



הוועד הישראלי נגד הריסת בתים
The Israeli Committee Against House Demolitions
الحركة الإسرائيلية ضد هدم البيوت

NO PLACE LIKE HOME

House Demolitions in East Jerusalem

Meir Margalit



Cover photographs: © A. Seri

Back cover: Silwan children hold signs representing their 88 homes under demolition orders, issued by the Municipality so City of David settlers may extend archaeological excavations next to the Old City wall and Al Aqsa Mosque, thereby threatening over 1000 Palestinians with homelessness. ICAHD participated in a campaign which successfully froze the plan. But the demolition orders still threaten. One day?

Front cover: Silwan resident sits on his half demolished home. ENJOY.

Editor: Angela Godfrey-Goldstein
Graphic Design and Printing: Shmuel Tal

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Published by the Israeli Committee Against House Demolitions

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BIOGRAPHY: *Meir Margalit, Ph.D. (Haifa), is a researcher of the history of the Jewish community in Palestine during the British mandatory period. He served as a member of the Jerusalem City Council, representing the Meretz Party (1998-2002), and worked for over 20 years in education and community development for the Jerusalem Municipality. He works now as field co-ordinator for The Israeli Committee Against House Demolitions, and is an expert on issues related to municipal policies, especially in East Jerusalem, which served as the subject matter for his earlier publication in English: “Discrimination in the Heart of the Holy City” published by The International Peace and Co-operation Centre.*

Introduction

The years 2003–2005 were among the worst known to East Jerusalem for house demolitions; not only did the number of demolitions reach a peak of 350 buildings, but there was also an unprecedented severity in punitive enforcement measures. Residents of East Jerusalem found themselves: in a far more severe situation: enforcement measures were stepped up and there was an increase in red tape; those wishing to build legally found themselves frustrated at almost every turn.

This report shows that from 2003 until 2005 the authorities took increasing steps to tighten the noose around the necks of East Jerusalem residents; faced with the incessant proliferation of bureaucratic, planning, legal, and economic hurdles, making it hopeless to obtain a building permit, they had to resort to unlicensed construction. Thus, fewer than 100 buildings were built under licence in East Jerusalem each year. Yet in the same period demand for housing in East Jerusalem rose steeply, due to the Wall construction around Jerusalem. As a result, thousands were forced inside Jerusalem's municipal boundaries, enormously boosting illegal construction, which peaked in 2004 at 1,189 houses. Various red lines were crossed during that period. Shamelessly eager to demolish houses at all costs, municipal and Ministry of Interior inspectors resorted to underhand tactics of evasion or deception, disregarding court-issued decisions. The inspectors were prepared to trample the rule of law underfoot, so that the bulldozer did not, heaven forbid, return to base without having destroyed a home.

All this took place as Rabbi Uri Lupoliansky entered his first term of office as Mayor of Jerusalem, with Avraham Poraz and then Ophir Pines-Paz as Ministers of the Interior. The following survey begins with a chapter that presents 13-year data on demolitions, orders, fines and so forth, highlighting the escalation that took place during that period. The next part analyses the causes of illegal construction, ranging from planning difficulties such as lack of infrastructure and so forth, through legal difficulties such as furnishing proof of ownership, to economic difficulties such as the cost involved in fees and levies. The third section presents the motives underlying the Government's demolition policy, emphasising the intention of limiting the living space of Palestinians of East Jerusalem in order to maintain the demographic balance between the two populations at a fixed ratio of 70-30%.

Focus will be given later in this work to the functioning of the bodies responsible for that policy on the professional and political levels: the construction supervision units of the Jerusalem Municipality and Ministry of the Interior, the local planning and building committee and the district planning and building committee. It must be stressed that these units are patently political bodies, representing the worldview of a right-wing government and municipality. The concluding chapter sets forth musings as to the significance of home demolition for a family, and what East Jerusalemites undergo from the time they are served the demolition order until the bulldozer arrives: the scars left on the souls of young children, and the effects of house demolition on the fabric of life in Jerusalem. Interspersed throughout these chapters are a number of test cases. Clearly this research remains far from exhaustive; nevertheless, even in outline format, it is one of East Jerusalem's most painful issues, which needs to be exposed to members of the public who hold dear the future of Jerusalem.

Importantly, on March 13, 2007 the UN Committee on the Elimination of Racial Discrimination (CERD), delivered its CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION, to which ICAHD contributed. The Concluding Observations of the Committee (Israel) state:

“35. The Committee notes with concern the application in the Occupied Palestinian Territories of different laws, policies and practices to Palestinians on the one hand, and to Israelis on the other hand. It is concerned, in particular, by information about unequal distribution of water resources to the detriment of Palestinians, about the disproportionate targeting of Palestinians in house demolitions and about the application of different criminal laws leading to prolonged detention and harsher punishments for Palestinians for the same offences. (articles 2, 3 and 5)”

The Committee recommends “The State party should ensure equal access to water resources to all without any discrimination. The Committee also reiterates its call for a halt to the demolition of Arab properties particularly in East Jerusalem and for respect for property rights irrespective of the ethnic or national origin of the owner. Although different legal regimes may apply to Israeli citizens living in the Occupied Palestinian Territories and Palestinians, the State party should ensure that the same crime is judged equally not taking into consideration the citizenship of the perpetrator.”

The Policy of House Demolition

In 2004, 152 buildings were destroyed in East Jerusalem, 128 by the Municipality and 24 by the Ministry of the Interior (MOI).¹ By end-2005, 94 more buildings had been destroyed, a figure relatively low compared to previous years; this, however, disguises the fact that the total area of demolished structures increased dramatically from 9,000 square metres in 2004 to 12,000 square metres in 2005, as the demolitions concentrated on large buildings, including four, five and even seven-storey structures.

Demolitions in East Jerusalem during recent years²

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Municipality	7	15	6	9	12	17	11	32	36	66	128	76	73
MOI	22	10	11	7	18	14	7	9	7	33	24	18	10
Total	29	25	17	16	30	31	18	41	43	99 ³	152	94	83

The above table does not include homes demolished by owners themselves when offered a plea bargain whereby they could destroy their own home in return for being awarded only a small monetary fine. We do not have figures for houses demolished in this category, but estimate their number at only slightly less than those destroyed by the authorities. As the figures show, the years 2003–2005 were amongst the worst since the Occupation commenced, as to administrative demolitions. Uri Lupoliansky's term as Mayor of Jerusalem, coinciding with that of Avraham Poraz and Ophir Pines-Paz as Ministers of the Interior, is characterized by harsher enforcement measures, in order to deter residents from building without a permit. These measures include, apart from the actual demolitions, a significant increase in financial fines, confiscation of building equipment and imposition of prison sentences for building offences. The increased stringency of municipal policy may be explained as a response to pressures exerted on the mayor by the public that voted him into office, and the policy of judaisation of the eastern part of the city, as envisioned by the right-wing circles he represents.

The combination of a right-wing government and an ultra-orthodox municipality further empowered the proponents of demolition; the presence of the Shinui or Labour parties in the Ministry of the Interior did nothing to ameliorate that policy. Similarly, the Iraq war may have encouraged the Government to pursue its destructive course with greater abandon, on the assumption that the US administration would take less interest in the affairs of East Jerusalem, while the European media would be too preoccupied on the Iraqi front to pay attention to demolition work in the city; this is corroborated by the fact that, as war broke out, Israel destroyed 23 buildings within two days: thirteen on April 3 and another ten on April 6: an unprecedented statistic in the annals of East Jerusalem.

Demolition Orders

Precise figures for administrative and judicial demolition orders issued in recent years are not available, because the Municipality and the Ministry of the Interior refuse to disclose exact data, but the overall number of demolition orders issued to both Jews and Palestinians in recent years is available; this figure does not distinguish between East and West Jerusalem. Official sources in the Jerusalem Municipality report that 40% of the orders were issued against the Palestinian population of East Jerusalem, while all orders issued by the Ministry of the Interior were against that population. The bare statistics conceal the fact that demolitions in West Jerusalem, if they are actually carried out, are committed against minor structures – balconies, sheds, staircases and so on – while in East Jerusalem most demolitions are of entire dwellings and multi-storey apartment buildings, or significant portions of dwellings. David Kroyanker, a prominent Jerusalem planner, told a press interviewer that the Municipality neither exercises, supervises nor demolishes houses in the western part of the city:

One senses that municipal enforcement simply doesn't extend there. There's anarchy there, utter and ongoing chaos. Everyone knows that unauthorized buildings aren't demolished in the Jewish sector, and so anyone committing a building offence gets a NIS300 fine after three years, and goes on to his next unauthorised project. The message is that it's worthwhile being a lawbreaker.⁴

Administrative demolition orders are issued against buildings as yet

unoccupied, in various stages of construction, and are valid for 30 days. After that interval, a judicial demolition order must be issued, requiring a complex legal proceeding. An inhabited home must be demolished under a judicial demolition order, even though the term “inhabited” may not be covered by the common definition. To deem a structure “inhabited”, the court has recently ruled that a home must “be able to be lived in.” In the Israeli courts’ eyes, a building that has no installations such as taps, water service, doors, tiles, electrical wiring and electricity supply is not considered a building that can be lived in. However, in many instances where Palestinians move into half-finished homes due to financial considerations, the Municipality has indeed served judicial and not administrative orders, in spite of the fact that people are living in the building. This is because the authorities can demolish structures by using judicial orders far quicker and with less legal expense than by use of administrative orders. The courts’ attitude also reflects a patronising approach as to Palestinian residents. The court takes it on itself to rule as to what conditions Palestinians should live in and what is “normal” for them, without taking into consideration the realities of Palestinian life in East Jerusalem; this reflects a cultural divide between the Jewish authorities and Palestinians living under them.

Financial Penalties

Between 2001 and 2006, the Municipal Court collected the massive amount of NIS 153,240,833 (\$34,053,518) in fines. Here too, available figures make no distinction between the eastern and western parts of the city but the great majority of that amount collected by the Municipality – fully 70% — came from Palestinians and the entire amount collected by the Ministry of the Interior came from Palestinians.⁵

Fines imposed by the Municipal Court (in NIS)

	By Municipality	70% of total	By MOI	Total
2001	15,107,322	10,575,125	1,968,300	12,543,425
2002	26,984,052	18,888,836	1,731,300	20,620,136
2003	46,292,494	32,404,745	4,959,950	37,364,695

	By Municipality	70% of total	By MOI	Total
2004	43,284,033	30,298,823	3,786,000	34,084,823
2005	34,792,872	24,298,832	4,324,400	28,623,223
2006	26,259,613	18,381,739	1,566,613	19,948,352
Total	192,720,386	134,904,270	18,336,563	153,240,833

The drastic increase in the amount of fines is explained by the fact that from 2002 onwards, the number of judges working at the Municipal Court was doubled and the prosecution began to demand a doubled rate of fines for building infractions in cases where previously only regular fines had been incurred.

