

I. Submitting Organizations

1. This is a joint submission by Community Action Center (Al-Quds University), Al-Haq, and the Society of St. Yves, four civil society organizations that work to promote and protect human rights in the Occupied Palestinian Territory (OPT). This report focuses on the most pressing violations in occupied East Jerusalem, including forcible transfer, internal displacement, and collective punishment.

2. Community Action Center (Al-Quds University), or CAC, is a Palestinian non-profit community rights-based organization, created in 1999 by Al-Quds University to empower the Palestinian community in East Jerusalem who are denied basic social and economic rights. CAC provides *pro bono* legal services to Palestinians from East Jerusalem in order to help them access their social, economic, and other fundamental rights under occupation.

3. Al-Haq is a Palestinian human rights organization established in West Bank in 1979 to protect and promote human rights and the rule of law in the OPT. Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT and seeks to end such breaches through advocacy before national and international mechanisms. Al-Haq has special consultative status with the United Nations Economic and Social Council (ECOSOC).

4. Society of St. Yves - Catholic Center for Human Rights (St. Yves) works under the Latin Patriarchate of Jerusalem. St. Yves provides *pro bono* legal assistance and counsel to members of the Palestinian community, especially in the field of family and residency rights. St. Yves raises awareness for the legal situation of the poor and the marginalized in Palestine through national and international lobby and advocacy efforts. Today, St. Yves manages some 700 cases per year and assists around 2,000 people, including many cases of family unification, child registration, and residency revocation in East Jerusalem.

5. The Cairo Institute for Human Rights Studies (CIHRS) is an independent regional non-governmental organization that was founded in 1993 to promote respect for the principles of human rights and democracy in the Arab region. CIHRS focuses on analyzing the difficulties facing the application of international human rights law, disseminating a culture of respect for human rights in the region, and engaging in dialogue between cultures regarding the various international human rights treaties and declarations. CIHRS enjoys consultative status with the United Nations ECOSOC and observer status with the African Commission for Human and Peoples' Rights.

II. Background

5. Following Israel's occupation and illegal annexation of East Jerusalem in 1967, the Israeli government has been implementing policies and practices that ensure the creation of a Jewish demographic majority in Jerusalem.¹ Israel has articulated a clear government policy that seeks to maintain a demographic balance of 60% Jews to 40% "Arabs" within the Israeli-declared boundaries of Jerusalem, which it unilaterally declared as the unified capital of Israel in 1980.² Accordingly, as part of its 50-year-long occupation, Israel has used a variety of methods to reduce the Palestinian population of the city, including residency revocation, the severe restriction of family unification and child registration, the expropriation of land and property, and a discriminatory permit and planning regime, leading to home demolitions—all of which target Palestinians in a systematic manner.

6. There are currently 15 illegal settlements in occupied East Jerusalem alone,³ housing around 220,000 settlers.⁴ Israel uses urban planning in order to prevent the growth and expansion of Palestinian neighborhoods in occupied East Jerusalem. Palestinians are only allowed to build on 13% of East Jerusalem, most of which is already overcrowded.⁵ In comparison, 35% of the land was expropriated for settlement construction.⁶ This discriminatory system has caused an acute housing shortage for Palestinians.⁷ Over the past few years, the Israeli municipality has granted around only 7% of building permits for Palestinian residents (40% of the population).⁸ Palestinians who are essentially forced to build or renovate without a permit are at risk of having the structures or homes demolished. OCHA estimates that around 90,000 Palestinians are at risk of demolition in occupied East Jerusalem.⁹ Between 2004 and 2017, Israel demolished 696 Palestinian homes in East Jerusalem, displacing 2,552 people including 1,389 minors. In 2016 alone, Israel demolished 88 homes in East Jerusalem.¹⁰ In addition to losses associated with the demolition of their property, Palestinians must pay heavy fines for building without permits; this fining system highly benefits the occupation.¹¹

7. The Israeli government has also recently restated its intention to remove two areas of occupied East Jerusalem, KuforAqab and Shu'fat refugee camp (which are behind the Israeli illegally built annexation wall), outside the Israeli-declared "municipal borders of Jerusalem." While the debate has been ongoing in the Israeli political arena, in May 2017, Prime Minister Benjamin Netanyahu formed a "security committee" to study the removal of these areas out of the Jerusalem municipal borders.¹² If this plan is enacted, tens of thousands of Palestinians potentially face the revocation of their residency status as well as the revocation of their health insurance and other social welfare entitlements. This measure aims at maintaining control of East Jerusalem, while removing a large portion of the Palestinian population from the city.

