

CHAPTER ONE

Legal Status of the Population of East Jerusalem since 1967 and the Implications of Israeli Annexation on their Civil and Social Rights^[1]

^[1] This paper is based mainly on Chapter Four of my book: *The Legal Status of Jerusalem City and Its Arab Population*, Institute for Palestine Studies, Beirut, 1997, (Arabic), and “Stage Five” of my study: *Israeli Laws and Judicial System as Tools for Accomplishing Political Objectives*, published by the Civic Coalition for Defending the Palestinians’ Rights in Jerusalem, July 2007, as well as on a speech delivered in a press conference held by the Civic Coalition at the Ambassador Hotel in Jerusalem on 20 March 2008. Other published relevant information not contained in the above three sources were also added.

Legal status of the Population of East Jerusalem since 1967 and the Implications of Israeli Annexation on their Civil and Social Rights^[2]

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1. Introduction

Israel occupied East Jerusalem by means of force in June 1967. Hence, the relation between Israel as the occupying Power and the residents of occupied Jerusalem is supposed to be governed by the rules and provisions of the international law relevant to military occupation, namely International Humanitarian Law (IHL) and its major component in this regard, the Fourth Geneva Convention of 1949, as well as the Hague Regulations attached to the Hague Convention of 1907. Under the relevant IHL, there is no difference between the status of East Jerusalem and that of the West Bank and Gaza Strip: all have become occupied territories following the war of June 1967. Having ratified the Fourth Geneva Convention, as the Occupying Power, Israel has the duty to respect and ensure the rights of Jerusalem's population as "protected civilians". International law allows for derogation from certain obligations only as far as is absolutely necessary to ensure the occupier's ability to carry out its obligations towards the occupied Palestinian population on one side, and to preserve the safety of its troops and satisfy its security needs on the other. Moreover, Israel as the Occupying Power is obligated to respect the laws in force in the occupied territory as long as there is no "absolute deterrence" inhibiting this^[3].

International humanitarian law unequivocally prohibits Israel's annexation of East Jerusalem and the application of Israeli laws, administration and jurisdiction to the occupied city^[4]. However, Israel has disregarded its obligations under IHL, since 1967 and has dealt with Jerusalem differently from the West Bank and Gaza Strip. From the outset of the occupation, Israel has attempted to annex East Jerusalem to create a "complete and united" Capital of Israel, thus imposing Israeli law in the occupied city and making it applicable to residents of occupied Jerusalem. This paper addresses the repercussions of this decision on the legal status of the residents of Jerusalem and on their civil, political and social rights, and explains the difference between "citizenship" and "permanent residency" according to the Israeli law currently in force in Jerusalem. Further, the paper discusses

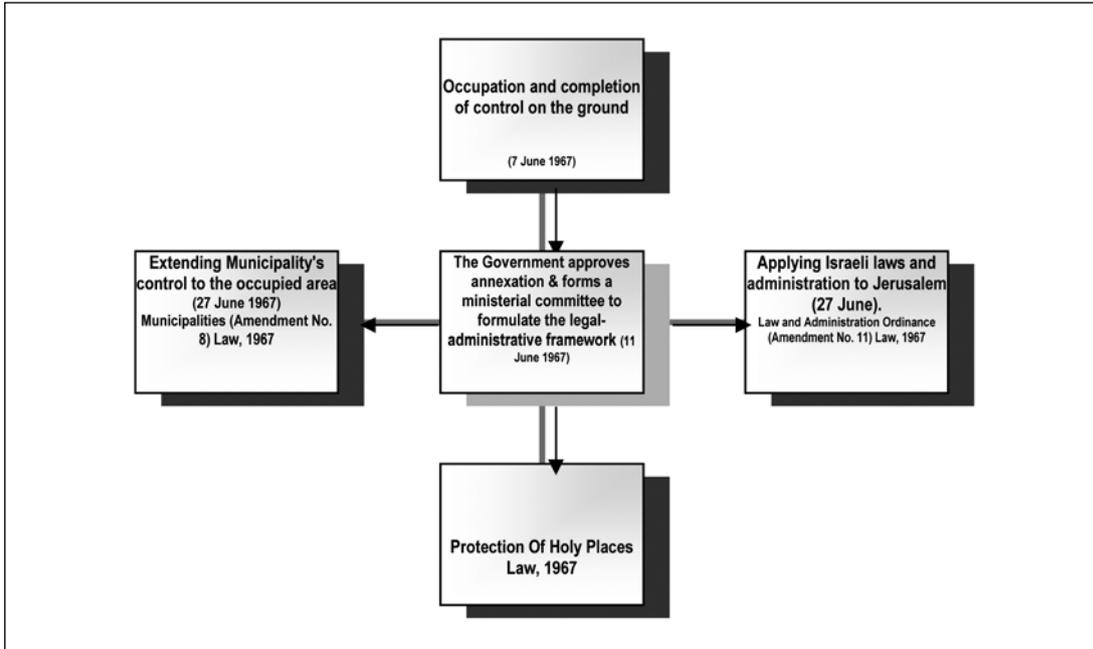
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^[3] Article 43 of the Hague Regulations attached to the Hague Convention of 1907.