The home demolitions budget of the Jerusalem Municipality in 2005 stood at NIS 2.4 million with the Ministry of the Interior's budget estimated at approx. NIS 3.4 million. This amount does not include some NIS 200,000 spent on aerial photography, the main purpose of which is to spot illegal construction. Nor does the budget include the pay of the inspectors and jurists engaged in tracing such construction and preparing indictments.⁶

The Scope of "Illegal" Building

The Ministry of the Interior and the Municipality assert that between 15,000-20,000 buildings in East Jerusalem have been built without permits, which is to say, about 40% of the total number of buildings.⁷ According to the Municipal Tax Collection Department, 5,300 residential units were constructed in East Jerusalem in the years 2000 – 2004.⁸ In the period covered here, building permits were issued for only 481 buildings (of which a certain number would, in normal circumstances, contain more than one residential apartment), which is to say that for every building erected under permit, ten were built without permit.⁹ In the year 2004, the Municipality and the Ministry of the Interior destroyed 152 of 1,435 "illegal" buildings, or 11% of the total unlicensed construction started that year. Over the long

term, it emerges that during the past decade, the authorities have destroyed 400 buildings, or only some 4% of the illegal construction in all East Jerusalem; so the authorities manage to destroy only a small percentage of the overall number of unlicensed buildings in East Jerusalem.

Volume of Illegal Construction in Jerusalem

	Total residential units	Increase over previous year	Permits issued	Illegal construction
2000	35,388	1,008	129	879
2001	36,921	1,433	110	1,323
2002	37,993	1,172	97	1,075
2003	39,428	1,435	59	1,376
2004	40,661	1,233	49	1,184

Increased Enforcement of Municipal Planning Laws

Together with a drastic increase in the number of house demolitions in the years 2003–2005, we are also witnessing greater stringency in enforcement measures against residents who construct without a permit. According to the Jerusalem Municipality, the reason for the proliferation of illegal construction in the east of the city is that standard enforcement is ineffective and does not deter. It therefore resolved to impose stiffer penalties, in the hope that harsh measures would prove deterrent and the phenomenon would wane. The new policy has the following four principal components:

- The re-opening of legal proceedings
- The doubling of penalties
- The confiscation of building equipment
- Incarceration

This policy gained support from an opinion published by Menachem Mazuz, when he served as Deputy Attorney-General: he instructed the local planning committee to deal strictly with building offenders:

“The deterrent component in this type of offence is critical in light of the proliferation of offences and the economic profits involved in committing them. *Post-factum* approval, amendment or modification of a plan, in order to ‘legalise’ flagrant construction offences, sends a negative message to the public and undermines the deterrent factor of enforcement. Moreover, it frequently happens that, under pressure of this or that *fait accomplis*, planning commissions approve amendments and modifications which are incompatible with proper planning principles and which, *a priori*, would not have been approved, and thereby lend encouragement to delinquency, with offenders being rewarded.”¹⁰

Reinstitution of legal proceedings

Sentences handed down for illegal construction consist of two parts: (A) – a monetary fine, in an amount proportionate to the severity of the offence (meaning the size of the building); and (B) – a requirement either to produce a building permit or restore the *status quo ante*, which means to demolish the building. The Planning and Building Law does not recognize a situation in which a structure can remain standing without a permit, so payment of a fine does not exempt a house owner from his duty to obtain a permit for the structure. From 1967 until 2001, the municipal system would content itself with collecting a fine, and house owners who paid the fine would be left alone, even if they did not obtain a building permit. East Jerusalemites knew that as long as they paid their fine, their home was protected and their troubles were over. In 2001, the Municipality started re-opening cases of residents who had paid fines but had not obtained building permits, charging them not only with illegal construction, but also with failing to comply with a court order and occupying a building without a permit. The Jerusalem Municipality justified its decision to re-open such cases on the grounds that residents of the east of the city preferred to pay fines after the fact rather than initially obtaining a building permit. According to the Municipality, the fines were so low that it was preferable to incur a fine than obtain a permit. So, in order to deter this trend, and show people it intended to curb the problem of illegal construction in its jurisdiction, it also resolved to start re-opening old cases.

Many East Jerusalem residents were in shock; at first, thinking there

was a misunderstanding, they went to City Hall with payment receipts showing they had duly paid their fines. They discovered that not only were their trials and tribulations far from over, they were, on the contrary, starting all over again. One hardly needs to point out that the constraints that had led them in the first place to build without a permit were still in place. Even so, the legal system was recycling the same old proceedings and sentencing the accused not only to a repeat fine but in some cases to actual imprisonment for failing to comply with a judicial order.

Doubling of Penalties

As well as re-opening old cases, the Municipality significantly increased the fines imposed for illegal construction and began making common use of a tool that the law requires to be used only sparingly, the “double value” or the “duplicate fine.” This form of sanction may be applied in the case of an especially large or provocative building. The standard fine imposed by the court on building offences is calculated on the basis of the cost of construction plus an optional increment that may increase the amount by 25%. A municipal land evaluator determines the average cost of construction. For example, during 2005, in East Jerusalem the cost stood at \$300 per square metre of construction. This means that a resident who built a 150 sq.m. house without a permit would have to pay a \$45,000 fine – if the prosecution did not demand the 25% addition. The prosecution had in recent years shown consideration for social circumstances, and had habitually reached compromises as to the amount of the fine. Recently, however, the municipal prosecution has started seeking to impose almost the maximum fine on every illegal structure over 150 sq.m., and has also been pressing the courts to impose ‘duplicate fines’ on owners of ‘illegal buildings.’ Judges usually comply with such prosecution requests.

Confiscation of building equipment

Another move designed to deter residents from building without a permit is the confiscation of construction equipment. This takes place under Section 32 of The Criminal Procedures Ordinance (Arrest & Search) [New Version], 1969. It treats the owner of the equipment as the party committing the offence. Municipal inspectors, accompanied by police, raid building sites and confiscate whatever they can lay their hands on: trucks,

concrete mixers, sacks of cement, sand, timber, and iron. The intention is to intimidate contractors and cause them sufficient economic damage so that they refrain from providing services to people without building permits. In the past year, the Municipality confiscated much valuable equipment — some 68 machines, including 12 concrete mixers, 7 concrete pumps and 2 tractors.¹¹ Recently, they have even confiscated smaller machinery and equipment such as hand-drills and jackhammers.¹² In order to obtain their equipment's release, owners must deposit guarantees in the range of NIS 10,000 to NIS 40,000. The new policy has notably not reduced the scope of unlicensed construction, but contractors today demand far higher prices.¹³

Imposition of prison terms

A drastic measure recently increasingly common is the imprisonment of East Jerusalem residents for failure to obtain a building permit or demolish their own homes. The legal cause for detention is contempt of court, and the penalty for such transgression is generally a 3–6 month prison term. Here, as with fines, prison terms do not exempt anyone from having to obtain a building permit or the house being demolished. On release, he is liable to face the same situation over and over again.

Discrimination in the Application of the Law

The Jerusalem Municipality usually claims it demolishes more structures in East Jerusalem because more people there build whole buildings illegally, whereas in West Jerusalem there are only minor building infractions. Discrimination exists first and foremost within the Planning and Building Law itself, but the enforcement of that law is also carried out in a discriminatory fashion.

Municipal Enforcement of Building Laws

	2004		2005	
	West Jerusalem	East Jerusalem	West Jerusalem	East Jerusalem
Infractions	5,583	1,386	5,653	1,529
Charges filed	980	780	1,272	857

Administrative demolition orders	50	216	Approx. 40	Approx. 80
Demolitions ¹⁴	13	114	26	76

One finds that both in 2004 and 2005, the number of infractions recorded in West Jerusalem was far higher than in East; (in fact, the number of infractions in West Jerusalem is far higher even than recorded, because - and there is proof - the building inspectors do not record all infractions in the west of the city). The number of charges brought to the courts in 2004 and 2005 shows that a far smaller proportion of building infractions in West Jerusalem comes to court than in East Jerusalem. This is a fact, even though by law all building infractions are supposed to be brought to court.

The proportion of cases that either result in or end in a demolition order being awarded against structures, out of all the building infractions taken to court, is far higher in the case of East Jerusalem. In West Jerusalem, far fewer structures receive demolition orders; in fact, in West Jerusalem no entire residential buildings have ever received demolition orders or been demolished. One notes that in 2005 there was a 65% rate of demolition in West Jerusalem, whereas in East Jerusalem the rate was 95%. There is a certain screening process at work by which infractions in East Jerusalem are dealt with faster, while in West Jerusalem there is a system at work that delays such legal procedures.

Reasons for Illegal Construction

In a discussion concerning construction by Palestinians in East Jerusalem, Former Ministry of the Interior District Planner Bina Schwartz stated that there was insufficient housing for the Palestinian residents, but that at the same time, there was “difficulty in duly obtaining building permits.” She was referring to the series of planning difficulties that were making the process of obtaining a building permit essentially impossible.¹⁵

More recently, Ruth Yosef, Jerusalem District Commissioner in the Ministry of the Interior, expanded on these reasons and difficulties.

In a discussion on the question of house demolitions in East Jerusalem that took place in February 2005 in the office of Minister of the Interior Ophir Pines-Paz, she summarized the reasons why it is so difficult for residents of East Jerusalem to obtain a construction permit. Among them she pointed to the low plot ratios in the Palestinian sector that do not cover the needs of the population, problems of parcellation of different areas, and problems with proof of land ownership. She added that the existing Urban Development Outline Plans do not give satisfactory answers to these problems and that the Ministry of the Interior had not yet come up with any alternative active urban development plans because of budgetary constraints. The importance of the District Commissioner's testimony rests on the fact that she stressed overall planning problems for which the state is responsible, and that she also took professional responsibility for the longstanding ministerial planning failure. All this flies in the face of the state's official position which is that Palestinians build without permits for political and business reasons, or because of their lawbreaking habits.

Planning & Building Law

It is often said that there are no neutral laws. The 1965 Planning & Building Law expresses the philosophy of the ruling class, constituting, in effect, a tool for implementing policy. Moreover, the very act of planning is by nature an act of aggression, inasmuch as a ruling group determines what constitutes urban order and disorder, and imposes its values on the other sectors. In this sense, planning is a tool in the hands of those in power, enabling them to regulate demographic and urban processes to suit their interests. In this context, there is nothing exceptional about Israel's planning and building policy. Designed to preserve the interests of the Jewish majority, it was established by a western, liberal, nationalistic, social and urban outlook. Where it concerns the application of planning principles in the Jewish sector this state of affairs may be deemed legitimate, or at worst a necessary evil, but it becomes problematic when the State tries to impose it on Palestinian society. The attempt to compel the Palestinian sector, which is more rural and clannish, to conduct itself in accordance with modern, western, liberal planning and construction principles, is tantamount to cultural coercion and an invasive penetration into the heart of Palestinian tradition. The coercive element of planning exists in every society, especially in a society under occupation whose political status is far

inferior to that of the ruling majority. Hence, under such circumstances, the new method stands a very poor chance of being accepted and implemented by that public.

The case of East Jerusalem is a classic case of the application of laws that take no account of the urban structure of villages, their community traditions, or the elementary needs of the local population. Built into the Planning & Building Law is a conspicuous, blatant element of discriminatory oppression circumscribing the growth of the Palestinian population and preserving Jewish hegemony in the city. The issue of unlawful construction in East Jerusalem must be addressed by looking at the application of a law in places where it is manifestly unsuitable. Thus, rather than “illegal construction,” what should be discussed is a “blatantly unsuitable law” which flouts basic human rights and, in addition to international law, contravenes Israel’s own Basic Law – Human Dignity & Freedom.