Previous Recommendations

8. In Israel's second UPR, Switzerland¹³ and Russia¹⁴ recommended Israel to stop the transfer of its civilian population into occupied territory. Mexico¹⁵ and Norway¹⁶ specifically recommended the cessation of residency revocation.

Recommendations

9. We recommend that Israel immediately:
- fulfill its obligations under Article 49 of the Fourth Geneva Convention regarding unlawful transfer;
 - end the policy of residency revocation for Palestinians;
 - cease transferring Israeli settlers into the Occupied Palestinian Territory, including East Jerusalem; and
 - ensure that the planning regime in occupied East Jerusalem serves the protected Palestinian population, and does not facilitate the growth or maintenance of the Israeli settlement enterprise, and is in line with international standards.

III. Residency Revocation: Direct Forcible Transfer of Palestinians from East Jerusalem

7. Following the illegal annexation of East Jerusalem in 1967, Israel granted Palestinians in Jerusalem “permanent residency” status, treating them as visitors in their own country. For Palestinians from Jerusalem, entry into and residency in Jerusalem is a revocable privilege, rather than an inherent right.¹⁷ The Israeli Minister of Interior (MoI) has discretionary powers to revoke this residency status.¹⁸

8. Israel has revoked the residency of more than 14,500 Palestinians from occupied East Jerusalem between 1967 and 2017.¹⁹ Over the years, Israel has broadened the criteria for revocation in three main phases. Between 1967 and 1995, Israel revoked the residency status of Palestinians from occupied East Jerusalem who “settled outside Israel” for a period of 7 years or received the status of resident or citizen in another country. Since 1995, the aforementioned criteria were suddenly broadened. East Jerusalem Palestinians can now lose their residency status by moving their “center of life” outside Israel even if they were residing abroad for less than 7 years and did not obtain the residency status or citizenship of a foreign country. Since then, Palestinians are considered to be “residing abroad” by Israel if they live in the rest of the West Bank or the Gaza Strip.

9. In 2006, in addition to the center of life policy, the Israeli MoI began revoking the residency status of Palestinian Jerusalemites as a punitive measure, including for “breach of allegiance.” Consequently, East Jerusalem Palestinians who have never left Jerusalem become vulnerable to residency revocation. In June 2006, the MoI revoked the residencies of three elected members of the Palestinian Legislative Council and the residency of Palestinian Minister for Jerusalem Affairs. A petition (HCJ 7803/06, *Abu Arafah et al.*) which challenges the authority of the MoI to revoke a permanent residency status based on this new ground is still pending before the Supreme Court. However, over the following years, the aforementioned Minister for Jerusalem Affairs and the three parliamentarians were forcibly transferred outside of East Jerusalem. In January 2016, without awaiting the judgment of the Supreme Court, the MoI punitively revoked the residencies of four East Jerusalem Palestinians, three of whom were accused of throwing stones that allegedly led to an accident where an Israeli was killed. In January 2017, the MoI punitively revoked the residency of ManwaQunbar following her son’s alleged attack against Israeli soldiers.

