.*

100. *See* HODGKINS, *supra* note 17, at 34 (alterations added) (quoting Minutes of the Subcommittee Meeting for Planning and Building, Feb. 22, 1993).

101. *See* HAMZEH-MUHAISEN, *supra* note 59 (discussing the effects of restrictive zoning laws on the Palestinian population).

102. *See* HODGKINS, *supra* note 17, at 35 (reporting on the frequency of housing demolitions in East Jerusalem).

103. *See* M. Klein “Only Jewish Homes Destroy Peace” JERUSALEM POST [NORTH AMERICAN EDITION] (Apr. 16, 1999) at 11; *see also* SHARKANSKY, *supra* note 2, at 104 (citing issues surrounding Palestinian construction).

1986 and 1996.<sup>104</sup> Moreover, the Oslo peace process has not put an end to this practice. In fact, between 1993 and 1995, the Israeli municipality destroyed ninety-seven Palestinian homes,<sup>105</sup> and recently Olmert launched a massive campaign to demolish the homes of 2,600 East Jerusalem Palestinians who, according to his records, have built “illegally.”<sup>106</sup>

#### F. REVOCATION OF PALESTINIAN RESIDENCY RIGHTS

Along with mechanisms designed to alter the geo-physical status of Jerusalem, since 1967, the Israeli Interior Ministry has actively sought to reduce the number of Palestinians in Jerusalem by employing “a series of discriminatory bureaucratic methods” that effectively operate to deport them from the city.<sup>107</sup>

Following Israel’s conquest and annexation of the city, “Palestinians living within the municipal boundaries, as subsequently expanded, were classified as permanent residents of the State”<sup>108</sup>—not as Israeli citizens—under the Law of Entry into Israel (1952).<sup>109</sup> Thus, although it was the Jewish State that “entered” the city through military conquest, Israeli law treats Palestinian Jerusalemites as though they are “immigrants residing in their homes pursuant to the beneficence of Israel and not by right.”<sup>110</sup> According to Regulation 11(c) of the Entry into Israel Regulations, “a permanent residency permit expires if the holder leaves Israel and settles in another country.”<sup>111</sup> Regulation 11A of the same regulations, provides that “a person will be considered to have settled in a foreign country if he or she: (1) lived for more than seven years in a foreign country; (2) re-

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104. See HODGKINS, *supra* note 17, at 35 (highlighting the number of housing demolitions in East Jerusalem).

105. See *id.* (reporting housing demolition statistics).

106. See HAMZEH-MUHAISEN, *supra* note 59 (emphasizing the Palestinian housing dilemma in Jerusalem).

107. See HODGKINS, *supra* note 17, at 51 (explaining measures taken by Israel in order to maintain the desired demographic ratio); see also Stein, *supra* note 85.

108. See *The Status of Jerusalem*, *supra* note 4, at 26.

109. See HODGKINS, *supra* note 17, at 52 (examining Israeli policy on Palestinian residency).

110. See Stein, *supra* note 85, at 7.

111. See *id.* at 6.

ceived the status of permanent resident in a foreign country; or (3) became a citizen of a foreign country.”<sup>112</sup> It is important to note that, as far as Palestinian residency rights are concerned, Israeli authorities consider the West Bank and Gaza Strip (not including annexed East Jerusalem) to be a “foreign country.”<sup>113</sup> Through the use of these regulations, thousands of Palestinian Jerusalemites who have lived, worked, or studied abroad, including in the West Bank or Gaza Strip, have suffered revocation of their residency rights and expulsion from the country without any right of appeal.<sup>114</sup>