The very limited area permitted for construction in East Jerusalem

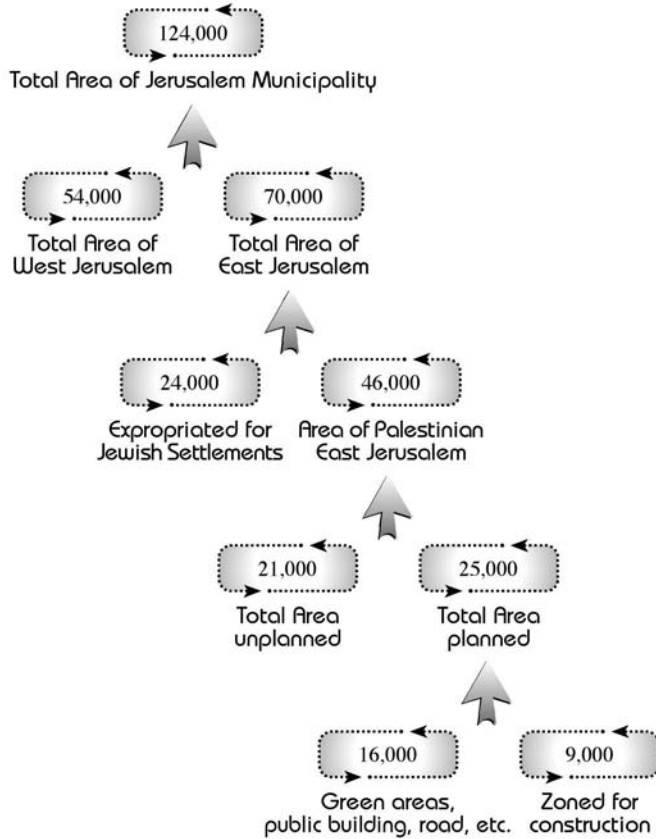
The total area of East Jerusalem, meaning the Palestinian neighbourhoods east of the Green Line, exclusive of the Jewish settlements built there, amounts to some 46,000 dunams (11,500 acres). Just over half the area, 24,655 dunam (6,163 acres), is covered by 25 approved zoning plans; another seven proposed zoning plans are as yet unapproved. The size of the area zoned for construction appears, on the face of it, reasonable. Under the approved plans, however, only 37% is allocated for residential purposes. Construction is prohibited on the rest of the land: some 40% has been defined as open land or green areas where a sweeping ban is imposed on construction, and 20% of the area is designated for public institutions and roads.

Amir Cheshin, former Adviser on Palestinian Affairs to Mayor Teddy Kollek, writes pointedly about the considerations underlying planning in East Jerusalem:

Planners at the office of the City Engineer, when outlining the boundaries of the areas designated for Palestinian neighbourhoods, restricted them to areas already built up. Adjacent open areas were zoned as “green areas”, which is to say, out of bounds for the purposes of development, or remained unplanned until needed for the construction of Jewish residential

projects. Kollek's 1970 plan includes the principles on which Israeli housing policy is still based – expropriation of Palestinian-owned lands, development of large Jewish neighbourhoods in East Jerusalem and the restriction of development in Palestinian neighbourhoods.¹⁶

Area remaining for construction (in dunams)



Building density

Just as the area zoned for construction is restricted, so are plot ratios within that area.¹⁷ In most of the area permitted for construction in East Jerusalem, the plot ratio is in the range of 35%-75%, whereas in West Jerusalem it is in the range of 75%-120%. This is made on the pretext of preserving the “rural character” of the area, and because this is seen

as compatible with residential patterns in Palestinian society. In West Jerusalem, up to six housing units per dunam may be constructed in three or four-storey buildings, while in the East, only two land-attached housing units may be built per dunam.¹⁸ The most blatant examples of plot ratio discrimination are found in the Jewish precincts located in the heart of Palestinian villages. 115% was permitted in Ma'aleh Zeitim – the precinct built by Moskowitz in Ras El-Amud, whereas the Palestinian neighbours are allowed up to 50% only. The new Nof Zion precinct planned for Jabel Mukaber was given 115% plot ratios, with Palestinian neighbours being allowed only 25%. Due to the low percentages, private developers refrain from building in the east of the city. Were they allowed reasonable plot ratios, the land would become available for public construction.

In recent years, the Municipality has notably been demonstrating a degree of flexibility on this issue, and is inclined to approve plot ratio exceptions. It is, in fact, preparing a plan to raise percentages in the eastern city - but all too little and too late.

Plot ratios in neighbouring Palestinian and Jewish areas¹⁹

Jewish E. Jerusalem	Plot Ratio	Palestinian E. Jerusalem	Plot Ratio
Pisgat Ze'ev	90-120%	Beit Hanina	50-75%
Gilo	75%	Beit Safafa	50%
Armon Hanatziv	75-90%	Jabel Mukaber	50%
Har Homa	90-120%	Sur Baher	35-50%
French Hill	120%	Al Issawiyya	70%
Ramat Shlomo	90-120%	Shuafat	75%

Re-plotting of land and deficiency of infrastructure

Not only is there a limited area zoned for construction, and the plot

ratios within it low, within any given construction-zoned area there exist endless other obstacles to the obtaining of a building permit. In practice, construction cannot take place in the greater part of the area, either due to the need for detailed planning, which for many years has been log-jammed, or due to a dearth of infrastructure.

In 20% of the residential-zoned area of East Jerusalem, no construction can actually take place prior to the completion of a process of re-plotting, which is necessary so that a fair allocation of lands for public use can be assured. This move, which involves unifying and subsequently re-dividing a number of private parcels of land, has been bogged down for close to twenty years due to the large number of owners, and their inability to prove ownership of the lands by means of a title in the *Tabu* (Israeli Lands Registry). The problem is especially acute in the neighbourhoods Beit Hanina and Shuafat, where most of the area needs to be re-plotted. Until that takes place, the neighbourhoods remain in a state of ‘total freeze’ where no construction can take place, nor can the land be sold.

In a large part of the area, no building permits are obtainable due to lack of infrastructure, namely water, sewage and roads. The Planning & Building Law prohibits construction in areas in which there is insufficient infrastructure. The Municipality notes that it requires NIS 185 million to “promote conditions for construction in the eastern city,” to provide infrastructure that will enable building permits to be issued. Needless to say, absent any such budget or motivation, there is not the slightest chance of either the Municipality or the national government investing such amounts in East Jerusalem.²⁰ In 1997, the Government of Israel resolved to commence detailed planning that would enable building permits to be issued for some 3,000 housing units. In fact, it set up a ministerial commission, known as the Efrat Commission, whose mandate was to implement the resolution. Of the NIS 185 million required for advancing building plans, the Municipality received a mere NIS 4 million, to which it proceeded to add NIS 5 million from its own budget. The project ended there. This means that in most areas zoned for construction according to the Planning Scheme, building cannot be carried out due to lack of infrastructure. Uri Ben-Asher, who served as Municipal Engineer, writes:

“This state of affairs caused difficulty in the issuance of building permits, since the problems involved in executing infrastructure, especially roads, prevented building permits from being issued.”²¹

A professional team currently preparing a new Master Plan for Jerusalem expresses the matter in minor key but nonetheless clearly: “Some plans approved are inapplicable since they are unable to be implemented.”²²

Thus, even though the approved planning schemes for East Jerusalem allow for a theoretical capacity for an additional 22,840 to 26,000 housing units, this potential exists only on paper.²³ In 2001, Mayor Ehud Olmert wrote to Minister of Foreign Affairs Shimon Peres, saying that of a potential 26,000 approved housing units in East Jerusalem, only about 6,000 housing units were ‘immediately available,’ while the other 20,000 units were in what Olmert referred to as “proximate availability,” dependent on the development of infrastructure.²⁴

New procedures

A series of new procedures were put in place in 2002 to make things difficult for seekers of building permits. These procedures consist of a series of requirements designed to ensure that the applicant is the owner of the land and not a stranger - a reasonable enough requirement in West Jerusalem, but highly problematic in East Jerusalem, where most lands are not registered in the *Tabu*. The requirement to furnish proof of ownership is reasonable and until not long ago, the Municipality would content itself with a combination of traditional and administrative proofs adducing evidence of land ownership (such as a succession order, confirmation from the village *mukhtar*, signatures of the neighbours, a notarized affidavit or publication of a notice in the press or public places, and payment of property tax). As fraudulent acts proliferated, the requirements became more stringent. A series of demands was advanced which ensure that residents of East Jerusalem do not meet the minimal threshold requirements for filing applications for a building permit. The following requirements are notable among these newly-added difficulties:

- Requirement to prove ownership of the land by means of registration.
- Personal particulars and signatures of all landowners.
- Confirmation from the Ministry of Justice that there are no additional claims to the lands appearing in the Jordanian Table of Claims.
- Confirmation from the Custodian of Absentee Property that the land is not under its management.
- Confirmation from the Israel Mapping Centre that the land is plotted and that it has no competing claims.

Here, things are especially difficult for anyone who acquired land registered in the Jordanian Table of Rights in the name of a third party. In such cases, the Municipality requires the new owner to alter the name of the previous owner at the Ministry of Justice in Jerusalem. However, in order to modify ownership, the ministry requires the previous owner to report to it personally, and this is usually impossible. The purpose of the more stringent requirements is to prevent a situation in which people build on land that is not their own.²⁵ This is a valid objective, but the method of achieving it is flawed. In order to solve a localised problem, officialdom

has merely created another, far more serious problem. In a reality where most land has been, since Jordanian times, “under arrangement,” or else is “totally unregulated,” any permitting process becomes essentially impossible. The situation is all the more complicated where the parcel of land has been sub-divided between numerous heirs, some of whom do not reside in Israel or the Occupied Palestinian Territories (OPT) and some of whom fall under the definition of “absentees.” It must be noted once more that *the ownership of about half the land in East Jerusalem cannot be proved*. Moreover, even if residents of East Jerusalem wish to register their land today at the Lands Registry, they would be unable to do so, since the Israeli government has frozen land registration as far back as 1967 on the flimsy pretext that any such moves could be prejudicial to the rights of owners defined as absentees, who are unable to express opposition to the registration of a third party. The government therefore instructed the officer in charge of registration of lands to complete registrations started under the Jordanian regime, but to freeze any new registrations until further notice.

The ownership issue is controversial. A number of rulings recently handed down at the District Court by Judges Zur and Drori found that the Municipality is a “planning authority” and not a “proprietary authority.” Accordingly, it may content itself with proof of an interest in the land, and is not obliged to require registration at *Tabu*. Even so, the Municipality refrains from modifying the regulation. It would appear, therefore, that the State is exploiting a legitimate legal tool in order to tighten the noose around the necks of the residents of East Jerusalem.

The law does permit residents to file an “application for initial registration” constituting *prima facie* proof of ownership over the land. However, the application for initial registration is “booby-trapped”, since it necessitates confirmation from the Custodian of Absentee Property, who always ‘discovers’ that one of the landowners lives outside the municipality and is thus defined as an ‘absentee’ – which makes the Custodian a potential ‘partner’ in the land.