10. Both the general policy of residency revocation and punitive revocations, including through the criterion of breach of allegiance to Israel, flagrantly violate international humanitarian law and international human rights law. The forcible transfer of Palestinians from occupied East Jerusalem is considered a war crime (under Art. 8 of the Rome Statute of the International Criminal Court) and a grave breach of Article 49 of the Fourth Geneva Convention (GCIV). As the revocation of residency forms part of a widespread and systematic forcible transfer policy directed against a civilian population, it may amount to a crime against humanity (Art. 7, Rome Statute). The forcible transfer of the Palestinian civilian population often results in the denial of basic human rights including the rights to family life, health, education, work, and many other civil, political, social, economic and cultural rights. Moreover, the criterion of allegiance used by the MoI to revoke residencies is unlawful. Under international humanitarian law, the occupied population has no duty of allegiance to the occupying power (Art. 45 Hague Regulations and Art. 68(3) GCIV).

Recommendations

11. We recommend that Israel:

- immediately cease the practice of residency revocation and reinstate the residencies of all Palestinians that have lost their residency since 1967, including reinstating the residencies of the aforementioned parliamentarians and the Minister of Jerusalem which were punitively revoked since 2006;
- ensure that all policies in relation to the residency of Palestinians are in line with international law;
- provide information on the number of residencies the MoI has revoked since 1967 and the reasons for the revocation; and
- ensure that all Palestinian residents of the OPT can realize their right to choose residence throughout the OPT.

III. Family Unification: Another Instrument of Displacement

14. Israel has also severely restricted family unification and the registration of children born from a parent holding a West Bank ID and another from occupied East Jerusalem. The family unification procedure requires East Jerusalem Palestinians who marry a West Bank resident to apply for family unification. The Jerusalem resident has to provide a long list of supporting documents to the MoI, which can then still decide not to grant the couple family unification.²⁰ Receiving an answer from the MoI on the family unification applications takes a minimum of two years. In the meantime, the couple cannot “legally” live together in Jerusalem. In 2008, Israel completely banned family unification with Gaza.

15. Prior to 2003, the spouse of a resident would receive a permanent residency status following a very long, and discriminatory, family unification process by the MoI. However, following the 2003 “temporary order,” which as of this June has been renewed for the 14th consecutive time,²¹ spouses only receive “temporary permits,” which must be renewed every year. The “temporary order” issued in 2003 to the Citizenship and Entry into Israel Law gravely discriminates against Palestinians and is an additional policy aimed at further limiting the number of Palestinians living in the city. According to the Israeli MoI, there are 9,900 Palestinians living with temporary permits in Jerusalem through family unification.²²

16. Through this “temporary order,” Israel also set an age condition for Palestinians to apply for family unification, women must be 25 years old or older, while men have to be 35 years old or older. Between 1995 and 2013, Israel refused 43% of family unification applications, 20% for “security reasons.”²³ In many cases individuals who are already receiving family unification permits may have their family unification permits canceled for “security reasons” (“indirect security threat”). If a member of the extended family is declared a “security threat,” their relatives living in Jerusalem through family unification will have their permit to live in the city punitively revoked.

17. Israel’s residency revocation and restriction of family unification targeting Palestinians places severe stress and uncertainty on the family and blatantly violate fundamental rights, including the protection of the family as a “natural and fundamental

group unit of society.”²⁴ Palestinians who live in Jerusalem through family unification have their basic human rights violated, including the rights to freedom of association, to drive, to open a bank account except in extraordinary circumstances, and to freedom of movement, since they are prohibited from crossing certain checkpoints between Jerusalem and the West Bank from travelling from Ben Gurion Airport.

18. A new Israeli law related to health insurance, adopted on 26 July 2016,²⁵ also gravely discriminates against Palestinians living in Jerusalem through family unification. Palestinians must wait 27 months before receiving health insurance, and after 27 months, must pay for the insurance that they did not receive retroactively. Palestinians are obliged to pay the back fee of approximately 7,695 shekels (285 NIS per month for 27 months) before receiving their health care. In contrast, when an Israeli citizen applies for a family unification, their spouse receives health insurance following a period of 6 months, only paying 1,710 shekels to access the same services, 4.5 times less than the amount required from a Palestinian. This law targets a population who already live in very dire economic conditions. A recent study shows that in 2015, 75% of the Palestinians residing in Jerusalem live under the poverty line; requiring them to pay such a sum is not only discriminatory but also unreasonable. Moreover, Palestinian housewives who live in Jerusalem through family unification are not exempt from paying for health insurance, unlike housewives married to Israelis or hold Jerusalem IDs themselves.

