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ISRAEL AND THE OCCUPIED TERRITORIES

Demolition and dispossession: the destruction of Palestinian homes

INTRODUCTION

- On 26 January 1999 more than 100 armed border police accompanied by bulldozers arrived at Isawiyeh, a village on the outskirts of East Jerusalem and started destroying the four-room home of 14 members of the Awais family, built on their own land. About 100 local people gathered and started to throw stones. The border police used batons and shot rubber-coated metal bullets at close range, killing Zaki 'Ubayd, a 28-year-old father.
- The Halaseh family, including 11 children, had had their home demolished twice previously when, on 25 July 1999, the tin shack they lived in on land which had belonged to the family for decades near the Jewish settlement of Kedar was surrounded by dozens of Israeli troops and bulldozed. The father (who was paralysed) was arrested, as was a 16-year-old daughter for "attacking soldiers".
- Israeli bulldozers with a large contingent of military arrived without warning on 25 October 1999 to tear down a house in Beit Hanina in Jerusalem where three related families had lived for eight years on land they had bought. Twenty-four men, women and children were made homeless.

Since 1967, when Israel occupied the West Bank, including East Jerusalem, and the Gaza Strip, thousands of Palestinian homes have been demolished. Some had been built and inhabited for years; they are furnished, occupied often by more than one family with many children, who are often given only 15 minutes to gather their possessions and leave. A squad of workers may throw the furniture into the street; or the furniture may be still in the house when the family sees the bulldozers move in. Other houses are still uninhabited but have been built as the fruit of months of work and the expenditure, sometimes, of all the family's savings.

House demolitions ostensibly occur because the homes are built "illegally" - i.e. without a permit. Officials and spokespersons of the Israeli government have consistently maintained that the demolition of Palestinian houses is based on planning considerations

and is carried out according to the law. Palestinians build houses illegally, without planning permission and therefore these houses are destroyed. Governments and local councils, they point out, have planning rules and forbid the building of houses outside designated areas.

But the Israeli policy has been based on discrimination. Palestinians are targeted for no other reasons than that they are Palestinians. In pursuit of this Israeli officials have ignored the Fourth Geneva Convention, which requires the occupying power to protect the welfare of the people in the areas it has occupied, and international human rights law, which recognizes the right of everyone to an adequate standard of living, including housing. They have taken what laws can be adapted to their use - distorting the Ottoman Land Law of 1855, digging up plans developed under the British Mandate from the early 1940s which are unpublished and remain unavailable to inspection, and interpreting in their own interests the 1966 Jordanian Planning Law - and they have discriminated in the application of the law, strictly enforcing planning prohibitions where Palestinian houses are built and freely allowing amendments to the plans to promote development where Israelis are setting up settlements.

The signing of peace agreements between the government of Israel and the Palestine Liberation Organization (PLO) since 1993 has not halted this process. Although - excluding East Jerusalem - 3% of the West Bank and about 97% of its Palestinian residents fell under the jurisdiction - and the planning rules - of the Palestinian Authority (PA), between 1995 and 1999 house demolitions in the West Bank including East Jerusalem remained at the same high level. A new Israeli government took office under Prime Minister Ehud Barak in July 1999. Some Israeli government ministers made clear their opposition to the practice; nevertheless house demolitions took place in July and August. Hopes kindled during a period of just over two months during which no house demolitions were carried out were shattered when two houses in East Jerusalem (including one where three families had lived for eight years) were demolished on 25 and 26 October 1999.

This report investigates the Israeli policy of house demolitions, focussing particularly on the period after the beginning of the peace process in 1993. It includes a description of the problems for Palestinians of getting permits and related Israeli policies on land including zoning, land confiscations and settlement-building in the Occupied Territories.

The report covers the West Bank, including East Jerusalem; it does not cover Gaza, also occupied by Israel in 1967, where, although the pre-occupation laws were different the policies have been similar. Nor does it cover the demolition of houses for "security" reasons: this collective punishment used against Palestinians accused of

security offences and their families (recently mostly against families of suicide bombers) has frequently been condemned by Amnesty International.

Research Methodology

Amnesty International delegates carried out a research visit to Israel and the West Bank from 18 May to 9 June 1999. During this visit they met representatives of Palestinian and Israeli non-governmental organizations, lawyers, town planners and engineers. They carried out on-site visits, and met victims of house demolitions and land seizures. They also met national and local representatives of the PA and the PLO in the Ministries of Civil Affairs, Local Government and Planning and in Orient House.

Amnesty International's Mandate

Amnesty International is an international human rights organization of more than a million members in more than 150 countries. Its mandate - the issues the organization focusses and campaigns on - are decided by its members. Since 1991 the organization has worked against the destruction or sealing of houses as a punishment against those accused of political offences. Since 1995 other grave violations, such as house destruction targeted against people because of their political beliefs or identities, including ethnic identities, have been included in Amnesty International's mandate. Destruction of houses targeted against ethnic groups has taken place in other countries including Myanmar, Turkey and former Yugoslavia as well as in the Israeli Occupied Territories - the focus of this report .

The question of house demolitions, from which Palestinians have suffered so long, is now moving into the centre stage of political debate and at least three members of the Israeli government formed in July 1999 have expressed concern about or personal opposition to the policy of destroying Palestinian homes. The heightened awareness of the cruelty and inhumanity of the policy of house demolition is due to the work of many Palestinian and Israeli organizations who have researched and publicised this, including the Palestinian Society for the Protection of Human Rights and the Environment (LAW); the Palestinian Human Rights Information Centre (PHRIC); B'Tselem; the Association for Civil Rights in Israel (ACRI); the Palestinian Agricultural Relief Committees (PARC); the Society of St Yves; the Applied Research Institute Jerusalem; the Land Defence Committees; the Israeli Committee against House Demolitions and other organizations too numerous to mention.

The Israeli authorities were given notice of the visit. There is very little public information on current Israeli policy, and meetings were therefore requested with the authorities in East Jerusalem (i.e. the Jerusalem Municipality) and in the remainder of the West Bank (i.e. the chief planner in the Civil Administration of the Israeli Military Government). These requests were refused. Delegates met the spokesman and one of the legal officers at the Civil Administration, who were able to provide only limited

information. Subsequent written questions elicited no answers from the municipality or Civil Administration.¹

Case Study: The Jaber family homes

The Jaber family have farmed their own land, near Hebron, at least since Ottoman times. But, with land near a bypass road and the expanding settlement of Giv'at Harsina, to own land is no protection. Thirteen houses have demolition orders in the area. On 19 August 1998 the home of Atta Jaber, who had no license to build, was bulldozed by the Israeli Defence Force (IDF). The following day he decided to rebuild it, but one month later, on 16 September the house was again destroyed. Five months later it was the turn of the home of Atta Jaber's brother, Fayez Jaber, 22, - a house which contained only two rooms to house 12 members of the family. At 7am on 4 February 1999 officials from the Civil Administration and the Higher Planning Council arrived unannounced with a large number of soldiers and demolished his house. The soldiers used force, beating Fadi Jaber, 18. In May they came again and demolished three water cisterns, collecting water off the hills in the winter to be used in the summer. The Civil Administration said the cisterns were using water from the Hebron water supply; there was no sign of any pipes - rather there were a number of little channels running into the cisterns from above in the traditional manner. At the same time the house of Atta's brother, Isma'il, has a demolition order against it and both Isma'il and Qa'id Jaber have been ordered not to

plant on their land.

¹ On 13 October 1999, after a reminder, the municipality spokesman wrote to explain that the failure to reply to Amnesty International's request of 23 June was the result of holidays, but, as of 15 November 1999, no further information had been provided.

The West Bank extends 130 km north to south, and some 50 km east to west, with a total area of 5,800 square km. The boundary with Israel to north, west and south is the 'Green Line' (the 1949 armistice line); to the east lies the River Jordan flowing into the Dead Sea, and beyond that the Kingdom of Jordan.

The present Palestinian population is two million; natural growth is very high at 3.5% per annum. Even if this declines and there are no 'returnees' from the Palestinian diaspora, population is expected to increase by a third in 10 years. Overcrowding is high in villages, refugee camps and towns: a quarter of the population live with more than three persons per room. Incomes are low (\$2,000 per head per annum) and have dropped by a third since 1992).

The largest towns are East Jerusalem (see below), Nablus and Hebron (each about 110,000), Ramallah / Al-Bira and Bethlehem / Beit Jala / Beit Sahur (each 45,000). These are all located on the north/south ridge; urban development between Ramallah - Jerusalem - Bethlehem is now almost continuous. Other large towns include Tulkarem and Qalqiliya (on the green line) and Jenin in the north.

The remaining population lives in some 450 closely spaced villages (distances between village centres average only 3.5 km) throughout the West Bank though at higher densities in the western half and with little population in the south east (Judean Desert) area. Most villages have grown rapidly in population in recent years and all are surrounded by land owned and cultivated by the families of the village. Two other sectors should be mentioned: the refugees (from 1948, and their descendants), 140,000 of whom live in the 19 refugee camps under UNRWA jurisdiction; and the semi-nomadic Bedouins who number 20,000 and tend sheep, especially in the south and east.