The cost of obtaining a permit

Beyond the statutory difficulties, anyone seeking to build legally discovers the cost of obtaining a permit is well beyond his ability. Expenses begin with payment of a “fee to open a file,” which varies according to the

size of the building, and is about NIS 2000 for a 200 sq.m. building. But the reasonable amount collected for opening a file contains no hint as to what is in store for an applicant later: an applicant seeking to build a 200 sq.m house on a half-dunam of land must pay:

- ‘Roads and sidewalks development fee’ at a minimum cost of NIS 74 per sq.m for the building area and NIS 37 per sq.m for the land area, meaning a payment of some NIS 14,800 for the building and another NIS 18,500 for the land.
- The ‘water and sewage fee’ is similarly calculated according to the size of the building and the plot. To be connected to the water pipe the applicant must pay a ‘system development fee’ at a cost of NIS 8.4 per sq.m of the lot and another NIS 66.98 per sq.m of residential area, amounting to NIS 17,606. In addition, he must pay a ‘water company connection fee’ at a cost of 15% of the development fee, or NIS 5,025.
- For the ‘sewage fee,’ the same applicant will be required to pay NIS 31.05 per sq.m. of the area of the lot, amounting to NIS 15,525 and another NIS 41.18 per sq.m. of the area of the building, amounting to NIS 8,236.
- The ‘betterment levy,’ too, is calculated in accordance with the building size by a formula whereby the first 120 sq.m is exempt from payment and the balance costs about NIS 160 per sq.m. Therefore, a 200-sq.m house incurs a betterment levy of some NIS 12,800. Of course, the exemption for the first 120 sq.m applies only to one house per lot. The reality of East Jerusalem is one where families build more than one house on the lot they own and the levy therefore will cost a great deal more because, on building the second house, the resident must pay for the entire area of the house.

Since the year 2000, new expenses have been added to match the more stringent requirements attached to applications for a building permit on unregistered or unregulated land. The boundaries of the lot must be marked by means of a PRP (Plan for Registration Purposes) – a plan based on an analytical survey using a national co-ordinates network, and signed by a surveyor listed in the Register of Surveyors. A PRP costs about

\$3,000 whereas previously a Palestinian surveyor performed the graphic surveys at an average cost of only \$300. There are also legal fees, since a lawyer is required personally to undertake and register the PRP at the Israel Lands Administration, a requirement that adds considerably to the cost of obtaining a permit. All this must be borne by the resident, before he hires the services of an architect, surveyor or lawyer. So, the expenses of a licence may exceed the price of the house itself.

Jews and Palestinians seeking to obtain a building permit pay in accordance with the same parameters; there are, however, two obvious differences between Palestinian residents wishing to buy a self-contained house and their Jewish neighbours living in high-rise apartment buildings: (a) the expenses payable in Jewish neighbourhoods are distributed among a large number of occupants, whereas in the Palestinian sector the costs fall on a single family, and (b) the socio-economic level in East Jerusalem is far lower than in West Jerusalem, and most East Jerusalem residents cannot meet such expenses. According to data from the Municipal Welfare Division, 67% of East Jerusalem residents live below the poverty line. The burden of fees and levies is far more than they can bear.

Fees and levies paid to obtain a building permit for a 200 sq.m house on a half-dunam lot

Fee	Cost
Opening of file	About NIS 2,000
Road Development Fee	NIS 14,800
Development Fee - Lot	NIS 18,500
Sewage Fee - Lot	NIS 15,525
Water Mains Connection Fee	NIS 5,205
Water Mains Development Fee	NIS 17,606
PRP	About NIS 15,000

Betterment Levy	About NIS 12,800
Total	About NIS 109.492

Faced with a choice of living in over-crowded conditions in the parental home or building without a permit, and in the absence of any tradition of using rented accommodation, most people prefer to risk building without a permit. It should also be noted that West Jerusalem residents do not notice the cost of the fees since these are included in the apartment price, whereas in East Jerusalem the cost is very heavily felt.

Some residents are fortunate: their plot of land may be in an area zoned for construction, they can prove ownership, the area has sufficient infrastructure, there is no need for re-plotting, and they have enough money to pay fees. Even then, though, they may run into countless other difficulties, making the process impossible. For example, the Municipality does not issue approvals in the area known as the “Holy Basin” (stretching from Abu Tor to Mt. Scopus), on the grounds that the land is of archaeological and religious importance. Two new reasons were recently added:

- A. Approval has not been given for the plan of the “eastern ring road” and, until it is, no new construction is to be approved along its route since “the road route will affect the whole environment.” The ring road is to be a 20-kilometre road crossing the whole of East Jerusalem from north to south, and is to include a system of bridges, three tunnels and secondary roads to link it with the various neighbourhoods. It involves a great deal of land expropriation and demolition of homes on the planned route, a process taking many years with no end in sight.
- B. Final approval has yet to be given for the route of the Wall around Jerusalem. References to the “separation barrier” mean a huge complex that includes not only the Wall itself but also in some places a 500-metre wide strip of land running along the route, crossing terminals, and at least one new Border Police station, all in the area of East Jerusalem, requiring land to be expropriated and houses to be demolished on a tremendous scale.

TEST CASE

The Halawani family, Ras Al 'Amud.

For many generations, the Halawani family has held an area of 1.4 dunams in Ras Al-'Amud, on which stand two small two-room houses, each with an out-house. They have 27 occupants: the grandparents, aged 97, the mother, three married sons. The eldest is Muhammad with a family of six; the second son Mahmoud and his family of ten, together with his son Talal and his family of four; and the third son Nagah with another seven family members.

At the beginning of 2001, Mr. Talal Halawani asked an architectural firm to prepare building plans with the aim of obtaining a legal building permit. His intention was to build two large houses on his land. He insisted that everything be done in accordance with the law, even though he was aware of the difficulties facing him. In March 2001, Planning File No. 8229 was opened. After preparation of the plans, which were complicated because their plot required a change of the Master Plan from "green area" to residential zoning, the Municipality's local committee tabled the file for discussion in December 2002. The committee recommended approving the plan but the Ministry of Interior's district committee rejected the application, claiming that the route of the eastern ring road had not yet been approved. In April 2003, the relevant segment of the ring road was approved, and Halawani's plan was again submitted to the district committee for approval. The committee resolved to send it back to the local committee for reconsideration. The Municipality, for its part, refused to discuss the plan because of a new directive handed down by the Municipal Engineer who demanded that material be collected on all private plans submitted by residents along the ring road section known as the "American Road," in order to finalise a planning concept for the area. Asked how long the process would take, the Municipality responded that at the moment there was no timetable. At the same time, the architectural firm tried to persuade the district committee to discuss the plan without sending it back to the local committee. The architects maintained that with the removal of the obstacle that had prevented the plan from being approved originally there was no reason not to approve the plan. The head of the planning team at the Ministry of Interior replied that it was true that the road problem had been removed, but the application could not be addressed at present because the Ministry of Interior had not yet determined policy regarding proof of ownership of lands in East Jerusalem. Needless to say, no timetable had

been set for this either. To add insult to injury, not only are the authorities refusing to approve the plan, but also the State has expropriated a 250 sq.m lot from the Halawani family for the purpose of the “American Road,” while an additional area of 150 sq.m remains unused on the other side of the road.

Talal Halawani endures the pain of looking at the dwellings his neighbours have built for their families without permits, where they live more or less under normal conditions whereas he himself, who tried to build legally, and was prepared to comply with every requirement, has already been kept waiting for five years.²⁶

The State of Israel's Contribution to Illegal Construction

Any attempt to explain the reasons for illegal construction in East Jerusalem must take into account the tremendous demand for housing arising in recent years as a result of two policy decisions of the Government of Israel: annulment of residency of those living outside the municipal boundaries, and construction of the Wall around Jerusalem. Since the government instituted these two moves, housing demand in East Jerusalem has increased, giving illegal construction a tremendous boost.

The policy of annulling resident status of those residing outside the city's municipal boundaries has been in force for more than ten years. The former Minister of the Interior, Eli Suissa, instituted the policy. Until that time, young couples had preferred to live on the city's outskirts, due to a shortage of rental apartments and the high rents collected within the city. Many communities of Jerusalemites arose in the peripheral villages, from Beit Jala in the south to Ar-Ram in the north, and in eastern villages such as Hizma, Anata, Abu Dis and Al Azariah. In 1993, the Ministry of Interior published regulations revoking the residency of those living outside the city's boundary, also removing social rights ranging from health care services to the various National Insurance allowances. Confiscation of blue identity cards (Jerusalem IDs) even deprived such individuals of freedom of movement within the city, access to places of work, and prevented them from visiting family. As a result, tens of thousands of Jerusalemites started migrating back inside the city causing a tremendous demand for apartments and a steep increase in rent. Many families that had difficulty in paying free market rents preferred to buy a low-priced parcel of land -

usually lying within a ‘green area’ – the cheapest on the market – and build themselves a modest home without a permit.

This phenomenon was stepped up again in 2002, when construction of the “Separation Barrier” or “Jerusalem Envelope” started to be discussed, and yet again in 2003, when people realised the implications of living behind the Wall. We have since witnessed waves of families relocating to the ‘right side’ of the Wall, locking their houses and leaving everything behind, moving to any vacant spot within the city. The area north of the Qalandia Wall, where over 20,000 Jerusalemite families live, is losing its inhabitants. Entire families are relocating, even if only by a few hundred metres, in order not to lose their place of work, not to be cut off from schools, hospitals or family members, and especially in order to save themselves the daily humiliations involved in crossing the checkpoints. Rent in Kufr Aqab village plummeted by 50% in 2003, while at the same time, rent on the other side of the Wall rose by more than 100%.

This massive return to within the municipal boundaries has caused a demographic explosion followed by a wave of illegal construction. From that time, the Municipality has lost all control of construction in East Jerusalem, since the need for shelter is stronger than any of the ‘deterrent measures’ imposed by the Municipality. Faced by urgent necessity, no penalty can deter. Indeed, as Jewish scholars taught, no edict should be imposed upon the public that is more than the public can endure. He who thought to battle the ‘demographic demon’ through the use of administrative measures created a far worse ‘urban demon.’ The late Faisal Husseini, one of the leading Palestinian leaders, once said that the day the Palestinian state awarded “Freedom of Al-Quds” honours, he would recommend awarding them to Minister Eli Suissa for his contribution in reinforcing East Jerusalem. Today, it is hard to cope with the results. Again, one witnesses a recurring pattern in the dispute in which the State, with its own hands, creates problems that it subsequently finds difficult to resolve. If, as the saying goes, the wise man avoids getting into situations that the smart man knows how to extricate himself from, then the State has proved that it is neither smart nor wise. On the one hand, it compels people to build without a permit and on the other, it battles the political results that stem from its own initiatives.

The Underlying Motive of Jerusalem's Planning and Building Policy

Matti Hutta, former Chairman of the District Commission of the Ministry of the Interior in the Jerusalem District, said in a press interview that planning decisions always have a political background:

“Let’s not talk of political decisions but of decisions arising from policy. My decisions and those of the Commission in general are reached in consideration of a certain planning policy to which we are committed. Politics is always there, I am not saying it isn’t, but political considerations dictate policy, and that is how things work.”²⁷

Behind the difficulties that the Municipality piles up for East Jerusalemites wishing to build homes is a combination of ideology, budgetary difficulties and a chronically cumbersome bureaucracy.