19. By denying access to health care for 27 months to Palestinians living in Jerusalem through family unification, Israel is violating Article 12 of the International Convention on Economic, Social and Cultural Rights (ICESCR). Moreover, since this law treats Palestinians and Israelis unequally, this law constitutes a clear violation to the principle of non-discrimination stated in Article 26 of the International Covenant on Civil and Political Rights (ICCPR) and in Article 2 of ICESCR. It is worth noting that until this discriminatory law was adopted, 9,900 Palestinians who are currently obtaining family unification permits according to the Ministry of Interior did not have access to any health care.

Recommendations

20. We recommend that Israel:

- grant spouses of Palestinian residents of Jerusalem residency status;
- recognize the right to family and ensure the widest possible protection of, and assistance to, the family;
- provide equal health care to all Palestinians living in Jerusalem, including those through family unification, and repeal the 27 months criteria and the discriminatory fees imposed to access health care;
- exempt Palestinian housewives who receive health insurance through family unification from paying for health insurance, in line with the treatment of individuals with Jerusalem IDs;
- provide the number of family unifications stopped or cancelled after having granted a first family unification permit; and
- provide the number of cases where individuals have had their social entitlements revoked by the Israeli National Insurance Institute (NII) on the basis of “lack of proof of center of life.”

IV. Collective Punishment as a Means of Displacement and Forcible Transfer

21. Since October 2015, Israel has gravely escalated the use of collective punishment as a tool of forcible transfer and displacement of Palestinians from occupied East Jerusalem. These collective punishment policies include, but are not limited to: punitive house demolitions, punitive residency revocations, closures and other movement restrictions, and the holding of bodies of Palestinians, among other forms of punitive harassment. Israeli officials have stated a clear policy aimed at imposing collective punishment and forcible transfer measures specifically against the families of Palestinians accused of allegedly carrying out attacks.

22. Following the alleged attack by Fadi Qunbar in Armon Hanatziv on the 8 January 2017, the Israeli MoI revoked the permanent residency of the mother of Fadi Qunbar, Manwa Qunbar on the 25 January 2017.²⁶ Today, she lives in occupied East Jerusalem at risk of being forcibly transferred. After the alleged attack, the Minister of the Interior Arye Deri declared, “only immediate and practical acts will deter assailants. I am convinced that the revocation of family members’ status will serve as a warning for others.”²⁷ He also declared, “from now on anyone who plots, plans or considers carrying out an attack will know that his family will pay a heavy price for his deed. The consequences will be harsh and far-reaching, like the decision I made regarding the mother and relatives of the terrorist who perpetrated the attack in Armon Hanatziv in Jerusalem.”²⁸ This case constitutes a very worrying escalation in punitive residency revocation as it marks a precedent in which the MoI punitively revoked the residency of a family member of an alleged attacker. In January 2017, a bill was reintroduced in the Knesset to grant the MoI authority to revoke the permanent residency of persons who committed or are suspected of committing an attack against Israel, as well as their family members (spouses, parents or children).²⁹

23. Since 2015, there has been an increase in extrajudicial killings of Palestinians under security pretexts.³⁰ Israel then withholds the body and only releases them to families after placing certain conditions on their release, including immediate burial (thus barring an autopsy). Today, there are 12 bodies of deceased Palestinians in Israeli detention.³¹

24. Additionally, the family members of the individual face punitive home demolitions or sealings. Between July 2014 and March 2017 Israel punitively demolished six homes in occupied East Jerusalem, sealed five homes and one home is currently targeted for demolition.³² Moreover, as a protected population, Palestinians and their property are protected against reprisal by the occupier, and Israel is forbidden from destroying property for non-military objectives.³³ This policy also represents a violation of human rights as it limits their right to an adequate standard of living and to the protection from arbitrary and unlawful interference with one’s home.³⁴

25. Israel also revokes health and social security entitlements as punishment to family members of alleged attackers. These policies have disastrous consequences on the lives of Palestinians, especially women and children.