2 BACKGROUND

Historical and Geographical Background

Between the two world wars the United Kingdom ruled Palestine under a League of Nations mandate. An armed conflict for the control of Palestine between Jews and Palestinians intensified after November 1947 when the United Nations voted in favour of a plan to partition Palestine into two separate states, one Arab and one Jewish. On 14 May 1948 the United Kingdom's mandate over Palestine ended and the State of Israel was proclaimed. Arab protests against partition were followed by war between Arab and Israeli armies. Israel emerged victorious, expanding its *de facto* frontiers beyond those proposed by the partition plan.

Two parts of mandate Palestine remained outside Israel: the Gaza Strip, which came under Egyptian administration and the eastern part of Palestine adjacent to the River Jordan. The latter was annexed by the Hashemite Kingdom of Jordan in 1950 and became known as the West Bank.

Hostilities between Israel and Egypt, Syria and Jordan in June 1967 ended in Israel's occupation of the West Bank (including East Jerusalem) and the Gaza Strip, as well as Syria's Golan Heights (annexed by Israel in 1980) and the Sinai Peninsular, which was later returned to Egypt.

Part of the West Bank including the Old City of Jerusalem was unilaterally annexed by Israel in 1967 and incorporated into the Jerusalem Municipality; this area is referred to as East Jerusalem.

The Peace Process

Peace talks began in 1991. A Declaration of Principles signed in 1993 by Israel and the PLO envisaged a five year interim period during which: -

- the military government would transfer to an elected Palestinian Self-Government Authority some functions in parts of the West Bank and Gaza;
- negotiations on a permanent settlement which would end military occupation were to start by 1996 and be concluded by May 1999.

The Declaration of Principles specifically deferred discussion on Jerusalem, settlements (i.e. the Israeli colonies established in the Occupied Territories), borders and refugees (from 1948) until the permanent status talks. No progress has so far been made on these talks.

The Interim Agreement (often referred to as 'Oslo II') of 1995 defined the intricate zones in the West Bank over which the PA would have jurisdiction in the interim period, and the functions to be transferred to that authority for the interim period. Following elections, the Council of the Palestinian Authority (PA) was inaugurated in March 1996.

Because Jerusalem was excluded from Oslo II the situation of East Jerusalem remains as it has been since 1967: annexed *de facto* into the state of Israel, subject to the laws of Israel and forming part of the municipality of Jerusalem. After the annexation of Jerusalem Palestinians within the municipal boundaries were allowed to apply for Israeli citizenship under certain conditions, though very few took it up. The Palestinian population of East Jerusalem are regarded by Israel as "permanent residents" of

Jerusalem (a privilege which may be revoked). Israeli closures of the West Bank during the *Intifada*² and after the Oslo Accords have meant that those outside the Jerusalem municipalities have not been granted permits to live in Jerusalem and are frequently prohibited even from entering the city.

In the rest of the West Bank Oslo II envisaged the staged withdrawal ('redeployment') of the Israeli military and transfer of civil and security responsibilities to the PA. Three zones were defined in terms of responsibilities. In Area A the PA is responsible for civil affairs and internal security, while Israel is responsible for external security; in Area B, the PA is responsible for civil affairs while Israel has overriding responsibility for security and in Area C Israel is responsible for civil affairs.

The boundaries of Area A were drawn to include some major centres of Palestinian population while, for reasons which will become apparent, most of the areas without a significant Palestinian population are allocated to Area C. After the full implementation of Oslo II in 1997 the PA had what is referred to as 'full control' in Area A of a tiny area (but covering 97.6% of the population) while nearly three quarters of the area (including only 2.4% of population) was under full Israeli control in Area C. A further redeployment took place under the Wye River Memorandum in 1998 and in September 1999 bringing the area of Area C to around 64%. If the Wye River Memorandum is fully implemented the area in Area C, under full Israeli control, will still amount to at least 60% of the West Bank, excluding East Jerusalem.

The civil powers that have been transferred to the PA (in areas A and B) largely exclude administration of water resources but include agriculture, local government, land registration and town planning. Hence it is with Area C that this report is mainly concerned. This is where Israel still has full control - including control over the use and development of land and the demolition of 'unpermitted' houses - and where the main potential threat from Israel to the human rights of the occupied population exists.

East Jerusalem remains in the eyes of the international community an integral part of the West Bank. However, because of the administrative differences between East Jerusalem and the rest of the West Bank brought about by the Israeli annexation, these two areas will be treated separately, in sections 4 and 5 of this report.

Area C

² The uprising of the Palestinian population of the Occupied Territories between 1987 and 1993.

The configuration and significance for the Palestinians of this area are best considered in relation to Areas A and B. The latter combined zones in which the PA has full or partial control are fragmented into an archipelago of some 227 'islands' in a sea of Israeli control:

- 190 of these islands are less than 2 square km and encircle all or (more often) part of the built up area of a single village. The smallest are just a few hectares;
- 37 islands cover more than 2 square km; most of these include more than one village or town in whole or part. The largest is about 300 square km (5% of the West Bank) and includes 37 villages. All the larger islands are highly indented in shape.

Area C covers 129 small villages, as well as parts of scores of others. The total Palestinian population is 40,000. It includes extensive 'urban fringe' areas where development pressures are intense, so population of this area may well be increasing even faster than the general rate. Even parts of municipal areas are defined as Area C, and in all the large towns except Jericho a substantial part of municipality and urban area borders about Area C. No Palestinian lives more than 6 km from a part of Area C, and a half hour walk from home would take the great majority of Palestinians into the military controlled Area C - probably inadvertently, since the labyrinthine boundaries are not marked.

Hence Israeli control of Area C affects not only the relatively small number of people whose homes are within it. It potentially affects also the social and commercial interactions, infrastructure, agricultural and resource use, quality of life, public service provision and development prospects of every community in the West Bank.

East Jerusalem

From 1948 to 1967 the 'Green Line' divided West Jerusalem under Israeli control from East Jerusalem under Jordanian control. The latter included the walled Old City and within it important Christian sites and the Temple Mount, in which are the Western ('wailing') Wall, the most sacred Jewish site, and al-Aqsa Mosque and the Dome of the Rock sacred to Muslims. The 1967 annexation by Israel included all of these, plus an airport and lands of 28 Palestinian towns and villages, amounting to 71 square km. The annexation has not been internationally recognised.

The boundary of the annexed lands (like that of Area C) was drawn to include land rather than people: that is, the urban areas of nearby towns and villages were left largely outside the annexed area. The 'annexed' population in the census held shortly after the occupation was 71,000; this had risen (according to Israeli sources) to 200,000 in 1998 though problems of enumeration mean that the actual number may be considerably higher or lower than this.

After the annexation, Palestinians within the new municipal boundary were initially allowed to apply for Israeli citizenship under certain conditions, though very few took it up. The Palestinian population in East Jerusalem (and their descendants) are regarded by Israel as "permanent residents" of Jerusalem and given blue identity cards (which may be withdrawn - see page 29). Palestinians without blue cards are not allowed to live in East Jerusalem, or (unless they have a permit) to enter East Jerusalem. Total closures (to Palestinians) of East Jerusalem are frequent.

Legal Background

'Local' law is the Jordanian law (which incorporated earlier Mandate and Ottoman laws). The main relevant law is Jordanian Planning Law Number 79 of 1966, and the military authorities have invariably cited this law in making planning decisions, both pre-Oslo II (throughout the West Bank) and post-Oslo II (in Area C).

The Palestinian municipalities had dealt with detailed planning matters (under the strict constraint of the Israeli Central Planning Department) long before Oslo II. The effect of Oslo II therefore has been that Palestinian competence for approval of planning permission has been extended to cover the whole of Areas A and B (under a Palestinian Central Planning Department). In Area C all matters related to planning continue to be dealt with directly and solely by an Israeli Central Planning Department within the Israeli military government.

In brief, this law requires development plans to be prepared, approved, and kept up to date (and for notices in the press). A permit may be refused if the development conflicts with a plan; penalties for unpermitted development may include, in extreme cases, demolition. A High Planning Council advised by a Central Planning Department would prepare and approve 'regional' plans, and local commissions (municipalities or groups of villages) would prepare 'outline' and 'detailed' plans, to be approved by the High Planning Council and District Commission, respectively.

Legislation during the occupation has been issued in about 1,500 'military orders' (MO) and in countless regulations by the Military Commander of the West Bank; since Oslo II these have not for the most part had effect in Areas A and B. In 1971 the Israeli authorities 'amended' Law number 79 by MO 418, under which all significant decisions on permits and plans would be made by a High Planning Council appointed by the Military Commander. MO 418 also allowed the High Planning Council to prepare, amend, cancel, disregard, or dispense with the need for any plan or permit. Most members of the High Planning Council have been military officers and all have been Israeli citizens. The means has thus been available to the military authorities both to foster the establishment and expansion of Israeli settlements and to prevent Palestinian development by systematically refusing permits and demolishing unpermitted Palestinian houses - while ostensibly conforming to the amended Jordanian law.

Case Study - Al-Walajeh: a village scheduled for demolition

“We get all our services from the National Authority; only the bulldozers come from Israel”.