The ideological motive is rooted in a policy decision establishing that a demographic balance must be maintained in the city at a ratio of 70% Jews to 30% Palestinians. The ministerial committee known as the Gafni Commission laid down this policy in 1973. Underlying the policy was concern at the rate of increase of the Palestinian population in Jerusalem and the fear that within a few years, they would succeed in changing the Jewish character of the city and would even choose the mayor! A municipal paper prepared by the Planning Policy Division in 1977 states, “One of the cornerstones of Jerusalem’s planning process is...the preservation of the demographic balance between the ethnic groups [in accordance with] the resolution of the Government of Israel.”²⁸

The new outline scheme currently being prepared reiterates the same trend of preserving “demographic balance in accordance with Government resolutions,” even though the planners recognize the fact that, according to the forecasts, the increase in the population toward 2020 will be in a ratio of 40-60. Amir Cheshin, who observed the planning process in East Jerusalem in the Teddy Kollek era, attests that in Jerusalem:

Israel has transformed urban planning into a tool in the hands of the Government whose object is to prevent the spread of the non-Jewish population of the city. This was a cruel policy, if only by reason of the fact that it disregarded the needs (not to

mention the rights) of the Palestinian residents. Israel regarded the institution of a stringent urban planning policy as a way to restrict the number of new houses being constructed in Palestinian neighbourhoods, and thus ensure that the percentage of Palestinian residents in the city's population – 28.8% in 1967 – would not increase. If we permit 'too many' new homes to be built in Palestinian neighbourhoods, that will mean 'too many' Palestinian residents in the city. The idea is to move as many Jewish residents as possible to East Jerusalem and to move as many Palestinians as possible out of the city altogether. Housing policy in East Jerusalem has focused on this numbers game.²⁹

The Government assumed that circumscribing the building space permitted to Palestinians would put the brakes on the demographic increase, and that if they were forbidden to build they would have to abandon the city. The most outstanding example of that trend was Master Plan-2003 of the Shuafat and Beit Hanina areas, which was supposed to permit the construction of 17,000 housing units. The Ministry of Interior slashed it to 7,500 housing units on the grounds that the original figure was incompatible with the policy of preserving the demographic balance.³⁰ The same fear of demographic increase underlies the Ministry of Interior's three moves aiming to reduce the city's Palestinian population, all of which are still in force today: confiscation of identity cards from residents moving outside the city's municipal boundary, obstacles placed before the registration of infants in the Population Register, and difficulties created for those trying to bring spouses from the territories or Jordan within the municipal boundary.

House Demolition in Violation of the Law

One of the gravest phenomena since 2003 has been the demolition of houses in violation of a court-ordered stay. While such things have occurred in previous years, the trend has taken on worrying dimensions since 2003.

An administrative demolition order is issued against an unlawful building and not against the house owner. Therefore, the authorities are not obliged to deliver the order to a specific individual but rather, to post the order in a conspicuous place on the walls of the house. On finding that they have been served a demolition order, homeowners hire a lawyer

who applies on their behalf to the Local Court with a motion to suspend the order or to stay proceedings. The judicial system normally honours the right of a citizen, or in the case of East Jerusalemites, a “resident,” to appeal a demolition order and issues a stay of proceedings until a court hearing can take place in the presence of both parties. At these hearings, the court examines the validity of the order in light of various parameters such as the administrative position, and whether a building was inhabited at the time the order was issued. Recently, another aspect has come under examination following a recent ruling to the effect that an illegal structure must not be demolished if there is a reasonable chance of it being issued a building permit in the future. Stays of proceedings are for a limited amount of time, during which all actions by the authority must be suspended.

When the court upholds the resident’s motion and rules in favour of a stay of proceedings, the authorities’ attorney present at the hearing must notify the Construction Supervision Unit. On more than one occasion, however, the notice fails to reach the appropriate official in a timely manner, and the bulldozers set out unaware that a stay of proceedings order has been issued. In these instances, if the owners are present at the site and have the order on hand, they will give it to the inspector in charge and the demolition is cancelled.

A similar situation takes place when the motion to the court is made at the last minute, when police forces and bulldozers are actually approaching the house and starting to seal the area. There are a number of reasons why this happens. Usually, it is because the home-owners were unaware of the existence of a demolition order as it was posted in some concealed spot, or the wind blew it away, or because the home-owners had been careless, or because they could not afford a lawyer. Whatever the reason, a lawyer sometimes manages to obtain a stay of proceedings order moments before demolition commences. This is the start of a game of cat and mouse, in which the Supervisor of Construction tries to avoid receiving the order. An experienced lawyer, knowing the demolition is imminent, will not wait for the attorney of the demolishing authority to notify Supervision to call a halt, and will not make do with sending a fax, which will surely arrive after the house has been destroyed. Instead, he will telephone the home-owner, present at the site, to say that he has secured a stay of proceedings order, and will hasten to the Municipality or the Ministry of Interior to deliver the order personally to the right party.

It is at this point that exceptionally abusive behaviour on the part of the authorities begins. When the home-owner informs the inspector at the site that a stay of proceedings order has been issued, the inspector ignores him, and may even refuse to accept a telephone call from the lawyer. He will dismiss the home-owner's information, claiming that until he sees the stay of proceedings order with his own eyes, the demolition order remains effective. In such instances, neither explanations nor pleading will help. The inspector will destroy the house without examining the occupants' claims. He will urge the bulldozers to get to work with all haste and speed before the home-owner arrives with the precious order. Worse still is the fact that the Israeli Police, cordoning off the area so as to prevent disturbance, prevent the home-owner or his lawyer from physically presenting the order to the inspector. Moreover, in one instance similar to that described above, a police officer receiving the order before it reached the inspector at the site, refrained from stopping the demolition even though he had the stop order in hand, thereby becoming party to breach of a court order. All the above gives rise to an impression of collaboration between the Police and the Supervisor of Construction, in order to prevent the halting of planned demolitions.

Home demolitions in violation of a stay of proceedings order arouse indignation, especially because the authorities engaged in supervising construction maintain that they demolish homes in the name of the law. Triumphantly waving their court rulings, spouting platitudes about the supremacy of the law, they set out to hunt down illegal houses and issue demolition orders in the name of law and justice. On the face of it, never a single consideration enters their heads – they are solely concerned with upholding the rule of law and dignity of the court. Resolutely determined to ensure compliance with the law, they storm the homes of residents guilty of nothing more than having constructed a shelter for their family when unable to procure a building permit, whether for bureaucratic or budgetary reasons. Either way, the inspectors of the Municipality and the Ministry of Interior declare themselves to be mere messengers of the court, or indeed, the long arm of the law in East Jerusalem. In face of criticism from human rights groups opposed to the demolitions, they raise a sanctimonious gaze heavenward, innocently wondering what all the fuss is about – after all, doesn't everyone want to live in a country under the rule of law, and aren't we all bound to uphold decisions of the courts?

Contrary to the impression the authorities have created, since 2003 there have been many cases in which homes have been demolished in violation of court orders. All too many cases provide proof that the inspectors of both the Municipality and the Ministry of Interior have no qualms about bypassing the law as long as the bulldozer is fed its pound of flesh. Had it happened only once, some 'error' might have been involved. If there were only two examples, it could be called a 'mishap' (inspectors could argue that there was no cellular reception in the area, or they could not hear the phone ringing due to the noise of the bulldozers). Where multiple cases are involved, it is simply a tactic. Our arguments are also reinforced by the report of the Jerusalem Comptroller exposing severe 'irregularities' in all matters pertaining to municipal procedures for the issue of demolition orders.

It is right to dwell on this issue because it involves more than the demolition of homes. What we are witnessing is the systematic destruction of democracy and a consistent erosion of the rule of law. The human face of society is being ruthlessly trampled. It is important to publicize this phenomenon in order to explode the myth that we are dealing with two camps: a 'law-abiding' camp, consisting of the State authorities, and a 'lawbreaking' camp consisting always of Palestinians. It is necessary to shed light on a reality in which it is the State itself that is trampling the law. Lawbreaking of this kind has long since become an administrative norm, which bothers the authorities not in the least. The last few years have exposed a further deterioration in administrative culture, where the authorities permit themselves contempt of court by violating express orders prohibiting the demolition of homes.

FIVE TEST CASES

1. Home of the Dabash family, Sur Baher, August 2, 2003.

Imad Dabash built a home for the second time, the first having been demolished by the Jerusalem Municipality. As construction commenced, the family opened a licensing file and hired the services of Adv. Nahum Solan. On receiving an administrative demolition order, Adv. Solan applied to the local court for a stay of proceedings order. Judge Ben Zimra heard and denied the motion on August 26, 2003, but ordered the court clerk to send the decision to the family's attorney by registered mail to enable him to appeal to the district court. The judge likewise ruled: "The 30-day interval for execution of the order will run from the day on which a copy of the decision reaches the hand of the Applicant's legal counsel." Instead of being sent immediately, the decision was mailed only on 31 August, and was delivered on 2 September, by which time the bulldozers had already reached the site, without the Municipality bothering to ascertain that the ruling had in fact reached the family's counsel.

As police forces arrived at the house and began clearing out the family's belongings, Adv. Solan hastened to obtain a stay of proceedings order. The Judge issued one and severely criticized the Municipality's behaviour. Armed with his stay of proceedings order, Adv. Solan hastened to the Jerusalem prosecutor – Adv. Danny Libman - with a view to delivering the decision to him personally, and at the same time, he faxed the order to the police station that was securing the demolition at the site, before the demolition commenced. The Jerusalem prosecutor, instead of ordering the inspector at the site to delay proceedings, chose to go to the court in an attempt to get the judge to change his decision, without announcing at the site that all action was to be suspended until further notice.

Meanwhile, preparations at the site were in full swing when Municipal Inspector Yaron Eliav heard from the police officer that a stay of proceedings order had been issued. The inspector rang the Director of Supervision of Construction, Micha Ben-Nun, for orders. Ben-Nun said the order had not yet reached him and therefore, as far as he was concerned, it did not exist. Not only that, he ordered the inspector to commence demolition immediately, before the order reached him. Accordingly, the

inspector told the police officer that he wasn't taking orders from him but only from the Municipality, and instructed the bulldozer operator to smash into the building.

After the first blow, which resulted in a crack the length of the building, the precious order arrived. The demolition work was suspended, but the Municipality now claimed that the building had become a 'hazardous structure' and an engineer on behalf of the municipal hazardous structures department ordered the demolition to be completed, on the grounds that the structure was hazardous for habitation.

In a conversation between Jerusalem city councillor Pepe Alalu and Micha Ben-Nun it became apparent that Ben-Nun had been well aware that a stay of proceedings order was on its way. According to him "I heard a rumour there was an order on the way" but he elected to ignore it on the grounds that he "was not nourished by rumours."

2. Home of Jawad Sawiti, Beit Hanina, March 10, 2003.

Jawad Sawiti built a 280-sq.m home and on 30 June 2002, the Jerusalem Municipality posted an administrative demolition order. That same day, the family applied to Adv. Shlomo Lecker, who obtained a stay of proceedings order from the Municipal Court. Judge Ben-Atar, acceding to the motion, ordered the demolition stayed "pending the handing down of another decision."

Under supervision of Zvi Schneider, officer in charge of demolitions at the Ministry of Interior, on the morning of 3 March 2003, police forces and bulldozers arrived at the family's home. He ordered the family to leave the house and to remove essential belongings. The family's claims that they had a stay of proceedings order were to no avail. Zvi Schneider pushed Mr. Sawiti, refused to take a call on his mobile phone from Adv. Shlomo Lecker, and ordered the bulldozers to destroy the building, complete with contents, without further delay.

Zvi Schneider maintained, in his defence, that his office had posted an administrative demolition order on February 24, 2003, without being aware of the existence of the stay of proceedings orders obtained against another order issued by the Jerusalem Municipality. This argument is

without merit since the Planning and Building Law (Section 238 A (B1) (3)) provides that before issuing a demolition order, the Ministry of Interior must approach the Municipality with a requirement that it undertake the demolition itself. Only if the Municipality refrains, for no good reason, from doing its duty, is the Ministry of Interior permitted to issue an order of its own and execute the demolition.

Adv. Shlomo Lecker instituted an action against the Ministry of Interior on behalf of the family and on behalf of the Israeli Committee Against House Demolitions.