26. The case of the Abu Jamal family is exemplary of Israel’s collective punishment policy.³⁵ Nadia Abu Jamal’s husband allegedly committed an attack in West Jerusalem on 18 November 2014. After the alleged attack, Nadia’s family unification permit to live in Jerusalem was immediately revoked, although her three children are residents of Jerusalem.

The National Insurance Institute also punitively revoked the health insurance and other social entitlements of Nadia's children, two of whom suffer from chronic medical conditions requiring medical attention. On 22 July 2015, the Israeli High Court of Justice confirmed the MoI's decision to forcibly transfer Nadia. On 6 October 2015, Israel punitively demolished Nadia's home, displacing her and her children. Nadia Abu Jamal was forcibly transferred outside Jerusalem on 17 January 2017. Today, the children live in in Jabal al-Mukabir with their grandparents in order to maintain their residency, while their mother was forcibly transferred outside Jerusalem. Severe penalties, including prison, will be inflicted on Nadia if she is found in Jerusalem.

27. Collective punishment is expressly prohibited by the Fourth Geneva Convention. The HRC has noted that the prohibition against collective punishment and other violations of international humanitarian law is non-derogable even in states of emergency.³⁶

Recommendations

28. We recommend that Israel:

- cease all collective punishment practices that are adopted as a government policy and supported by the legislative and judiciary branches, and repeal laws allowing the Israeli military to carry out collective punishment measures, including laws allowing punitive demolitions and the sealing of Palestinian houses in East Jerusalem, and the confiscation of the land on which the house is built;
- open independent and impartial investigations into the extrajudicial killing of Palestinians; and
- immediately release all bodies of deceased Palestinians to their families for burial and end the policy of withholding Palestinian bodies.

¹ See Annex A.

²Bimkom, “Trapped by Planning,” 2014, <http://bimkom.org/eng/wp-content/uploads/TrappedbyPlanning.pdf>

³B’Tselem, “Statistic on Settlements and Settler Population,” 11 May 2017, <http://www.btselem.org/settlements/statistics>

⁴CCDPRJ, “Population Transfer including Settler Implantation in Jerusalem: A Crime Against Humanity with Legal Responsibilities for States and Individuals,” http://www.civiccoalition-jerusalem.org/uploads/9/3/6/8/93682182/population_transfer_policy_final.pdf

⁵Bimkom, “East Jerusalem Planning Survey,” <http://bimkom.org/eng/planning-survey-and-planning-assistance/>

⁶ PASSIA, “Jerusalem Agenda 2015,” [http://www.passia.org/images/meetings/2015/Material%20for%20the%20Website/Jerusalem%20\(2015\).pdf](http://www.passia.org/images/meetings/2015/Material%20for%20the%20Website/Jerusalem%20(2015).pdf)

⁷Bimkom, “Survey of Palestinian Neighborhoods in East Jerusalem,” 2013, <http://bimkom.org/eng/wp-content/uploads/survey-of-the-Palestinian-neighborhoods-of-East-Jerusalem.pdf>

⁸ Nir Hasson, “Only 7% of Jerusalem Building Permits Go to Palestinian Neighborhoods,” *Haaretz*, 7 December 2015, <http://www.haaretz.com/israel-news/.premium-1.690403>

⁹ OCHA, “East Jerusalem: Key Humanitarian Concerns,” August 2014, <https://www.ochaopt.org/content/east-jerusalem-key-humanitarian-concerns-august-2014>

¹⁰B’Tselem, “Statistics on Demolition of Houses Built without Permits in East Jerusalem,” 15 June 2017, http://www.btselem.org/planning_and_building/east_jerusalem_statistics

¹¹Norwegian Refugee Council, “The Economic Impact of Displacement,” 15 April 2015, <https://www.nrc.no/resources/reports/the-economic-impact-of-displacement/>