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(an Al-Walajeh villager)

The cluster of substantial homes which forms the neighbourhood of 'Ayn al-Jwayzeh in Al-Walajeh was established by refugees from 1948 who rebuilt their village on their own land just across the Green Line in the West Bank. In 1967 it was included in annexed East Jerusalem though the villagers still have West Bank papers (which makes their very presence in Jerusalem an offence since they have no residence permits). With one exception the villagers have never received any municipal services from Jerusalem.

The exception is that on 11 August 1999, while the rest of the world and the people in the village were waiting for the eclipse of the sun, army units with bulldozers arrived from Jerusalem and, having thrown the furniture outside, demolished the homes of two families, the brothers Ahmad and Muhammad Khalifeh, making 11 people homeless.

Of the 60 houses in the village, 45 have been issued with demolition orders - all those built or modified since 1980. Twenty of those with demolition orders have also been asked to pay fines of between 25,000 and 50,000 shekels. For example, Musa al-Shaykh Isma'il built the concrete frame for a second floor of his house; for this a demolition order and a fine of 49,000 shekels were issued - with an income of 3,000 shekels a month he will have to pay 70 monthly instalments of 700 shekels.

The new mosque is also under demolition order. So also is the track which connects the village to the outside world: this was asphalted by the villagers with donated materials; but the demolition order was issued in March 1999.

The reason for demolishing the homes: no building permit. The Interior Ministry's representative on the district planning board said, after the demolitions: "Al-Walajeh does not have an approved plan: there is no possibility to build there in a legal fashion". Actually there is a plan - unapproved as yet. But it is for 'Gani Bitar' - i.e. an exclusively Jewish colony to be built at Al-Walajeh when the process of land confiscation has been completed and the Palestinian village has been razed.

3 THE BACKGROUND TO DEMOLITIONS: LAND CONFISCATION AND SETTLEMENTS

The Growth of Israeli Settlements

The demolition of Palestinian houses is inextricably linked with Israeli policy to control and colonize areas of the West Bank. There seems no doubt that the settlement project has been conceived, stimulated and implemented by the Government of Israel; colonization has not been a spontaneous popular movement taking place in the face of governmental resistance or indifference. Furthermore, this policy has been energetically followed for over 30 years by all administrations from 1967 until the present time. The only substantial change is that for the last five years only 72% (Area C) of the West Bank has been subject to this policy.

At the time of the 1967 war the only Jews in the West Bank were the Samaritan community in Nablus (numbering about 250). There are now well over 300,000 Jewish settlers living in new colonies (referred to as 'settlements') throughout the West Bank.

Most Israeli settlements are in previously 'rural' locations, inserted between Palestinian villages often on hilltops. The population of the settlements is composed 98.4% of Jews (not all of whom are Israeli citizens); hence the term 'Jewish' (rather than 'Israeli') colonies is appropriate.

While the rate of Israeli construction in East Jerusalem is now tailing off (due to limited space), population increase and construction are continuing rapidly in the rest of the West Bank. Settlement expansion has accelerated since the peace talks, and particularly since Oslo II.

Settlers are subject to Israeli criminal law (whereas military orders and Jordanian criminal law are applied to Palestinians) in Israeli courts; they pay Israeli taxes and receive Israeli benefits and services. Settlers are exempted from the harassments of military occupation such as road closures and curfews. Outside East Jerusalem, Palestinians are prohibited from entry to settlements unless they have a permit, and settlers aged between 18 and 60 serve in a military 'guard service'; all are armed and have powers to arrest Palestinians.

The military authorities have since the late 1970s normally published notices in the Arabic press of plan preparation with opportunity to object (no objections by Palestinians have been successful apart from rare cases when it could be shown that some of the land had not been confiscated) and approval citing Jordanian Law number 79 'as amended by MO 418'. The plans (both for settlements and the roads serving the settlements) and the stamps of approval refer to them as 'modification of regional detailed Plan S/15 (or RJ5)'. The latter plans are referred to below.

Land Confiscation

The key to the colonisation project - now and since 1967 - is land. Construction of colonies has depended not just on finding land that is physically 'suitable', but on

David Bar El, Deputy Head of the Civil Administration speaking on Israeli Television in July 1998

'space', if you can call it that, as we enter into negotiations."

alienating it from the Palestinians, defending it against Palestinian use, and ensuring through such processes as registration and leasing that Palestinians are disqualified from having any future benefit from that land. The scale of the necessary alienation has been massive; the potential threat to the tight knit pattern of Palestinian villages and land holdings has been, as we shall see, pervasive.

The process is often referred to by the World Zionist Organization³ as 'seizure'; it is referred to as 'declaration as state land' by the Israeli government. Confiscation has been incremental, surreptitious and, according to the Israeli government, legal. It has been carried out by all Israeli governments and continues (in Area C) at the present time.

The practical problem of separating people from their land has caused no difficulties to a military government; the substantial administrative task is handled (in Israel) by the 'Administrator of the Lands of Israel: Custodian of Abandoned and Government Property in the Area of Judea and Samaria [the West Bank]', an adjunct of the 'Israel Lands Administration', to whom ownership passes and whose director is the Israeli Minister of Agriculture.

The scale of land confiscation has not been revealed. Unofficial estimates put the percentage of West Bank land that had been confiscated at 41% in 1984, 60% in 1991 and 73% in 1998. The present situation with regard to Area C appears to be that almost all the east side except Jericho has been confiscated, while on the west side perhaps half has been confiscated. Since Oslo II confiscation has continued at the rate of about 37 square km (0.6% of the West Bank) each year.

Confiscation Procedures

For the last 20 years the principal method by which the Israeli government has acquired land has been to declare that land which is not officially registered or under continuous

³ The World Zionist Organization (WZO), founded in 1897, set up the Jewish National Fund in 1901 to buy and manage land in greater Israel. The WZO is recognized by the State of Israel as having a continuing role in developing and settling the country in "Eretz Israel" ("the Land of Israel", considered to include the West Bank).

cultivation is not in private ownership but is in fact 'state' land. The pretext for this is the Ottoman Land Law which defined the *miri* class of ownership under which most Palestinian agricultural land is held by virtue of use. *Miri* land includes pasture and range lands; land not cultivated for three years could be auctioned to a villager prepared to cultivate (or, if there are no claimants, given to a needy villager); cultivation for 10 years entitles the cultivator to *tabu* (deed of ownership).

The test which the Israelis apply is that any land shown by aerial photo not to have been cultivated each year for a 10 year period is liable to be forfeit - not to the village but to the 'state'. The declaration says: 'I hereby declare that the area specified in the appendix is government property' with no grounds for this claim; the appendix is a rough indication on an aerial photo of the land in question. It may be given to the *mukhtar* (village representative) or posted on the land (e.g., left under a stone); or the declaration may be made orally. The onus of proof is on the owner who is given 45 days to commission a cadastral survey of the land (which may be hundreds of hectares) and to submit an appeal. Many owners do not receive the declaration. Few have the resources to mount a legal defence. Hardly any are successful.

The Barring of Palestinians from state land

Designation as 'state' land does not, of itself, bar Palestinians from ultimately benefiting from that land. Depriving Palestinians of rights over large portions of the West Bank has been based not on legal edict but on an unobtrusive *administrative* procedure of discrimination by which 'alien persons' are prohibited from building on or renting state lands. An alien person is defined as one who is *not* in one of the following categories:

- (1) An Israeli citizen;
- (2) One who has immigrated (to Israel) under the (Israeli) Law of Return;
- (3) One who is entitled to the status of immigrant under the Law of Return - i.e. a Jew by descent or religion;
- (4) A company controlled by (1), (2) or (3).

Hence virtually the whole of the population in the area occupied by Israel in 1967 and their descendants are defined as aliens. Any contract in a settlement has a clause which invalidates the contract if the person signing the contract is an alien person. The contracts (including the definition of an 'alien person') are issued by the 'Custodian of Abandoned and Government Land; Civil Administration of Judea and Samaria'. They apply to the standard residential and other leases for homes or land. They also apply to contractors on building projects in the settlements.

Apart from one Jewish convert, Amnesty International is not aware of a single Palestinian family living in the settlements. One reason for this must be the use of these contracts which the Israeli authorities have used to ensure that Palestinians are prevented (not just now, but for the indefinite future) from living on land which once belonged to Palestinian villages.

The Impact of Confiscation

In practice the appearance of a bulldozer and Israeli soldiers is often the first that Palestinians know that their land has been confiscated. This often happens many years after the formality of confiscation (though the formalities may not take place until after the bulldozer appears). There follow futile protests, often answered by violence and arrest. This is an event the villagers may have been dreading for years: they know that the bulldozer heralds a forcible end to the centuries-old productive association between their community and the land. It may even threaten their own development opportunities and the continuation of the community. Where they once made their living they will now be trespassers.

Palestinian lawyers are in no doubt that virtually none of the confiscated land is state land: it is either privately owned by individuals, families or in shared ownership, or is for the collective use of a particular village. In practice the 'village boundaries' are of long standing and are well known and accepted: they signify the area which is owned and used by a particular village - and they are contiguous with those of neighbouring villages. Within the village boundary the individual ownerships are likewise well known and accepted; they often take the form of stone terraces built over the centuries by individual families (never by the state) and often surviving within the confiscated areas. Even in the case of the less populated range lands on the east side, the ownership and other rights of particular families and tribes to graze the land, to establish their homes and to obtain water is well accepted. In none of these cases were the people under the impression that they were temporary occupants of land from which the state might expel them.