3. Home of the Al-Sheikh family, Al Walaja, August 13, 2003.

Seventy-year-old Muhammad Ismayil Al-Sheikh lives in a two-storey, 250 sq.m house with his five offspring and their families, numbering altogether 23 people. The Ministry of the Interior sued him for illegal construction of the second floor of the house. Adv. Eitan Peleg, who represented the family, obtained a stay of proceedings order from the court pending a hearing in the presence of both parties.

On the morning of August 13, Ministry of Interior bulldozers arrived at the outskirts of Walaja, accompanied by large police forces who cordoned off the area. An inspector ordered the family to vacate the house. One family member who was in the house phoned his brother, Muhammad Mussa El Sheikh, who was at the time in West Jerusalem, and told him what was happening at home. Muhammad applied urgently to Adv. Peleg, and together they went to the local court, which heard their pleadings and issued a stay of proceedings order. Muhammad hastened to fax the order to his neighbour Abu Nidal and to the head of the village, Mustafa Abu Tin. Both men rushed to the demolition site to show the order to the inspector. The police prevented them from reaching the inspector to show him the stay of proceedings order. Throughout this time, the brother at the site maintained telephone contact with his brother Muhammad and also with the two neighbours who were standing at a distance of 100 metres, with the order in hand, but who were not allowed to approach. He told the inspector that the neighbours had the order in hand, but that the police would not let them approach. The inspector said it was none of his business, and as far as he was concerned, the demolition order was valid. The inspector knew

that the order would reach him any minute and pressured the bulldozer operator to commence the demolition as soon as possible. In the meantime, Adv. Peleg, realising what was taking place at the site, himself rang the legal adviser of the Ministry of Interior, to advise him of the gravity of the proceedings. The legal adviser addressed himself directly to the head of the Supervision Unit, and gave the order over the walkie-talkie to the inspector at the site to discontinue the demolition. Meantime, the bulldozer had already managed to demolish one wing of the house. Adv. Peleg subsequently lodged a complaint with the Minister of the Interior.

Demolitions in Walaja arouse more indignation than the other East Jerusalem demolitions because they embody all the injustices that the State of Israel is inflicting on the Palestinians. The village is situated south of Gilo, on the outskirts of Beit Jala. It is completely isolated from Jerusalem as there is no access road connecting it to the city. The Municipality does not supply the village with water, electricity, education, sanitation or any municipal services at all, except for home demolitions. Absent any zoning plan for the village, the residents cannot build legally. International organisations formed an initiative to finance a zoning plan for the village, whereupon the Ministry of Interior refused to address the issue due to geopolitical and legal difficulties. There is a plan for a new Jewish settlement, Givat Yael, consisting of 13,500 housing units on the lands of the village and this will doubtless be approved. Additionally, residents of Walaja are not recognized as Jerusalem residents and hold West Bank ID cards even though their houses lie within the jurisdiction of Jerusalem.

4. Home of Adnan Kanaan Shahin, Silwan, December 10, 2003.

Four years ago, Adnan Shahin built a 66-sq.m house for his family of eight. He was tried for illegal construction, fined and obtained an 18-month extension in which either to submit building plans or demolish his home. Mr. Shahin understood there was no point in undertaking a process of obtaining a building permit since the Municipality would reject the application as it has rejected those of all his neighbours due to the absence of a final zoning plan for the area.

Ministry of Interior inspectors arrived at his home on the morning of 10 December 2003, while he was working, and preparations for demolition

commenced. A family member who was present phoned Adv. Munam Thabat who rushed to the court to obtain a stay of proceedings order. The attorney for the Ministry of Interior filed no objection to the application and the judge upheld the motion, issuing a stay. Adv. Thabat phoned the family at the site and was glad to hear from the family that the demolition had not yet commenced and that the house was still standing. Mr. Shawiki, a relative who was at the site, informed the inspector who was conducting proceedings at the site, Zvi Schneider, that a stay of proceedings order had been issued, but he was ignored. He tried to put him in touch with Adv. Thabat, but Schneider refused to take the call. The family begged him not to start demolition since the order was due to arrive within minutes, but Schneider turned a deaf ear to their pleas and ordered the bulldozer operator to commence demolition even before the workmen had finished removing all the furniture.

At 10 a.m the bulldozer began destroying the house. Due to the humble nature of the home this was quick work. Notice arrived five minutes later from the Ministry of Interior ordering that the demolition be halted. By that time most of the house had been destroyed.

It is important to note that while preparations for demolition were under way, the author of this book was present at the site, and had contacted Mr. Naor Nekhushai, advisor to the Minister of the Interior, requesting that he examine the legality of the demolition. He observed the confrontation between the parties and realized something was amiss. At that moment, he was unaware of the existence of the demolition order. The minister's aide contacted Avi Dotan, the officer in charge of demolitions at the Ministry of Interior, who at first denied that the Ministry of Interior was performing demolition at the site, claiming that it was the Municipality that was executing the demolition. Only at the insistence of the author did he admit that this was a Ministry of Interior-ordered demolition, and instructed Zvi Schneider, at the demand of the Minister's aide, to show him the demolition order before commencing demolition. Not only did Mr. Schneider not comply with the instructions of the ministerial aide, he actually urged the crew to commence demolition as quickly as possible.

5. Home of The Totah Family, Wadi Al Joz, December 11, 2005.

Ibrahim Totah, his wife and their five children lived for 15 years in

the house they had built without a permit, on their own land in Wadi Joz, not far from the walls of Jerusalem's Old City. Mr. Totah did not stand a chance of getting a building permit as the area is strictly forbidden for new building due to its religious and cultural importance.

Security forces began to cordon off the area on the morning of December 11th, 2005, and inspectors from the Ministry of the Interior came to the home to inform the family that their day had come and to vacate the house immediately. The head of the household was at work and returned home urgently. In the meantime, hired workers started to take furniture apart and to take heavy objects out of the house. Mr. Totah called an attorney quickly, who - after running immediately to court - was able to obtain an agreement from the judge to issue a postponement order for the procedure, on condition that the family deposit a 30,000 shekel fine. The judge sent an order to suspend the demolition until 11:30 a.m to give the family time to collect the necessary funds. A race against the clock started, with the family trying to come up with the money and the attorney trying to stop the bulldozers in the field.

The attorney tried to contact the inspections department at the Ministry of the Interior and the inspectors in the field. When he realised he could not contact anyone by telephone, he drove to the area and managed to get to the house before the demolition started. The police officers in the area did not let him through, insisting that they needed to obtain an entry authorisation from their superiors to allow him in. Meanwhile, as they waited for the entry authorisation, a bulldozer started demolishing the house. The passage authorisation came too late - when the house was already in the process of demolition. When the attorney was finally able to deliver the stop order from the judge, an engineer stressed the need to continue demolition since the building was now in danger of collapse.

When the bulldozers finished the job and permission to check the remains of the house was given, many household items were found among the ruins, including children's toys, kitchenware, clothing, and other items. This showed that when the attorney arrived with the order, they commanded the bulldozer to start the demolition, in spite of the fact that the removal of all belongings from the house had not yet been completed.

The whole process of the demolition was captured on video by a B'Tselem field researcher. The video was also shown on the evening news

of Channel 10, although the Ministry of Interior's reaction to the affair was limited to a statement that it acted in strict accordance to the law.

The Demolition Process

The Planning and Building Law (1965) requires the authorities to prevent illegal construction. The law treats building offences very severely, defining them as criminal offences to all intents and purposes. Accordingly, the State charges the owner of the building on two counts: 'Unlawful Use of Land' (Section 145A) and 'Using a building without a Permit' (Section 204A).

The legislator has provided two ways of destroying homes: (A) – in accordance with 'administrative demolition orders' whereby the demolition may be executed without any legal proceeding within 30 days of date of issuance of the order, or (B) – in accordance with 'judicial demolition orders,' which require an indictment to be brought and legal proceedings to be conducted.

The ordeal begins when a municipal inspector, accompanied by police, affixes a demolition order to the walls of the building. Since the demolition order is issued against the building and not against a person, there is no need to deliver the order to the homeowner. Starting 24 hours after delivery, the bulldozer may arrive at any time. The posting of the order is questionable in and of itself. Time and time again we hear of residents who swear that they never saw any demolition order. The testimony of an ex-municipal inspector, who will remain anonymous due to a legal battle he has against the Municipality, proves that there are a thousand ways to make sure that the order will be hidden from the home-owner, thus preventing him from going to court. For example, the order may be affixed at some concealed spot in the building. In winter it is generally posted on an outside wall, so that the wind and rain will send it flying. It may also be placed on the floor, where it is hardly likely to stay put. And there is no end to similar such devices.

Administrative orders are top priority for the authorities since if they miss the 30 days provided by law, the order will expire and a long, costly and laborious judicial proceeding must be launched. A house issued a judicial order enters on a track that is liable to last years. It starts at the local court, passes via the Magistrates Court, the District Court and may

even reach the Supreme Court. However, the fate of most homes entering a judicial process is predetermined, since the court cannot approve illegal construction, even if it is discomfited by the policy underlying demolitions.

This was clearly expressed by Chief Justice Aharon Barak, “*I frequently feel compelled to act in accordance with the law even though my subjective feelings would direct otherwise. An outstanding example is the demolition of houses. Rulings are made in accordance with the law, but I would be very glad if the legislator would provide otherwise and prohibit the demolition of homes.*”³¹ Moreover, most East Jerusalem residents cannot apply to the HCJ because of the high legal cost involved.

Once the court has approved the demolition order, the bulldozer can turn up next day or at any other moment. The strain experienced in this waiting period is tremendous, causing health problems, domestic violence and anxiety. Men fearing for the fate of their homes and families are afraid to leave the home and often lose their jobs due to frequent absence. This is all part of a deliberate process the authorities call “deterrence.” An official at the Civil Administration told the Israeli Committee Against House Demolitions that fear and intimidation are important components in the enforcement policy since they “deter” Palestinians from building.

When the dreaded day arrives, it does so without warning. Demolitions take place in some *ad hoc* manner, with no discernible pattern, and can happen anywhere and at any time.³² This, too, is part of the fear theme underlying the “deterrence” policy. The demolition crews, accompanied by hundreds of soldiers, police officers and officials, generally appear early in the morning, usually after the men have left for work. The family is sometimes given a mere few minutes in which to take out its belongings before the bulldozers get to work, and when family and neighbours evidence resistance – or at least a protest – they are generally removed by force from the home. The work crews then throw the furniture out of the house. In addition to the destruction of the house, the ruin of private property deals the family a severe economic blow – not to mention the emotional suffering undergone by people looking on as their most personal possessions are slung out into the rain, sun and dirt. The bulldozer then proceeds with its methodical work of demolition. Sometimes, resistance to demolition elicits a great deal of violence: people

are beaten, arrested, killed – as happened in the case of Zaki Nur-A-Din Obeid when he attempted to prevent the destruction of a home in Issawiya on 18 January 2001. And always, people are humiliated. Family and neighbours look on with restrained fury, as the home becomes a pile of rubble.

Needless to say, families whose homes have been destroyed are abandoned to their fate. No use looking for social workers coming to the aid of families in distress, as one finds in West Jerusalem for people in far less dire straits. The families must move in with relatives or put up tents (one family in Jabel Mukaber is living in a bus) or pay out more money to rent an apartment.