Since the signing of the DOP, the Israeli Interior Ministry has intensified its efforts to revoke Palestinian residency rights in Jerusalem.<sup>115</sup> The principal method is through the implementation of the so-called “center of life” policy. According to this policy, a Palestinian Jerusalemite’s residency status may be revoked if the Interior Minister determines that the individual’s “center of life” has moved “outside of Israel.”<sup>116</sup> The significance of this policy, which has never officially been made known to Palestinian Jerusalemites,<sup>117</sup> lies in the fact that it applies even where the resident meets all of the requisite criteria under Regulation 11A of the Entry into Israel Regulations. Thus, “even if the stay outside of Jerusalem [is] less than seven years and the person [has] not become a citizen or permanent resident of another country,”<sup>118</sup> their residency status may be revoked. This new policy is particularly harsh because it also applies retroactively and irrespective of the present residency situation of the individual in question. Thus, proof of “center of life” in the past does not grant residency rights to an applicant if his or her current “center of life” is not within the city, and proof of a current “center of life” in Jerusalem does not grant residency rights to an applicant if, for any period of time in the past, his or her “center of life” was outside of the

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112. *See id.*

113. *See id.* at 14.

114. *See id.* at 17.

115. *See* HODGKINS, *supra* note 17, at 53 (commenting on the increase in the number of revoked Palestinian residency permits since the commencement of the Oslo peace process).

116. *See* Stein, *supra* note 85, at 14.

117. *See id.* at 13.

118. *See id.*



city.<sup>119</sup> Moreover, because Israeli authorities routinely apply an excessively high threshold with respect to the “center of life” standard, more often than not, Palestinian Jerusalemites are unable to prove to the Interior Minister that they in fact live in Jerusalem, and are, therefore, stripped of their right to remain there.<sup>120</sup>

Finally, because permanent residency rights do not automatically extend to the family of permanent residents, “Palestinian Jerusalemites marrying spouses from the rest of the Occupied Territories [or elsewhere] must apply for Family Reunification to legally reside together in Jerusalem.”<sup>121</sup> Much like the process of gaining approval on a TPS for a Palestinian neighborhood, applications for family reunification notoriously take several years to process before a decision is reached.<sup>122</sup> As a result, Palestinian families are usually left with two alternatives: they may either live separately with the unrealistic hope that their application will be accepted swiftly or they may leave the city to live together. Obviously, if they choose to leave, the family will lose its residency rights in Jerusalem by virtue of Israel’s “center of life” policy.<sup>123</sup>

Since its conquest of East Jerusalem in 1967, Israeli authorities have revoked the residency rights of over 4,000 Palestinian families.<sup>124</sup> Because of the severe housing shortage affecting Palestinians in Jerusalem—itsself a consequence of Israeli settlement and discriminatory land use policies—nearly 12,000 Palestinian Jerusalemites currently live outside of the municipal boundaries of the city, and are, therefore, subject to having their residency rights revoked.<sup>125</sup> As with Israel’s policies on land confiscation, Jewish settlement, and Palestinian development, its systematic campaign of revoking Palestinian residency rights in Jerusalem has been carefully designed to

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119. *See id.* at 20.

120. *See id.*

121. HODGKINS, *supra* note 17, at 52-53 (alteration added).

122. *See* Stein, *supra* note 85, at 9.

123. *See id.* at 10.

124. *See* BADIL, *Confiscation of Palestinian Jerusalem I.D. Cards* (visited Feb. 24, 1999) <<http://www.badil.org/resident/resstats.htm>>.

125. *See* HODGKINS, *supra* note 17, at 54 (discussing the “center of life” requirement).

alter the demographic composition of the city in an attempt to present a Jewish majority there as a *fait accompli* in any future final status negotiation with the PLO.

## CONCLUSION

Since its "annexation of East Jerusalem in 1967, the Israeli government has adopted a policy of systematic and deliberate discrimination against the Palestinian population in [East] Jerusalem."<sup>126</sup> Driven by the overarching national policy of securing and maintaining exclusive Israeli control over the occupied city, Israeli municipal authorities have implemented a process designed to impose exclusively Jewish "facts on the ground" to re-engineer the city's demographic and geographic character in the Jewish State's favor. For the better part of a quarter-century, these policies were forged under the watchful eye of Kollek who viewed his role as "seeing to the Jewish majority" in the city.<sup>127</sup> Today, Omert, who has perfected these policies, repeatedly insists that Jerusalem must remain "the eternal" and "united" capital of Israel.<sup>128</sup>