Impacts of confiscation include most obviously the loss of a prime economic agricultural resource and the threat to the living standards of the community.

Case Study - The al-Atrash family: The trauma of house demolition

Yusuf al-Atrash, who worked in a shoe factory, was refused a permit to build on his own land near Hebron in Khirbet Qilqes. Having 10 children, he built anyway; he said there was no other place to build. But, overlooking an Israeli road and one kilometre away from the settlement of Beit Hagi, his house was destroyed three times. The first time, on 3 March 1998, his wife was wounded and hospitalised. After the second time Yusuf

al-Atrash and his sons clashed with soldiers who had come to confiscate building material. Zuhur, Yusuf's wife said: "I will not give up. I will build once, twice or 10 times, even 1,000 times". But during the third time the house was destroyed, in June 1998, the children saw their parents beaten by soldiers and dragged across the ground.

Yusuf al-Atrash was earning 1,000 NIS (\$230) a month; they could no longer afford or lost the spirit to build. Yusuf, his wife and their 10 children were forced to squat on their own ground in a tent, using a broken-down car as a kitchen. The trauma of their problems began to destroy their family life; the marriage of their eldest daughter Manal, 17, was delayed. She had been beaten by soldiers on one of the many times they passed the land to check up; they said she threw stones, she said the beating was unprovoked; in any case she was admitted to hospital. Yusuf al-Atrash was said to have grown irritable and sometimes violent. On 19 August 1999 Zuhur al-Atrash was arrested at a checkpoint near the Ibrahimi Mosque in Hebron; she was carrying a knife. She was charged with plotting to commit murder and taken to Kishon Detention Centre before being brought before a military tribunal on 2 September 1999. However, the judge accepted the lawyer's defence, that this was a family tragedy, and Zuhur al-Atrash was released. But the family still lives in a tent.

4 HOUSE DEMOLITIONS IN THE WEST BANK

The Need for Building Permits

The legal pretext for house demolition has been the control of development in the amended Jordanian planning law. Meanwhile virtually no opportunity has been given for legitimate development to take place. The result has been the demolition of houses which, without the possibility of building with a permit, Palestinians have had to build without a permit. The objective has apparently been to confine Palestinian development to existing urban areas in order to preserve maximum opportunity for land confiscation and Jewish settlement.

The general procedure operated by the military government for granting permission to build houses has remained unchanged for 20 years. It is centralized,

complex, lengthy and costly. Guidance on procedure has never been issued. Neither the composition of the committee of the High Planning Council nor the agenda nor the minutes of meetings are published.

In the early 1990s about 400 town and village plans were hurriedly drawn up by an engineer in the CPD, deposited and approved as 'partial' plans under Law number 79 (even though that law makes no mention of 'partial' plans). They crudely mark on an aerial photo the (outer) boundary of allowable future development (hence they are referred to as boundary plans). Within the boundary is most but not all of the then existing village, with opportunity only for local infill (i.e. filling the small gaps between existing buildings) and no positive proposals for growth. The boundaries are similar but not identical to the smaller 'islands' of Area B subsequently defined under Oslo II.

Reasons for Denying Permits to Palestinians

Reasons for refusal of a permit for a house are given after a lawyer attends an appeal hearing. In the last 10 years the reasons used have been effectively limited to the following:

- (1) Agricultural Area S15/RJ5;
- (2) Plot too narrow / separation between building and edge of plot too small / density too high;
- (3) More than one building on a plot;
- (4) Insufficient evidence of ownership;
- (5) Land needed for road.

It is usual for three or four of these reasons to be given. Reason (1) is given in almost every case; this and (2) refer to the provisions of plans S15 and RJ5. So also does (4) - though neither the plans nor the law in fact provide grounds for denying a permit for ownership reasons. Reason (4) arises from non-recognition of Palestinian ownership documents. Reason (5) has been used only since Oslo II.

Palestinian lawyer, 1999

one of my cases where a permit for building a house in Area C has been granted. I have worked on this from 1994 until now, we've had more than 200 files and in not a single case have I been able to get a single permit."

Plans S15 and RJ5 (together covering a large part of Palestine and almost all the West Bank) were drawn up (and, in the latter case, approved) in the early 1940s, under the British Mandate; they were then filed and forgotten. There is no evidence of their use under either the Mandate or Jordanian rule (or in Israel after 1948). Partly legible elements of different versions of these plans are in circulation, but the plans have never

been displayed and, notwithstanding repeated requests to the Civil Administration, they have not been made available to Amnesty International.

Their existence came to public notice in 1980 (RJ5) and 1985 (S15), when they were used as a justification to refuse building permits. Since then they have been used relentlessly as a pretext for preventing building and demolishing Palestinian houses and other development - since, according to the law, a permit can be refused only if the development is contrary to a plan, and these plans show almost the whole area as designated for 'agriculture'.

The plans were for a population one sixth the size than at present and not expected to increase much. They have no relevance to present conditions. Their use by the Israeli authorities is a gross denial of justice and human rights.

The Jewish settlements on the other hand are all in land designated as 'agricultural areas' and they contradict the Mandate plans both in spirit and in detail. Plans for settlements and new roads, unlike plans for Palestinian houses, have simply been labelled as 'amendments' to S15 / RJ5. Likewise, though hundreds of Palestinian houses have been bulldozed, none of the extensive development without permit within the settlements (whether built before or after approval of the settlement plan) has been demolished because it conflicted with these Mandate plans.

Development in Area C

Area C comprises nearly three-quarters of the land area of the West Bank and includes many of the opportunities for urban and rural development. Population is expanding fast. However, Amnesty

Palestinian lawyer, 1999

a permit anyway so people don't bother to apply. I often ask people if they applied for a permit and they say: "No, I just built it". I ask around the neighbourhood and it's the same."

International delegates were told, not once but many times by the representatives of the Civil Administration in the Occupied Territories, that the policy of the military government has been, since 1995, "not to grant building permits for new buildings for Palestinians in Area C".

In fact 79 permits have been issued during this period. The details of these are not known but presumably they were either for buildings within the 'boundary plans' or - as has often happened in the past - for favoured applicants. They are distributed as follows:

Table 1
Permits in Area C 1996-1999

District	Number issued
Bethlehem	2
Hebron	3
Ramallah	50
Jericho	0
Jenin, Tubas	6
Nablus	1
Tulkarem, Qalqiliya, Salfit	17
Total	79

Source: PA Ministry of Civil Affairs

The policy amounts to almost a complete freeze on legal development. The number may be compared with the number of permits needed just to cater for the natural increase in the population now living in Area C: even based on the low estimate of the Area C population mentioned above, the minimum number needed would be 1,200 in a four-year period.

Palestinian lawyers report that in the regions where they work it is indeed the policy not to give permits and they advise their clients accordingly. Not surprisingly, the number of homes built without a permit and therefore liable to be issued with demolition orders and demolished has been substantial.

Palestinian lawyer, 1999

its meeting in Beit El and all the lawyers say the same thing; every application is refused. The refusal orders are ready and some take only one minute, some five minutes, even with a lawyer."

The consequences are predictable and deplorable, including increased overcrowding, the fear of those whose unpermitted houses are threatened with demolition and the devastation to families whose homes are demolished.

Loss of Homes

Demolition Orders

The West Bank is divided into 18 districts, each with its own 'inspection officer' with a white Toyota truck who is responsible for tracking development in his district. These

officers are known only by their first name, which appears on the demolition orders, and are feared by Palestinians as they often break into private property.

The orders are completed in Hebrew and do not specify either the location or nature of the violation. The first ('stop work') order (often not received) is delivered to site and gives a date when the case can be argued before the Inspections sub committee of the High Planning Council at one of their regular Monday meetings. Cases last between one and five minutes each - unless land ownership is the main issue.

Almost invariably this is followed by a second order which warns that the property will be demolished after seven days at the owner's expense unless the owner has by then demolished it himself. Any petition to the Israeli High Court must be presented within 30 days; no such petition has yet succeeded.

Spokesperson of the Civil Administration to Amnesty International delegates in 1999.

Nothing further will happen until the arrival of troops and bulldozers; this may occur after seven days, or after as many months or years. The only respite the family has from the fear of imminent destruction of their home is on Fridays and Saturdays: by experience they know that demolitions do not take place on the Jewish Sabbath.

The number of demolition orders in force at any one time is high (far higher, for example, than the number of houses demolished in any one year). The Israeli authorities thus have a large portfolio of cases from which particular houses can be chosen for demolition, in the light of internal (Israeli) or international political pressures, the local priorities for confiscation and settlement expansion, and the message which selection of a particular home will signal to Palestinians wanting to build elsewhere in Area C. There are many occasions where the political motivation in carrying out house demolitions appears to be compelling and house demolition for lack of permits appears to be used as a collective punishment. For example, 45 Palestinian houses were demolished the month following a double suicide bombing in West Jerusalem on 30 July 1997.

The number of demolition orders in force in March 1997 was 850. Despite many requests Amnesty International has been unable to obtain more recent figures from the authorities. Since that date many more orders have been issued than houses demolished, and about 1,300 houses may be under threat of demolition at the present time. These might have a population of perhaps 9,000, or almost a quarter of the entire Palestinian population of Area C.