What a Destroyed Home Means

The emotional suffering involved in destruction of a family's home is unquantifiable. A home is far more than a mere physical structure. It is a symbolic centre; the site where the most intimate personal living takes place. It is a place of refuge, the family's physical representation, and its "home." It is the consistent physical presence in life, and location of familiar objects. For Palestinians, a house has added significance. Sons getting married build their homes near the parental home, thus preserving not only physical proximity but also continuity in the holding of ancestral lands. This latter aspect is of special importance in an agrarian society, and even more important to refugees torn from their homes in 1948 or 1967. Demolition of homes, similar to their expropriation, is one more aspect of the assault on a person's very being and identity.

Men, women and children experience demolition differently. Men are deeply humiliated, as demolition means you are unable to protect your family or provide it with basic shelter. It also signifies loss of the living bond with your family's land, your personal heritage and that of your people. It frequently happens that men weep as their homes are destroyed (and for a long time afterwards), but they also experience rage, swear vengeance and intend to rebuild – or else retreat from active family life.

For women, their image and role in the family changes to the point of being destroyed. Palestinian women usually do not pursue a career outside the home. Their entire status as wives, mothers and human beings in general finds expression in home life. When their homes are destroyed, they lose their entire social orientation. Some sink into grief and their behaviour – expressed in weeping, wailing and depression – strongly resembles that of people who have lost loved ones. A home destroyed is like a near and dear one who has died – a space that cannot be filled even if the family manages to find alternative accommodation. The alternative accommodation itself is ruinous. A woman is required to move into the home space of another woman – her mother or sister-in-law – and to a great extent, forfeits supervision over her husband and children. Disputes within extended families forced to share crowded living quarters may become chronic and tensions frequently develop between spouses. If the demolition breaks the husband, it may well happen that the wife assumes predominance in the family. In such cases, rebuilding will usually not take place, since women generally do not have the freedom to organise such matters.³³

TEST CASE: G.B.- Ras al Amud.

After a great deal of soul-searching, we have elected to narrate the case of GB because it embodies the profundity of the crisis undergone by a man whose home is destroyed. But we decided to conceal his identity since, as will be seen, he had to rebuild his home without a permit, and we are wary of placing him at risk of another demolition.

GB built a modest home for his family and that of his married son. Seventeen souls lived in that house. In 1997, the Municipality's bulldozers destroyed the house while the owner was at work. When urgently summoned home, he stood dumbfounded, his world about him in ruins. That morning, he had left a fine home, and on returning found a heap of twisted concrete and iron. All his furniture, electrical appliances and personal belongings lay broken and full of dust outside. GB had no place to go. At first, he scattered his sons and daughters and grandchildren among various relatives, since his relatives lived in houses too small to accommodate the whole family together. After a few months, however, he realized that this could not go on, and set up two tents on the demolition site so that they could at least be together. At the same time, a number of peace activists, headed by Sarah Kaminker, enlisted to help him obtain a building permit. Members of BIMKOM (Planners for Planning Rights) NGO volunteered to prepare construction plans and architect Ilana Rodshevsky drew up a building plan on a voluntary basis. The area in question, however, was unplanned and had not been registered in the neighbourhood Master Zoning Plan as "designated for future planning." Nevertheless, they decided to continue planning and, following some lobbying by numerous public figures, the Local Planning and Building Committee agreed to approve the construction plan based on a special section of the Planning and Construction Law that enables a building permit to be granted even in an unplanned area (Section 78 – 79). The recommendation was forwarded for approval to the District Planning and Construction Committee, which surprisingly rejected the application, on the grounds that a decision had been taken not to continue to approve construction under that section, and that the time had come for the Municipality to plan the area.

Even if the District Committee's intention was apparently positive, namely to pressure the Municipality into doing its job, in the case of GB this meant waiting for an untold period of years until the Municipality planned the area and the application was approved.

At that moment GB's hopes were dashed. He realized it was hopeless to rebuild his home. Then commenced a family drama that changed his life. His wife started bitterly complaining against him for not building her a home like other women. She felt humiliated that she had no privacy, the conveniences were outside, and she could not comfortably take a shower. The trauma was such that it led to divorce.

Two years after leaving home he decided to rebuild again, without a permit. When asked why, after so much suffering, and at so high a risk, he gave an answer that left the listener open-mouthed. He explained that he had to rebuild his home since his two daughters were now of marriageable age, and no one would take as wife a girl living in a tent. GB had to rebuild, to enable his daughters to marry.

Childhood traumas

For children, the act of demolition and the months preceding it are traumatic. They witness the fear and helplessness of their parents, living constantly in an atmosphere of insecurity. They see people dear to them beaten, losing their homes, experiencing humiliation at the hands of inspectors in the field. After all this, they must bear the noise and violence, the uprooting and destruction of their home, their world, their toys. The children will bear the lifelong imprint of all this. There is an abundance of evidence of trauma and distress among children: bedwetting, nightmares, fear of leaving home lest the child "abandon" his parents or siblings to the mercies of the military, sharp decrease in school grades, "dropping out" and also effects of exposure to violence at home, the type of violence that will sometimes erupt as a result of impoverishment, uprooting and humiliation. Children are also put in a position where they can no longer depend on parents for shelter, one of two basic elements, along with food, in a provider/dependent relationship. Basic human rights are also, obviously, denied.

There can be no doubt: the bulldozer can take its place alongside the tank as a symbol of the relations Israel conducts with the Palestinians. Both should be emblazoned on the national flag. Both are an expression of the aggression that has overtaken the Israeli national experience. One complements the work of the other. Both symbolise the dark side of the ongoing Israeli project designed to uproot the Palestinians and oust them from the State altogether.

Where Myth and Reality Part Company

In the eyes of the Municipality, illegal construction is a political manifestation of far-reaching implications that endangers the very underpinnings of Israeli rule in East Jerusalem. This concept dictates the nature of solutions advanced for coping with the problem, all of which fall within the definition of aggressive enforcement. The Municipality and the Ministry of Interior view any house built without a permit as another ploy in the struggle for control of Jerusalem, financed by the Palestinian Authority. The home-owner is perceived as a saboteur and rebel, waging a war of attrition against the Israeli administration.

The Israeli complaint of “political building” clearly proves that fear has overcome rationality. The Israeli regime lives haunted by the feeling that Jewish sovereignty over Jerusalem is in danger. In this state of paranoia, every house, tree, and potted plant become part of a worldwide political conspiracy. Behind every wall stands money from the Palestinian Authority, from Saudi Arabia or from Hamas; every floor tile takes on the guise of an explosive charge. Out of fear, a national conspiracy theory has grown that sees danger lurking in every shadow, and that treats every building as part of an all-out offensive against the State. The Israeli administration has created a reality entirely woven out of erroneous perceptions, a distorted world-view that dictates disastrous decisions, necessarily causing genuine problems to be wrongly addressed, undermining the co-existence of the two peoples, and even further complicating the Israeli-Palestinian conflict.

In psychology, it is known that there is a dangerous tendency for people to create what they fear. Thus, modern Israel.

Conclusion

The arsenal of solutions the Municipality has assembled is entirely aggressive. The thinking is that a national threat calls for a national response, invariably aggressive. Accordingly, a Jewish house without a permit is an urban problem; but a Palestinian home without a permit is a strategic threat. A Jew building without a permit is ‘cocking a snook at the law’; a Palestinian doing the same is defying Jewish sovereignty over Jerusalem. Thus the arsenal of solutions advanced by the authorities to cope

with non-permit construction is restricted to a series of useless, violent acts of enforcement that include demolition, heavy fines, confiscation of equipment, or imprisonment of home-owners - solutions that fall far short of resolving the problem, because life's needs are stronger than the whip wielded by the Municipality. Palestinians in East Jerusalem are prepared to take risks because the need for shelter is stronger than bulldozers. People do not put all their worldly goods at risk because of some political prompting. A roof over the heads of a wife and children is so vital a need that they are prepared to run risks to achieve it. This is why none of the solutions the Municipality dreams up are of any use, none of them deter and none of them will establish urban order.

Where a problem is perceived in terms of a national threat, there can be no compromise; the range of solutions is limited and thinking moves on a track of aggression. There can be no thinking "out of the box," no receptivity towards new ideas, because understanding is confined to an uncomfortable bed of nationalism. Solutions advanced must conform to erroneous parameters and the course of action is determined. Where parameters are political, solutions will invariably be aggressive. And wrong.



Silvan demolition in 2006 of terminal cancer patient who has since died. It also damaged the building behind.
© Godfrey



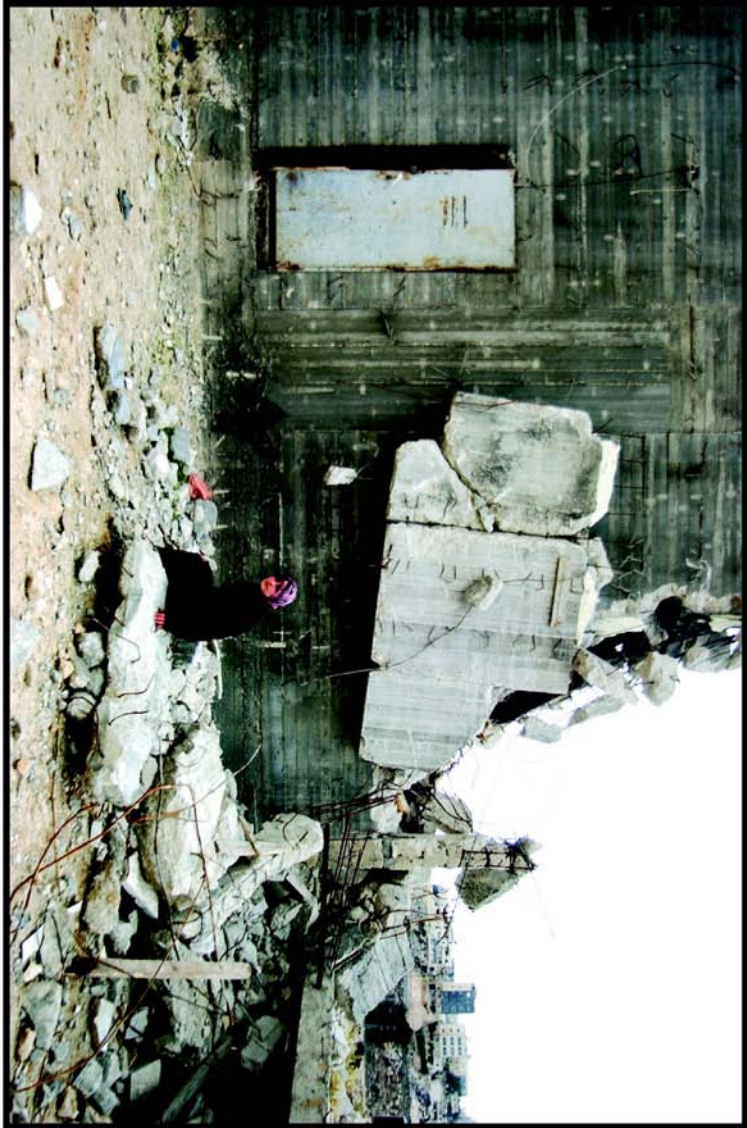
Beit Hanina home, in April 2006. At this point, the building received a stop demolition order, and half the building remained standing but uninhabitable. © Mahfouz Abu-Turk