¹² Nana 10 Article (Hebrew), <http://m.nana10.co.il/article/1247890?sid=120&pid=55&service=10tv>

¹³ 136.173, A/HRC/25/15: “Stop the transfer of its population to the occupied territory and put an end to all measures that encourage or perpetuate the settlements”

¹⁴ 136.187, A/HRC/25/15: “Bring an end to the illegal construction of Jewish settlements and the transfer of Jewish populations to the OPT without delay”

¹⁵ 136.212, A/HRC/25/15: “Stop the revocation of residency permits for Palestinians in East Jerusalem”

¹⁶ 136.213, A/HRC/25/15: “Stop the revocation of permanent residency status of Palestinians in East Jerusalem and provide adequate resources for the development of services and infrastructure, including the creation of new schools”

¹⁷ See Annex B.

¹⁸ Article 11(A) of the Law of Entry to Israel of 1952

¹⁹Hamoked, “Israel continues its “quiet deportation” policy: in 2016, the Ministry of Interior revoked the residency status of 95 Palestinians from East Jerusalem,” 6 April 2017, <http://www.hamoked.org/Document.aspx?dID=Updates1864>

²⁰ Society of St. Yves, “Palestinian Families Under Threat: 10 Years of Family Unification Freeze in Jerusalem,” http://www.saintyves.org/uploads/files/10_years_freeze_of_family_unification_in_jerusalem.pdf

²¹ Knesset Press Release (Hebrew), 12 June 2017, <http://m.knesset.gov.il/News/PressReleases/Pages/press12.06.17w.aspx>

²²Hamoked, “Ministry of Interior data reveals: some 12,500 Palestinians live in Israel by virtue of family unification processes; of them, some 80% are without social security rights or status in Israel,” 18 May 2016, <http://www.hamoked.org/Document.aspx?dID=Updates1729>

²³ Ibid.

²⁴ Article 16, UDHR; Article 23, ICCPR; Article 10, ICESCR

²⁵Hamoked, “Re: Urgent Request regarding the entering into force of the National Health Insurance Regulations (Registration with a Health Fund, Rights and Obligations of the holders of a stay permit according to the Citizenship and Entry into Israel Law (Temporary Order), 5763-2003), 5776-2016,” 20 November 2016, <http://www.hamoked.org/Document.aspx?dID=Documents3372>

²⁶See Annex C.

²⁷Hamoked, “Minister of Interior announced yesterday he had revoked the status of relatives of the ArmonHaNatziv attacker: ‘Only immediate and practical acts will deter assailants. I am convinced that the revocation of family members’ status will serve as a warning for others,’” 26 January 2017, <http://www.hamoked.org/Document.aspx?dID=Updates1833>

²⁸Nir Hasson and IlanLior, “Israel Seeking to Strip Residency of 12 Relatives of Jerusalem Truck Attack Assailant,” *Haaretz*, 10 January 2017, <http://www.haaretz.com/israel-news/.premium-1.764202>

²⁹Hamoked, “Bill for the expulsion of perpetrators’ families is on the agenda again in Israel: due to ‘legal difficulties’ the deliberations were postponed by three months,” 16 January 2017, <http://www.hamoked.org/Document.aspx?dID=Updates1825>

³⁰

³¹ Al-Haq Statistics, 29 June 2017

³²Hamoked, “Updated summary on punitive home demolitions from July 2014 to March 23, 2017,” 23 March 2017, <http://www.hamoked.org/Document.aspx?dID=Updates1854>

³³ Article 33 and 53, Fourth Geneva Convention

³⁴ Article 11, ICESR; Article 17, ICCPR

³⁵ Al-Haq, “Illegal collective punishment measures against women and children: The case of Nadia Abu Jamal and her family,” 1 February 2017, <http://www.alhaq.org/documentation/weekly-focuses/1100-illegal-collective-punishment-measures-against-women-and-children-the-case-of-nadia-abu-jamal-and-her-family>

³⁶ UN Human Rights Committee (HRC), “CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency”, 31 August 2001, CCPR/21/Rev.1/Add.11