Despite the fact that the international community has in no uncertain terms condemned Israeli actions in the city as constituting egregious violations of international law, municipal authorities continue to pursue planning policies designed to transform the city into the Jewish State's "undivided" capital. Some of the principal tools utilized by municipal authorities in this regard have been the wholesale expropriation of vast tracts of Palestinian land, the imposition of illegal Jewish settlements on that land, discriminatory zoning and planning processes, the demolition of "illegally" built Palestinian homes, and the revocation of Palestinian residency rights in the city.

Through its control over expropriated Palestinian lands in a grossly expanded East Jerusalem, Israeli municipal authorities have been able to impose a barrage of illegal Jewish settlements in the

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126. See Stein, *supra* note 85, at 8.

127. See HODGKINS, *supra* note 17, at 16 (noting that in a meeting of the Jerusalem Municipality Council on January 25, 1988, Kollek made the following revealing statement about his job as mayor of the city: "I am seeing to the Jewish majority . . . that is why we are here, to see to [the Jewish majority].").

128. See DOCUMENTS ON JERUSALEM, *supra* note 1, at 130 (quoting Olmert's opening address to the "Jerusalem 3000" celebration).

area that have served national goals on two key levels. First, by inserting hundreds of thousands of Jewish citizens of Israel into occupied East Jerusalem, the demographic facts on the ground have been altered to the point that the city has in fact become numerically, politically, and economically dominated by a 77 percent Jewish settler majority. Second, through the strategic placement of these settlements in the form of two rings encircling East Jerusalem's northern, eastern, and southern outskirts, the city has been geographically severed from its natural West Bank hinterland, thereby helping to facilitate its physical annexation into Jewish West Jerusalem.

The onerous "green area" zoning designation and the discriminatory TPS procedure complement the foregoing. Since 1967, these restrictive land-use planning mechanisms have proved very helpful in curtailing the development of unexpropriated Palestinian lands desired by the Israeli municipality for future Jewish settlement. Because these mechanisms keep Palestinian lands undeveloped until the time is "ripe" for municipal expropriation,<sup>129</sup> Palestinian residents of East Jerusalem suffer from a severe overpopulation and housing crisis. In an effort to cope, Palestinians have been forced to develop their lands without proper municipal permits, and are thereby subject to the possibility of having their "illegally" built homes demolished by municipal authorities.

Finally, in yet another scheme concocted to alter the indigenous Palestinian character of East Jerusalem, Israeli municipal planners have launched a bureaucratic campaign to strip Palestinian inhabitants of the city of their rights to live there. Since 1967, thousands of Palestinian Jerusalemites have had their residency rights revoked through the use of obscure and onerous administrative laws that, needless to say, do not apply to Jews.

In essence, Israeli municipal planners in East Jerusalem, over the course of the past thirty-two years, have engaged in a concerted effort to establish a *fait accompli* in the city such that any future question as to its actual status as the "capital" of the Jewish State would be rendered completely academic. For a variety of political reasons, a discussion of which lies beyond the scope of this Essay, these mu-

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129. See HODGKINS, *supra* note 17, at 26 (identifying land expropriation as a tool used by Israel to prevent Palestinians from settling in East Jerusalem).