Number of Demolitions

Early in the occupation whole villages were cleared of Palestinians, demolished and then redeveloped on the same or an adjacent site for Jewish settlement; their population was about 4,400. In later years demolition of homes has been on an individual basis, either on 'security' grounds, as punishment, or for 'planning' reasons (i.e. for building without a permit in contradiction to a plan). These are not entirely separate since 'planning' demolitions are in order to leave land for settlement, which has itself been justified on grounds of 'security'.

Estimates of numbers of 'planning' demolitions are shown in Table 2. Since 1987 substantial numbers have been demolished each year; the total since 1987 is about 2,400. The figures shown in the table are likely to be underestimates. The rate of demolition has not decreased since 1995 (Oslo II) even though the population under direct Israeli control dropped from around one million⁴ to only 40,000 at that time.

Table 2
Number of House demolitions in the West Bank

Year	by Mil Gov	by owner	Total
1967-74			<i>The impact of demolitions on quality of life can be illustrated by the case of the village of Nabi Samuel, on a</i>

⁴ This is the population of the West Bank outside the municipalities which had partial responsibility for planning before the Oslo II agreement.

hilltop just north of Jerusalem. Twenty-eight families (about 200 people) live in 10 tiny houses. Any attempt to build, including fences or animal shelters, is destroyed (usually without the formality of a demolition order); within the last two

years there have been at least 10 demolitions including several houses. There are now about 3 families in each house; most families (at least 7 persons) live in just one room.

4,425

1987			103
1988			393
1989			431
1990			102
1991			227
1992			148
1993			63
1994			120
1995	86	26	112
1996	71	69	140
1997	171	62	233

1998	219	58	277
1999*	30	20	50
<hr/>			
Total			
87 - 99	-	-	2399

Excluding East Jerusalem

Excluding "security" demolitions

**First three months only*

Impact of Demolitions

In the West Bank (excluding East Jerusalem) the number of people rendered homeless (i.e. those living or expecting to live in the demolished homes) since 1987 is about 14,500 (of which at least 6,000 are children). Even since 1995 (Oslo II) about 5,000 have been made homeless, including 2,000 children.

The cost of demolished homes, since 1987, is perhaps \$50 million. The implications of this for the individual families are immense: virtually all the houses are built by and for a particular family and (partly because of lack of other opportunities for investment) the house is a larger proportion of a family's wealth than in countries not living under occupation. Additional to the value of the house is the value (emotional and financial) of furnishings and possessions: when the troops arrive (which may be several years after the order) the family is often too outraged and terrified to rescue possessions in the period given by the soldiers (not more than one hour) to evacuate the house. An additional loss is the land itself: the land on which the house has been built may be subject to confiscation.

In addition to the economic impact, the emotional and psychological impact on family members is often dire, and the trauma of dispossession can lead to family bitterness and breakup. Other relations will often take in the stricken family, but this is usually far from satisfactory as they are likely to be overcrowded already. If all else fails, the tent which the International Committee of the Red Cross provides will give some protection.

The expulsion of Palestinian families and communities by the Israeli military has been a widespread policy, particularly in the more remote areas. Expulsions are targeted at some of the poorest and most vulnerable communities - including nomadic and semi-nomadic groups. Organisations

Muhammad Bouzia, from a village close to the large Israeli settlement of Ariel received a written order in Hebrew from an Israeli officer on 2 April 1997. He was charged with "illegal entry onto state land and planting hundreds of olive and almond trees there". He was ordered to "withdraw and to restore the land to its previous condition within 45 days or to bear the cost of the authorities doing so."

attempting to monitor expulsions report that the problem has increased markedly since about 1993. The expulsion order is sometimes on paper (and served personally or on a neighbour or left on the land) : the pretext is usually that the land is confiscated or a closed military area or a training area. Some families living in places east of Hebron have stated that they received papers ordering them to leave addressed not to a named person but to *polesh* ("intruder" in Hebrew). The army has used explosives to destroy more than 10 inhabited caves near Susya settlement since 1996. The destruction of 113 tents was recorded in 1998.

Case study : Salim al-Shawamreh: A house demolished because the land is too steep

The family of Salim Isma'il al-Shawamreh came from the Old City to Shu'fat refugee camp in 1967, after the Israeli occupation of the West Bank. Salim had five brothers and five sisters and the whole family lived in a room 6m x 3.5m. In 1980 Salim al-Shawamreh went to Saudi Arabia and worked as an engineer for eight years. There he saved enough money to buy a plot of land in 'Anata village, two kilometres away, where he planned to build a house for his family.

From 1990 he sought and failed to gain building permission; the Israeli Civil Administration said that the land was not in the area zoned for development in Anata's village plan. Eventually, in 1994, he gave up and built a home without a permit on the plot and lived there with his wife, four daughters and two sons. It was, he says "a good life". Then, on 9 July 1998 "I was sitting to take lunch and I went out and the whole area was surrounded by soldiers, there were more than 200. They said 'This is not your home, you have 15 minutes to take out your belongings'". It took eight hours to demolish the house during which time Salim telephoned Israeli peace groups. A number of Israelis, including members of the Knesset (the Israeli parliament), joined

the protest. The Israeli Defence Force used rubber-coated metal bullets, truncheons and tear gas to clear the area, injuring seven people, including two women.

The al-Shawamreh family decided immediately to rebuild their house. They rapidly built a frame house and held a party, dancing in celebration, on 2 August 1998. At 4am the next day they opened their eyes to the sight, once again, of a hillside swarming with Israeli soldiers. The soldiers pulled down their tent, destroyed their water tank, ripped out the electric cables and pulled out the fruit trees they had planted on the hillside.

The Civil Administration was questioned as to the necessity of this demolition by the Israeli press and gave contradictory replies - at one time saying that two signatures were missing from the ownership documents, at another that the land was zoned for agricultural use, at another that the hill slope was too steep to build a house and at another that the house was near a bypass road.

The next year, 1999, it was decided to challenge the demolition by building a third time. Volunteers from the Israeli Committee against House Demolitions and the Peace Now movement joined in every Friday and by November 1999 the house was nearly completed.

5 HOUSE DEMOLITIONS IN EAST JERUSALEM

The General Objective

The area annexed by Israel to the municipality of Jerusalem immediately after the 1967 military occupation and now known as 'East Jerusalem' had an Arab population and the great majority of the land was owned by Palestinian families living either within the annexed area or in the towns just outside the line of annexation.

The objective of the Israeli authorities since then has been to transform the ethnic character of the annexed area from Arab to Jewish. The policy has been set by Israeli governments and largely implemented by the Jerusalem Municipality. The policy has been consistently followed since 1967 and is being pursued at the present time. In spatial terms the policy has:

- provided land to implement Israeli policy of boosting the Israeli / Jewish population of Jerusalem, and
- surrounded the holy places and the Jerusalem Palestinians with Jewish development, and separated them from the Palestinian population of the rest of the West Bank.

As in the rest of the West Bank, the objective and its implications for the Palestinians have been implicit in government actions rather than formally expressed. The impacts on the Palestinians of East Jerusalem have been far reaching - including:

- prohibition of construction which would meet Palestinian needs: those which existed in 1967, those arising from increased standards and expectations, and those arising from substantially increased population;
- throttling of commercial activity in the main Palestinian urban centre, by severe limitation on development and denial of access to it by Palestinians from the rest of the West Bank;
- demolition and threat of demolition by the Israeli authorities of Palestinian homes on an even greater scale than in the rest of the West Bank.

The objectives have been pursued by means which are similar to those in the West Bank, namely: construction of settlements restricted to Jews, confiscation of land for exclusively Jewish use, and restriction and demolition of Palestinian development

through 'planning' law. These are considered in the sections below. There has been additional policy to meet the objective in East Jerusalem, namely the withdrawal of the right of East Jerusalemites to continue to live there.

Expulsion of Palestinians from East Jerusalem

The only Palestinians allowed to live in East Jerusalem are those holding blue identity cards - i.e. people counted in the census following the 1967 occupation, and their descendants. Thus, freedom of movement has been denied, and in particular the normal migrational flows from rural areas have been prevented. The blue cards grant 'permanent resident' status to the holder. In practice however at least 6,257 of these blue cards had been confiscated under various pretexts up to 1998, rendering the holders' continued presence in their native city illegal and aimed at expelling the holder and family from East Jerusalem.

Since 1996 Palestinians have had to show (often repeatedly, using a multitude of tax and other documents, without right of appeal) that their "centre of life" is in East Jerusalem. Consequently the number of expulsions (i.e. withdrawal of blue cards) has increased to an average of 700 a year since 1996. This is in addition to the large numbers who have had to leave the city to join their family because of refusal to grant a blue card to family, members especially to new spouses, from the other side of the annexation boundary. In November 1999, in a statement to the Israeli High Court of Justice, the Ministry of the Interior promised to refrain from taking procedures against anyone who maintained a "reasonable relationship with Jerusalem" during absence from Israel. The effect of the substitution of one vague term for another is yet to be seen.