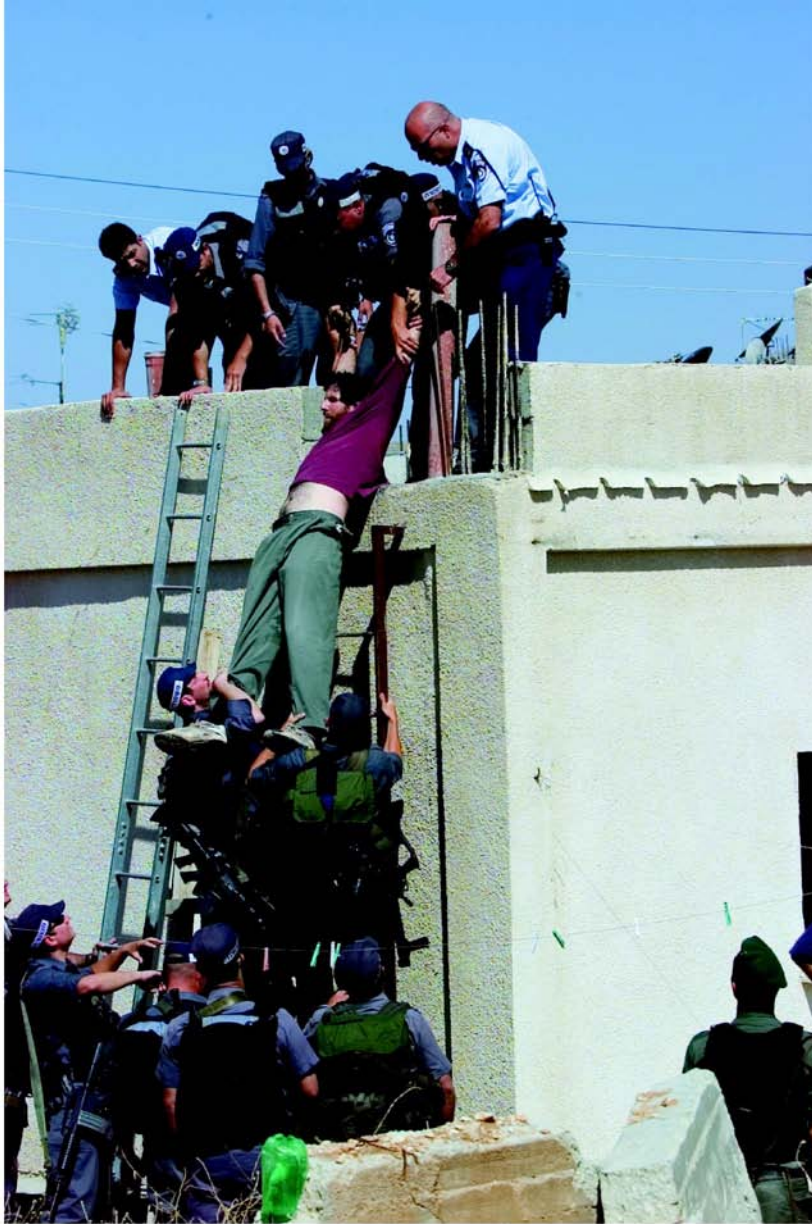
Demolition at Ras a-
Baba, Azaria in February
2007 of Bedouin Jahalin
shacks as part of
population transfer of
3,000 Bedouin because
of the Wall. copyright
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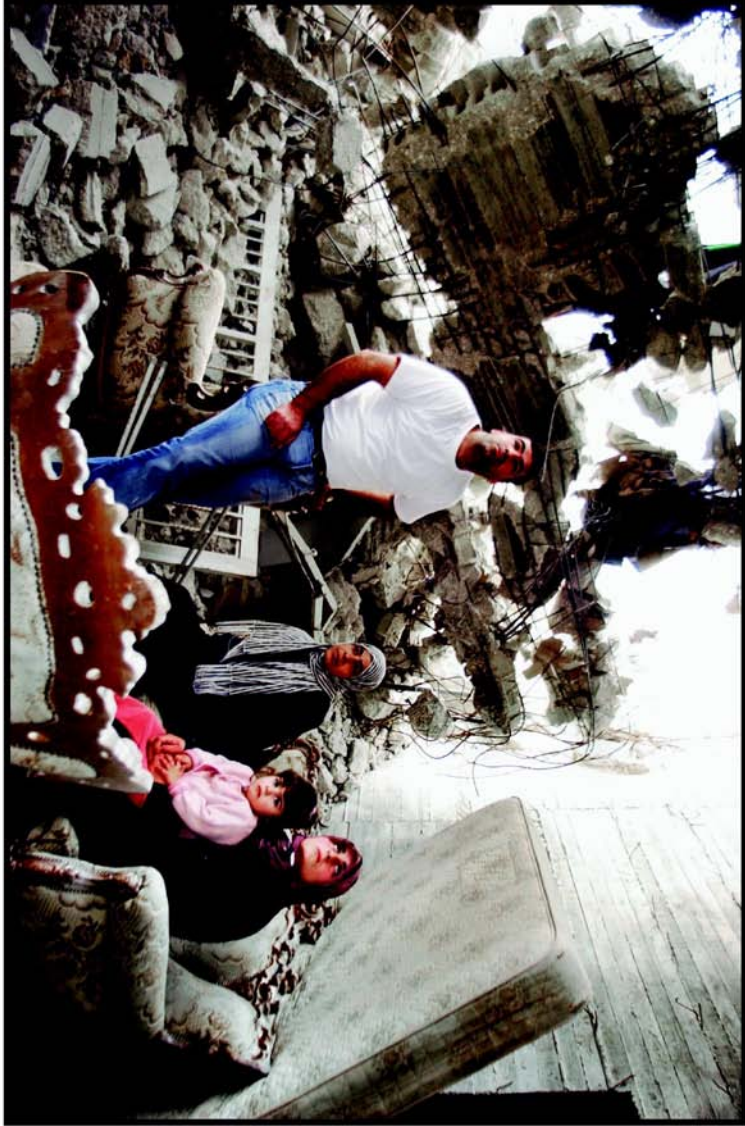
A woman in Jabal Mukaber next to East Talpiot settlement.
© Mohfouz Abu-Turk



Khaleed family home,
Beit Hanina 2006
© Anna Sacco



Rabbi Arik Ascherman of Rabbis for Human Rights being arrested in Beit Hanina, 2004; he was found guilty in Court. ICAHD activists inside the house bought time in which media were brought; the picture has memories of Gush Katif, but without the compensation.
© Mahfouz Abu-Turk



Khaled family home,
Beit Hanina 2006
© Anna Sacco

Endnotes

1. The Municipality is supposed to demolish in areas zoned for construction while the Ministry of Interior is supposed to demolish in areas zoned as open green space.
2. We would draw attention to the discrepancy between the figures we cite here and the figures published in Palestinian sources, such as the report of the Al-Quds Centre, the Land Research Committee or the report published by the office of The Palestinian Ministry of Jerusalem Affairs. This discrepancy derives from different definitions of the Jerusalem jurisdiction by Palestinians and Israelis. Our figures relate to what Israel refers to as the Municipality of Jerusalem. The Palestinian authorities relate to a far wider area designated the 'Jerusalem District', which includes, in addition to the city itself, a number of villages situated on the periphery such as Anata, Hizma, Bir Nabala or A-Ram.
3. This does not include 4 homes demolished under the pretext of security in Silwan on January 15, 2003.
4. Leor, Ilan (3 October, 2003). 'Upright Man of the Neighbourhood'. *Kol Hazman*.
5. Haviglio, Yossi (4 April, 2006). Legal Adviser to the Municipality Activities Report for 2005.
6. Jerusalem Municipal Budget (2005). Budget item 179080020 – Demolition of Buildings.
7. Levy, Moshe to Pepe Alalu. Personal communication (29 July 2004). Shragai, Nadav. *Haaretz* (1 March, 2000). 'Ministry of Interior: 20,000 houses in East Jerusalem were built without a permit'.
8. Palestinians must submit proof of residence for any application at the Ministry of Interior, such as registering children, getting licences and so on. For this reason they report their illegally constructed address, otherwise they face having their Jerusalem ID cards taken away for lack of proof of residence inside the Municipality. For more information about this policy see: B'Tselem and HaMoked (1997), *The Quiet Transfer* and B'Tselem and HaMoked (1998), *The Quiet Transfer Continues*.
9. Municipality of Jerusalem (28 January, 2005). Construction Licensing System – statistical report for the years 2000–2004.
10. Haviglio, Yossi to Deputy Mayor Yehoshua Pollack. Personal communication (11 November, 2003).
11. Ben Nun, Micha (Head of Licensing and Supervision Division). Personal communication (9 August 2004).
12. Ben Nun, Micha. Personal communication (6 December, 2005).
13. The authority of the Municipality to confiscate concrete mixers has been debated before Israel's Supreme Court recently – *Nabali Concrete Ltd. vs. Municipality of Jerusalem*. The attorney for the concrete suppliers argued that the status of cement carriers is similar to the status of a pizza delivery person delivering pizza to the house of a criminal. In the same manner that it would be unreasonable to confiscate the scooter or vehicle used for the delivery, it is unreasonable to confiscate concrete mixers. The Municipality argued that the status of the carriers and suppliers is more similar to the status of a courier delivering a gun to a criminal just before the crime. The judges ruled in favour of the Municipality.

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14. It is important to remember that in West Jerusalem demolitions are never carried out against entire buildings.
15. Brin, Eldad & Shuki Sadeh (28 November, 2003). 'Laying the Groundwork.' *Kol Ha'ir*.
16. Cheshin, Amir, Bill Hutman & Avi Melamed (1999). *Separate and Unequal, the inside story of Israeli rule in East Jerusalem*. Cambridge, MA: Harvard Univ. Press.
17. A plot ratio defines the total floor area of buildings permitted to be erected on a site. It is calculated by dividing the net floor area of all buildings on the site by the net site area.
18. Ben Asher, Uri - Municipal Engineer (23 January 2000). Personal communication.
19. The table reflects average plot ratios in the Zoning Plan.
20. Olmert, Ehud. Personal communication (16 December, 1999). At this time Olmert was the mayor of Jerusalem.
21. Ben Asher, Uri - Municipal Engineer (23 January, 2000). Personal communication.
22. Cohen, Moshe, et al. (2004). *Jerusalem Master Plan 2000*.
23. Kohn, Charles; ed. (10 September, 2000). "The Planning Department: Comparison of Residential Supply and Demand in Jerusalem: 2000-2020. Olmert, Ehud. Personal communication (23 April, 2001).
24. Ibid.
25. Stolman, Efrat Don Yahya; legal adviser to the District Committee of the Ministry of Interior. Letter to the Association for Civil Rights in Israel (27 November, 2002).
26. Talal finally received a building permit, after 6 years of waiting, after this booklet was in process of publication.
27. Brin, Eldad (26 September, 2003). 'District Governor.' *Kol Ha'ir*.
28. Kimche, Yisrael - Policy Planning Division Head (1977). 'Population of Jerusalem and Surroundings.'
29. Cheshin (1999).
30. Jerusalem City Council (29 June 1992). Minutes of Meeting No. 52.
31. *Maariv* (20 June, 2003).
32. Demolitions are usually not executed on Fridays and Saturdays, because of the Jewish Sabbath, or on Jewish holidays. These are the only days on which Palestinians can really relax - an ironic distortion of the notion of a "day of rest."
33. Quota, Samir; Rajjaleena Punamaki & Eyad Al Sarraj (1997). "Home Demolitions and Mental Health: Victims and Witnesses. *Journal of Social Distress and the Homeless*, Vol. 6 No. 3.