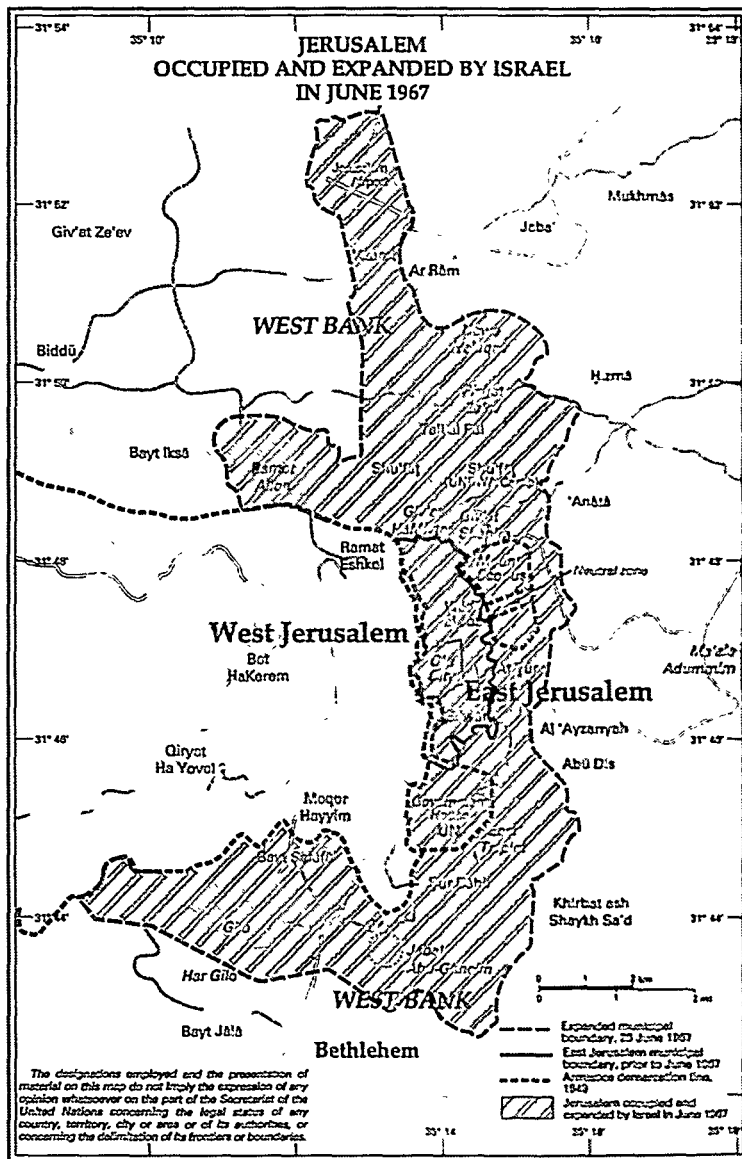
nicipal planners have been extremely successful in achieving their goal. With the Oslo peace process recently put back on track after months of postponement and delay, it remains to be seen how Israel and the PLO intend to approach the question of negotiating the “final status” of Jerusalem. If anything is for certain, the facts on the ground in the city illustrate quite clearly that the question may have been settled long before the parties ever chose to meet at the negotiating table.

### MAP I. PALESTINIAN TERRITORIES OCCUPIED IN 1967, INCLUDING JERUSALEM<sup>130</sup>



130. All copyrights reserved by the United Nations Cartographic Section. See Map 3. Palestinian territories occupied in 1967, including Jerusalem, Map No. 3243 Rev. 4, United Nations (June 1997) in *The Status of Jerusalem*, supra note 4.