The Background to demolition in East Jerusalem

The Growth of Israeli Settlements

The Jewish population in East Jerusalem has risen from zero after the 1967 war to 160,000 at the present time. About 3,000 of these live in the Old City and the nearby Palestinian areas. The rest are all in new settlements, with the great majority in the six settlements of French Hill, Ramot, East Talpiot, Neve Ya'acov, Pisgat Ze'ev and Reches Shu'fat. All except the first of these are being substantially expanded at the present time. In addition, construction has started on new settlements to link existing settlements - one to the east and four to the south.

In East Jerusalem the settlements are not fortified, nor are Palestinians prohibited entry. However, as in the rest of the West Bank, the population of the settlements is almost without exception Jewish. For example we understand that the settlement of Ramot (population 40,000) contains not one Palestinian family.

Land Confiscation

Confiscation in East Jerusalem got off to a rapid start: the city's 1968 master plan noted that "effective development of the city will require the expropriation of substantial areas", and by 1970 a quarter of East Jerusalem had been confiscated. At present about 35% of East Jerusalem has been confiscated, at least 90% of which had been privately owned by Palestinians and used mainly for cultivation or grazing.

Some of this land (as in the rest of the West Bank) was seized from 'absentees' who fled in 1967. However, the great majority was confiscated by using a 1943 (i.e. Mandatory) law incorporated into Israeli Law allowing expropriation for such 'public' need as the minister might decide. In practice most of the land has subsequently been used for *private* housing for Jews, all has been used for Jewish settlements, and not a single house has been built on this land for Palestinians. It may also be noted that when land in *West* Jerusalem is expropriated, a very different law is used: the 1965 Planning and Building Law. This specifies the purposes for which land may be taken (housing is not included) and provides opportunity for objection.

Although the means of confiscation differs from that in the rest of the West Bank, the consequences for the Palestinians are similar. The land is transferred to the Israel Lands Authority whose practice is identical to that of the Civil Administration in the rest of the West Bank (see pages 15-16), namely to define within the leases all East Jerusalem (or West Bank) Palestinians as 'alien persons' to whom land may not be leased, whereas land may be leased to Israeli citizens.

The Palestinian Housing Quota

Despite being a major city of international importance with an elected municipal council, the municipality seeks to conceal its planning policies, in so far as they affect East Jerusalem. Notwithstanding the legal requirement, there is no overall plan approved for the city and there never has been. Nor has a planning appraisal or policy statement for East Jerusalem ever been published. Nor has there ever been a published assessment of the housing needs of the annexed (Palestinian) population of the city. Nor have the criteria and priorities for conserving the visual setting of the Old City been published, although they are of crucial importance in deciding where development in East Jerusalem ought to be allowed.

The main policy (indeed, the only policy) on Palestinian development has been to restrict it - and thereby to minimise the Palestinian population. The means of doing this has been to operate a 'quota' for new Palestinian housing: this is the maximum number of new Palestinian houses to be permitted within East Jerusalem - a 'Palestinian house' in this context being any house to which the Jewish leasing requirement noted above does not apply. The amount of the quota has never been published. Nor was there any public

knowledge of the quota until 1993 when its existence was inadvertently revealed at a meeting of the local planning commission.

The quota system has apparently been in operation since 1973 when the Israeli government adopted the policy that "A demographic balance of Jews and Arabs must be maintained as it was at the end of 1972" .⁵ The view was taken that the faster rate of natural increase of the newly-annexed Palestinian population posed a threat to the public interest, and that the Palestinian proportion of the population of Jerusalem ought not to exceed the level it had been in 1972. This proportion (for East and West combined, though virtually all the Palestinians live on the East side) was 26.5%. The policy has been reaffirmed by successive Israeli governments.

Natural growth rates mean that in order to keep to the 26.5% target, it was going to be necessary over a 10 year period from 1972 to import more Jews into East Jerusalem than the number of Palestinians then living there. The number would have to be even higher to compensate for the long term net out migration of Jews from Jerusalem. If, as has been the case, such a rapid rate of colonisation of East Jerusalem could not be achieved then clearly the only means of keeping on target would be through restrictive means such as Palestinian expulsion or house demolitions.

Restriction of Palestinian Development

The previous paragraph relates to the needs only of the Palestinians within East Jerusalem. The annexed areas are also the natural location for the population expansion of the large adjacent Palestinian towns (and for expected rural to urban migration). So the quota policy has disastrous implications for the Palestinians. The means by which the Israelis have sought to limit Palestinian population have included confiscation of land and expulsion following revocation of residence permit (both of which are dealt with above). Other methods used are zoning restrictions; denial of a building permit; and demolition of Palestinian homes.

Zoning Restrictions. Whereas in the rest of the West Bank the Israeli authorities have cited ancient plans which give no opportunity for development, in East Jerusalem they have done the opposite. In 1974 the Israeli authorities cancelled the (Jordanian) development plan which had been approved in 1966 and which gave extensive opportunity for development. It was not until the late 1970s that work started on an outline plan for some Palestinian neighbourhoods. The first such plan was not approved until 1984 and at the present time four of the 18 neighbourhoods still have no approved

⁵ *Recommendations for a Coordinated and Consolidated Rate of Development. Interministerial Committee to examine the Rate of Development of Jerusalem. 1973.*

plan 32 years after occupation. In contrast, the time scale for preparing plans for the Jewish settlements has been a matter of months.

Separate 'outline' plans are issued for Jewish settlements and for Palestinian 'neighbourhoods'. This allows different standards and procedures to be adopted for the parts of the city to be inhabited by the two ethnic groups. The plans for Palestinian neighbourhoods have three main deficiencies: They are geographically restrictive, they have insufficient capacity, and the procedures are unsatisfactory.

Geographically, the plans establish a 'blue line' boundary around most existing development, within which land is zoned to allow 'infill' development (i.e. empty plots between existing buildings - similar in this respect to the 'boundary' plans in the rest of the West Bank). No significant allocation of new development land has ever been made. The need to confine the boundaries so as not to exceed the 'quota' is cited in Israeli records as justification for the tight development boundaries.

Land outside the blue line is zoned for *shetah nof patuah* (open landscape area). No development may take place there, which in practice often precludes even agriculture. Consequently, only 9% of East Jerusalem has been approved for Palestinian housing and the very great majority of this is already developed.

Most of the recent and current land confiscation is unplanned land or *shetah nof patuah*. Zoning as *shetah nof patuah* has been used frequently in the past to sterilise land until later confiscation for Jewish settlement (as at Reches Shu'fat, Beit Safafa and the major current settlement at Jabal Abu Ghneim ('Har Homa')). For example, land at Shu'fat was zoned for (Palestinian) housing in the 1966 plan; this was cancelled in 1974 and the land later zoned as *shetah nof patuah* and planted with cypress trees; in 1994 it was allocated to the Jewish National Fund for housing which has since been built.

The opportunities in the plans for Palestinian development are restricted also by the low permitted densities. The average plot ratio (permitted floor space divided by plot area) in Palestinian areas is only 60%, whereas the figure in Jewish areas is usually 150 - 200%. Building height in Palestinian areas is limited to two storeys (in one case three), whereas Jewish development of up to eight storeys is allowed even in visually sensitive areas.

Further problems relate to the procedures used. Even though Palestinians normally only develop on land in family ownership, no attempt has been made to take ownership patterns into account in formulating the plans. There has been no attempt to devolve local decision making to the local Palestinian neighbourhoods. Even when outline plans are approved it is often then necessary for a 'detailed' plan to be approved,

and any plot of more than 0.1 hectare must be subject to approval of a 'parcellation plan'⁶ - each of which alone can take two years.

Denial of Building Permits. Between 1968 and 1974 only 58 permits were reportedly issued, and the long process of drawing up outline plans had the legal effect of 'freezing' development in the Palestinian neighbourhoods during that time. In recent years about 150 permits per annum have been issued. The total number of permits issued since 1967 is around 2,950.

Land owned by an 'absentee' is not given a building permit. This applies even to land which is in joint ownership, with one of the owners an 'absentee'. This is particularly harsh in East Jerusalem where that term includes those with West Bank resident status. Since the boundaries of annexed East Jerusalem were drawn to include open land and to exclude the nearby towns whose people owned that land, a great deal of land supposedly available for Palestinian development is refused a permit because the owner has the wrong colour card.

⁶ The subdivision of land into different ownership plots.

Loss of Homes

Number of Demolitions

Houses may be demolished by either the Municipality or by the Ministry of the Interior. In either case the order may be either: 'administrative' or 'judicial' (in which case the court may order not only the demolition but that the owner must pay a fine) About 80% of orders are judicial.

The total number of house demolitions in East Jerusalem in recent years is shown in Table 3.

Table 3
House Demolitions in East Jerusalem since 1987

Year	Number
1987	2
1988	30
1989	7
1990	19
1991	18
1992	12
1993	48
1994	29
1995	25
1996	17

1997	16
1998	30
1999*	31
Total '87 -'99	284

*Excluding 'security' demolitions
* First 10 months.*

Information on numbers of houses subject to demolition orders is unreliable and imprecise. The number is, however, extremely large. Furthermore it appears that the municipal authorities themselves are uncertain how many homes are under threat. The most reliable estimate appear to be answers to questions submitted by Councillor Meir Margalit that as of October 1999 there were some 5,000 buildings subject to demolition order, containing around 12,000 houses.⁷

On this basis, Table 4 shows the numbers of Palestinian families whose house had been built before the annexation, those built with a permit since then, and those built without. It can be seen that well over one third of the Palestinian population of East Jerusalem live under threat of having their house demolished. The number of houses now threatened with demolition is four times as many as the number which have been given permits since 1967.

Table 4
Houses Demolished and Threatened with Demolition in East Jerusalem

			%
existing before the 1967 occupation		8,800	31
built since the 1967 occupation:			
... with permit		2,950	10
... without permit:			
... demolished	284		
... under demolition order		12,000	43
... not threatened		4,400	16
existing in 1999		28,000	100

East Jerusalem only

⁷ This answer was given orally to him by the Director of the Municipal Department for Licenses.

The numbers are approximate

As a consequence of actual and threatened demolition, development by Palestinians who have not been lucky enough to secure a permit tends to be surreptitious. The house goes up fast, often at night or during Jewish holidays, and building materials are concealed. Concerted development by a large number of owners may take place to spread the risk. In 1997 an owner in Jabal Mukabir tried unsuccessfully to protect his new extension from demolition by covering it with soil. All of which greatly adds to Palestinian costs and lowers housing quality.

Location of Demolitions

Demolition orders (and demolitions) are distributed widely throughout the Palestinian neighbourhoods. Threatened houses exist in almost every street and it is probable that the great majority of Palestinians live in or next to a house due for demolition.

There is no apparent rationale why one house is demolished while another similar is left standing: It seems that the objective of the Israeli authorities (in East Jerusalem as in the West Bank) is to prevent Palestinian development by threatening and demolishing particular houses, perhaps randomly selected, as a warning to others, rather than scheduling whole neighbourhoods for destruction, which would be politically damaging.

Nevertheless, two patterns are noticeable: houses rebuilt after demolition and houses near projected Jewish development are particularly at risk.

- Two owners whose houses in Al-Walajeh were demolished in August 1999 were served with demolition orders for their partly rebuilt houses within one week of the original demolition.
- Isawiyeh lies next to the 'Eastern Gate' project now under way, which together with 'Plan 420/4' will provide the continuous Jewish population link between the new Jewish town of Ma'ale Adumim and Jerusalem called for in the 'Metropolitan Jerusalem' plan. More houses have been demolished in Isawiyeh than in other neighbourhoods.

Demolition in East and West Jerusalem

The Jerusalem Municipality is responsible for controlling development in both Palestinian and Jewish areas so it is possible to compare their demolition policy towards

the houses of the two peoples . Indeed, the Israeli Ministry of Foreign Affairs has done this (see Table 5), and they conclude:

"One allegation asserts that Israel has discriminated against the Arab residents in Jerusalem in all aspects concerning building. The following facts show a different picture. The data show categorically the absence of bias, and the enforcement of the building ordinances in both Eastern and Western Jerusalem in an equal manner".

Table 5
Israeli Ministry of Foreign Affairs Table of Demolition Orders in East and West Jerusalem

Agency		East	West
Municipality	number issued	155	105
	number carried out	28	51

Source: Israeli Ministry of Foreign Affairs: www.israel-mfa.gov.il. Original source of data not specified

Period covered: 1992-1997; excludes orders issued by the Ministry of Interior

It is thought that: 'East' means Palestinian localities in East Jerusalem; 'West' means all other parts of East and West Jerusalem.

All parties agree that 'illegal' (unpermitted) development is widespread in both East and West Jerusalem. However, there are two important differences in the treatment of this illegal development that need to be born in mind. Firstly, the numerous examples of 'over building' in West Jerusalem are sanctioned retrospectively either by issuing a licence retrospectively or by 'spot zoning' (i.e. changing the plan to fit the development). Neither of these procedures are used for Palestinian development.

Secondly, when a demolition order is carried out on a Palestinian house this invariably means the total destruction of a home (or, in some cases, the unpermitted extension). When action is taken against a West Jerusalem development this means that a small part of the structure (e.g., the porch, or access arrangements, or the use to which it

is put) must be altered. Amnesty International knows of no case where a Jewish home has been demolished in Jerusalem.

The demolition by the Israeli government and the Jerusalem Municipality of Palestinian homes is not merely the result of unbiased administrative process as claimed by the Ministry of Foreign Affairs, but the consequence of a discriminatory policy targeted at reducing the amount of Palestinian development - and the level of Palestinian population - in East Jerusalem.

Fines for Illegal Development

In the case of 'administrative' orders, there is no fine but the owner is charged the costs of demolition. It is normal for 'judicial' demolition orders not only to confirm the order but to impose a substantial fine, which may be 100,000 shekels (\$23,600) or more. Fines are payable in instalments, and the judge decides the monthly amount in relation to the owner's income - typically 1,000 (\$236) shekels a month. This may be compared with average household income which is about 3,500 shekels (\$825) a month.

The fines average about 27,000 shekels (\$6,380), and (based on the first half of 1999) they are being issued at an annual rate of 12.8 million shekels (\$3.2 million) and collected at some 4.8 million shekels (\$1.1 million), in Palestinian areas of East Jerusalem.

Impact of Demolitions

As in the rest of the West Bank, the great majority of building is financed by individual families for their personal occupation. The impact of demolition is sustained not by a construction company but by the family, for whom demolition represents a calamity.

On average, the investment in the demolished houses was estimated in 1994 in a report to the human rights organization the Society of St Yves at 56,000 shekels (\$13,230; = \$13,687 today). This is equivalent to a total cost for all demolition in East Jerusalem since 1987 of around \$5m.

The effect of demolition is greatly increased overcrowding for the family concerned and for the relatives with whom they typically take refuge after demolition. On average demolition leaves people over twice as crowded as they were in the demolished house - six sq. metres per person after, compared with 14 square metres before the demolition.

The Surri Home: Demolishing a house to open up the landscape

The four children of Jamal Surri returned 'home' from school on 3 May 1999 to find a pile of concrete and twisted reinforcing bars where their home had stood that morning. Even when they have recovered from the trauma of this event, it will be difficult to explain to them how the reason for demolition given by the Jerusalem Municipality (shetah nof patuah, or 'open landscape area') applies to their particular house.

The single storey house was built in 1996 for 200,000 shekels (\$47,200) on a small plot (some 200 square meters) partly excavated into the hillside. The plot is immediately surrounded on all sides by other houses: two behind, some eight meters higher up the cliff (one of which dates from Ottoman times), one on each side, and several immediately across the narrow access lane. The plot could not conceivably be described as "open landscape"; nor could the house be said to have any impact on the open landscape beyond the village, from which the house was invisible.

6 INTERNATIONAL STANDARDS

In its demolition of houses and use of land confiscation and planning laws targeted against the Palestinian population, Israel has breached international humanitarian and human rights treaties the State has solemnly contracted to uphold.

International Human Rights Law

Israel has ratified UN international human rights standards, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), both ratified in 1991, and the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), ratified in 1979, which forbids any discrimination in the exercise of the various rights, including the right to housing.

The fundamental duty of a State to guarantee rights without discrimination is laid down in Article 2(1) of the ICCPR:

“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

This right to equality and to equal protection before the law is reiterated in Article 26 of the ICCPR:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Article 4(1) allows states to derogate from certain articles of the ICCPR in time of public emergency, but only if “such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin”. Thus the principle of non-discrimination is non-derogable.

The United Nations Human Rights Committee, which examined the initial report of Israel on its implementation of the ICCPR in July 1998 stated, in its concluding observations:

“The Committee deplores the demolition of Arab homes as a means of punishment. It also deplores the practice of demolitions, in part or in whole, of ‘illegally’ constructed Arab homes. The Committee notes with regret the difficulties imposed on Palestinian families seeking to obtain legitimate construction permits. The Committee considers the demolition of homes to conflict directly with the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one’s home (art.17), the freedom to choose one’s residence (art.12) and equality of all persons before the law and equal protection of the law (art. 26).” (CCPR/C/79/Add.93, para.24)

The ICESCR guarantees in Article 11 the rights of everyone to adequate housing and, in its comment in 1998 on Israel’s report on its implementation of the ICESCR, the UN Committee on Economic, Social and Cultural Rights deplored “the continuing practice by the Government of Israel of home demolitions...” (E/C.12/1/Add.27, para.22)

The UN Committee on the Elimination of Racial Discrimination, which in March 1998 considered Israel’s report on its implementation of the ICERD, ratified by Israel in 1979, called “for a halt to the demolition of Arab properties in East Jerusalem and for respect for property rights irrespective of the ethnic origin of the owner”. (CERD/C/304/Add.45, para.11)

International Humanitarian Law

The treaty which applies to civilians living in territory occupied by another power “of which they are not nationals” is the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, to which Israel is a High Contracting Party, having ratified the Convention in 1951.⁸

In their use of house demolitions, the Israeli authorities have breached Article 53 of the Fourth Geneva Convention, which states:

“Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations”.

It is clear that the house demolitions carried out by Israel in the areas of the West Bank and East Jerusalem it controls are not carried out from any “absolute military necessity”. Article 147 defines a number of “grave breaches” of the Geneva Convention and includes among them: “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly”.