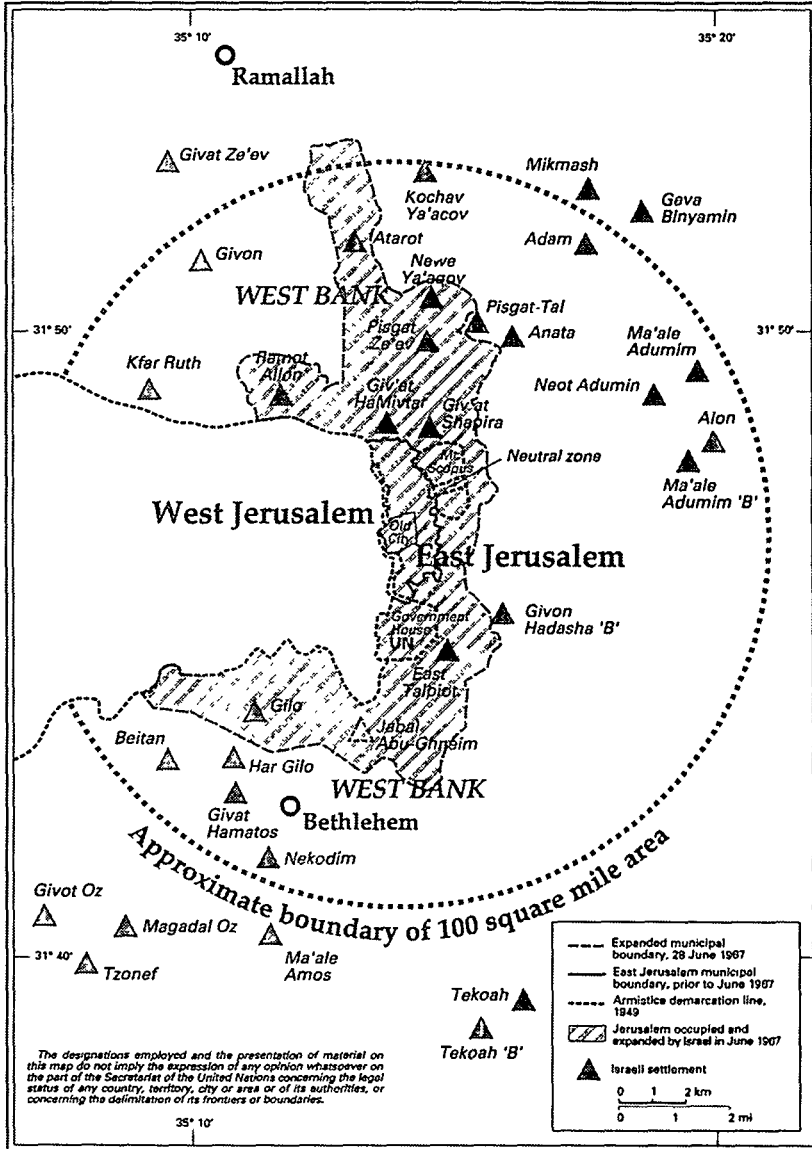
MAP II. JERUSALEM OCCUPIED AND EXPANDED BY ISRAEL IN JUNE 1967<sup>131</sup>



131. All copyrights reserved by the United Nations Cartographic Section. See Map 4. Jerusalem occupied and expanded by Israel in June 1967, Map No. 3640 Rev. 3, United Nations (June 1997) in *The Status of Jerusalem*, supra note 4.

### MAP III. ISRAELI SETTLEMENTS IN AND AROUND JERUSALEM<sup>132</sup>

#### "GREATER" JERUSALEM AREA



132. All copyrights reserved by the United Nations Cartographic Section. See Map 5. Israeli settlements in and around Jerusalem, Map No. 3996, United Nations (June 1997) in *The Status of Jerusalem*, supra note 4.

## APPENDIX A

THE TEN STEP PROCEDURE OF TOWN PLANNING SCHEMES (TPS)<sup>133</sup>

The local TPS goes through the following stages before its final approval:

1. The Local Planning and Building Committee decides that a TPS is required for a certain area and entrusts its preparation to experts;
2. The plan is conveyed to the Local Planning and Building Committee, which either recommends or rejects its deposition;
3. The plan, if approved by the Local Planning and Building Committee, goes to the District Planning and Building Committee for deposition;
4. Publication of the plan in the Official Gazette, in three daily newspapers and on the public bulletin boards in the particular neighborhoods. A two-month window is allowed for submission of objections to the District Committee;
5. Hearing of objections by the Local Committee;
6. First discussion of the objections by the District Committee;
7. Second discussion of the objections by the District Committee;
8. Approval of the plan by the Local Committee and the District Committee;
9. The TPS is approved by the Minister of the Interior;
10. Publication of notice of the approval and granting of legal validity to the plan. Upon final approval the TPS will be published in local newspapers, the Official Gazette and posted on neighborhood bulletin boards.

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133. Adapted from HODGKINS, *supra* note 17, at 81.