7 CONCLUSIONS AND RECOMMENDATIONS

The policy of house demolitions, based on a manipulation of planning mechanisms and closely linked to the confiscation of land and the growth of Israeli settlements, is a grave human rights violation against the Palestinian residents of the West Bank, including East Jerusalem. This unacceptable policy has caused homelessness and accompanying trauma to thousands of Palestinians, including children; it has brought in its train wounding, and even killing.

Amnesty International calls on the Government of Israel to:

⁸ Article 4. Israel has stated that it does not regard the Geneva Conventions as applying *de jure* to the West Bank and Gaza Strip, though it has repeatedly affirmed that Israel would respect in practice its “humanitarian provisions”, without clearly specifying what provisions it regards as “humanitarian”.

- 1) End the discriminatory policy of denying building permits and demolishing the houses of Palestinians.
- 2) Ensure that all outstanding demolition orders are cancelled and responsibility for planning be restored to the Palestinian communities in each area.
- 3) Repeal discriminatory laws without delay.

CASE STUDIES

Al-Aqaba: an 'unrecognised village'

The village of Al-Aqaba near Tayasir on the edge of the Jordan Valley depression is in 'Area C' and has no 'boundary plan'. As such, like dozens of other small communities often in remote locations, it is considered an 'unrecognised village': "Aqaba is not a village ..." replied the military spokesman when asked to explain the behaviour of its troops there recently.

Established in the 1930s, the main activity of the 200 people is cultivation of vegetables, almonds and olives and sheep rearing. Many have left in recent years because of unrelenting prohibition of any new structures, and army brutality.

All the land between the village and the River Jordan has been confiscated or is in process of confiscation. No building permit has ever been given; three requests in 1998 were turned down for the standard reasons and because the village is in a military area. The water spring was closed, work by the villagers on surfacing the rough access track and providing electricity and telephone connections to the nearby town was destroyed. In October 1998 a shed to house the newly acquired 10 kw generator was served with a demolition order and an underground water cistern for crop irrigation costing 100,000 shekels (\$23,600) was bulldozed.

The military training area was established in 1979. The village is frequently closed. Crops are destroyed by vehicles. Training for urban warfare takes place in the village, including breaking into houses, often at night. This and unexploded shells have

caused eight deaths and dozens of severe injuries including the partial paralysis of the *mukhtar*.

Ahmad Hamdan: Imprisoned for building an extra floor

Before 1967 Ahmad Sa'ad Hamdan built a single storey home for his relations (five families) - with a permit from the Jordanian Archaeological Service since this was in the historic area of Silwan near the Old City of Jerusalem. In 1992 he added a second floor for two sons and their families (16 persons in all) having been told that a permit would not be given because the densely-developed locality was in "open landscape area". In 1996 he was fined 100,000 shekels (\$23,600) because he had built without a permit in an "archaeological area"; this was increased to 245,000 shekels (\$58,000) because of delays in payment and then commuted to 1,000 days in jail. Ahmad Hamdan is 83 years old and has had a heart problem since 1992.

After a week in jail the family paid 16,000 shekels (\$3,800). The judge released him. He then apparently went into hiding for a month, during which the police raided his house seven times looking for him. On his return on 7 September 1999 he was taken to court, ordered to pay the fine in monthly instalments of 1000 shekels (\$236) for 100 months, and told that the house would be demolished if he had not obtained a building permit for the extra floor by 14 February 2000.

There is one way the family could solve their crippling financial problems. They have had a substantial offer to buy their house from a Jewish group who recently seized the home of a Palestinian family two doors away.

Home of three sisters and their families demolished

A large house to accommodate three sisters, Fayza, Sara and Zahra Khader, and their husbands and children, was built in 1991 in Beit Hanina, a Palestinian locality within East Jerusalem with a rapidly expanding population where few of the houses have a building permit.

In 1995 the Jerusalem Municipal Court fined them 7,000 shekels (\$1,650) and ordered them not to extend the building and to get a permit for the house within two years. They were twice refused a permit on the pretext that this was an "open landscape area".

At 7.30am on 25 October 1999, when only the women and younger children were in the house, more than 100 soldiers closed the area. They ordered everyone off the streets, evicted the three families, threw some of the furniture outside, and reduced to rubble the building which had been home to 10 adults and 13 children and most of their belongings with a bulldozer. Two weeks after the demolition the families were still living in tents next to the ruins of the house.

Shifting the Jahhalin to allow a settlement

About 200 families of the Jahhalin bedouin traditionally grazed the area between Jerusalem and Jericho. After 1967 they were repeatedly moved by the military, especially from the Jericho area. But their serious problems began in the early 1980s when 50 families were moved to allow construction to start on the Israeli settlement of Ma'ale Adumim.

In 1993 some of their shacks were damaged by rock fall from the settlement construction, and the contractors built a metal fence around their encampment which was by now within the building site. Their plight became more widely known, and their case was taken to court. In 1997 the Israeli High Court authorised expulsion of six families of the Jahhalin, 29 people, because it accepted the government's assertion that they were on 'state land' (even though the papers in support of this assertion could not be produced by the Ministry of Justice - the lawyer representing the Ministry of Justice reportedly said the file had been destroyed).

A few days later, on 27 January 1997, the building site was declared a closed military area for the day. At 9.30am the families of the Jahhalin were surrounded by a wall of soldiers, their homes and belongings were destroyed and the debris removed, they were evicted with great violence and moved out of Area C and into Area B to a small rocky site previously confiscated from the village of al-'Ayzariyeh, a short distance from the main Jerusalem garbage dump. The shipping containers in which they (and others forcibly transported from elsewhere since then) now live were donated by the Government of Israel.

Expulsion Orders for Villages

The press reported on 19 September 1999 that land in a small number of villages had been closed by a military order. Subsequent investigations revealed that in fact 16 orders had been made, affecting the land of at least 69 villages, and that they were effective from four months earlier, 15 May 1999. The 69 villages include an almost uninterrupted north - south chain of land along the western edge of the Jordan Valley, apparently stretching almost without interruption to merge with previously declared military areas as far as the River Jordan and the Red Sea

As usual with these orders, it would be a criminal offence for 'anyone to enter or remain in the area', defined on a scarcely legible black-and-white photocopied map (reportedly provided for only three of the 16 military orders) by a 'red' line, which required cartographic analysis to reveal the affected areas. In the southern part of the West Bank, the land of at least 18 villages is said to be affected, covering 103 sq.km.

Unusually, the military orders were not time-limited, and the existence of residents was acknowledged by exempting them from the orders. However, in the days following the newspaper publication, soldiers reportedly announced in several villages that villagers had to move from their homes 'for their own safety'. Then, on 5 October 1999 written expulsion orders requiring named householders to leave their homes and the entire military area were issued in several villages. The number of Palestinians whose homes and futures are put directly at risk by the orders is not known but is likely to be many hundreds or even thousands.

In the past, military closure has normally been the precursor to the formation of Israeli settlements. Military Orders do not apply to Israeli citizens.

Isawiyeh : Death of a Protestor

More than 100 border police escorted Ministry of the Interior officials who arrived at 8am on 26 January 1998 to demolish houses in the community of Isawiyeh in East Jerusalem. They started with the four-room family house of Ahmed Mahmoud Abu Awais and Issa Abu Awais, housing 14 members of the family. The family, who had built the house on land they owned, was given no time to get their furniture out. Members of the family and neighbours gathered in protest and started throwing stones. The police responded by using batons and shooting rubber-coated metal bullets at close range. One bullet hit, Zaki 'Ubayd, in the neck and he died the following day; other neighbours were hurt. Eyewitnesses said that the bullets, known to be potentially lethal, were shot at a distance of 10-15 metres, far closer than the 40 metre legally permitted range. After the death of Zaki 'Ubayd, the bulldozers went on demolishing other houses.

The Department for Investigation of Police Misconduct in the Israeli Ministry of Justice opened an investigation into the killing which recommended, in August, that two Border Police officers be charged with disobeying open fire regulations. By November 1999 the District Attorney's office had not brought charges against them.

Plan 420/4: Further expansion of Jerusalem in the West Bank

The 'Metropolitan Jerusalem Plan' was prepared in secret for the Israeli government (Interior and Housing Ministries) in 1994 with the objective of "connecting Ma'ale Adumim to Jerusalem, generating a continuous link with the Jewish population of Jerusalem".

Plan 420/4 itself proposes extension of the settlement of Ma'ale Adumim covering 12 square km towards Jerusalem. The boundaries of the plan (other than the boundary with Ma'ale Adumim) have no practical justification in planning terms; they merely represent the extent of nearby land which had been confiscated at the time the plan was drawn up. The plan has highly jagged edges where it abuts unconfiscated land; within it are 16 unconfiscated 'islands' completely surrounded by the plan but not in the plan.

Palestinians are being cleared from the land to make way for the new inhabitants. People from Bedouin groups in the plan area were expelled and a small mosque and a riding school have been demolished and an irrigation tank is under demolition order. The plan takes the land of and abuts three Palestinian towns, Abu Dis, 'Anata and al-'Ayzariyeh, which have been confined within the 'boundaries' of plans imposed by the military government at a gross density of 92 persons per hectare. Plan 420/4 will render impossible the expansion of these towns to cater for the increased population. The gross density in the Ma'ale Adumim area even before plan 420/4 was five persons per hectare.