^[4] Usama Halabi, *The Legal Status of Jerusalem and Its Arab Population*, Institute for Palestine Studies, Beirut, 1997, pp. 47-60 and references cited in. See also: John Quigley, "Old Jerusalem Whose to Govern", *Denver J.Int'l L& Policy*, Vol. 20, No1, Fall 1990, p. 145, 160.

different continuous attempts by Israel to isolate the City of the West Bank and to weaken its Palestinian population on the one hand, and to strengthen the Jewish presence, on the other.

Diagram 1 : The creation of the Israeli legal framework for annexation – June 1967



2. Permanent Residency vs. Citizenship:

Despite the defacto annexation of East Jerusalem to Israel, the status of the population of East Jerusalem was not changed to allow them to become citizens of the State to which their city was annexed. The Israeli government allowed the population to keep holding their Jordanian passports and decided, following a census, to grant them Israeli ID cards to indicate their status as ‘permanent residents’ in Israel. In order to explain the legal and practical differences between citizenship and residency in Israel and their factual outcomes and repercussions on the lives and rights of Palestinian Jerusalemites, we will elaborate on the relevant Israeli laws and regulations, as well as decisions made by the Israeli High Court.

a. The 1952 Citizenship Law^[5]

This law defines the conditions in order to obtain and forfeit Israeli citizenship. One can obtain Israeli citizenship by any of the following means: First, based on the “right to return” (article 2); second, based on residency in Israel (articles 3 and 3a); third, based on birth in Israel (article 4); fourth, birth and residency in Israel (article 4a); fifth, naturalization (articles 5-8); and sixth, based on the grant of citizenship by the interior minister in specific cases (article 9).

^[5] Published in the Compilation of Israel’s Laws, no.95, 1952, p. 146.

The “right to return” is limited to Jews or members of their families (spouses, children, or children-in-law) only. When the law was enacted on 1 April 1952 a combination of the following conditions was required in order for residency in Israel to lead to citizenship:

1. The concerned person have resided in Palestine prior to the establishment of the State of Israel and holding a Palestinian passport or a certificate of Palestinian nationality.
2. S/he should be registered as of 1 May 1952 as a resident in the Israeli Population’s Registry.
3. S/he was living in Israel as of the date, when the law entered into force, i.e., on 14 July 1952.
4. S/he has been living in Israel, or in an area that has become part thereof after it was established, or has entered Israel legally in the period between the establishment of the State of Israel (15 May 1948) and the date when the law entered into force (14 July 1952).

Since the above mentioned conditions, particularly the fourth one, have prevented a significant portion of the Palestinian population in Israel from obtaining Israeli citizenship, the Law was amended in 1980 and Article 3(a) was added, stipulating that five conditions should be fulfilled in order for the concerned person to obtain Israeli citizenship based on hi/her residency in Israel:

1. S/he should not have obtained Israeli citizenship according to another article in the law.
2. S/he has been a national of Palestine – the Land of Israel prior to the establishment of the State of Israel.
3. S/he was living in Israel and registered in the Population’s Registry on 14 July 1952 (date, when the Citizenship Law entered into force).
4. S/he was living in Israel and registered in the Population Registry on the date when the law was amended.
5. S/he is not a national of any of states identified in Article 2(a) of the Prevention of Infiltration Law (offences and jurisdiction) of 1954, which are: Lebanon, Egypt, Jordan, Iraq and Yemen, and of “any part of the Land of Israel outside the boundaries of the State of Israel”, i.e., the West Bank and Gaza Strip^[6].

These five conditions need to be present together in any Palestinian born prior to the establishment of the State of Israel in order to be eligible for Israeli citizenship. For those Palestinians born after its establishment; they should be an offspring of a person that meets the first three conditions^[7]. These conditions, however, prevent Palestinian residents of Jerusalem from obtaining Israeli citizenship on the basis of their ‘residency status’, since their ‘residency’ in Israel started on June 1967 following the occupation of Jerusalem and Israel’s decision to apply its laws, jurisdiction and administration to the City and to grant its residents, covered by the census, Israeli ID cards^[8].

^[6] Article 3A, Paragraph (a)(1)-(5) of the Citizenship Law.

^[7] Art. 3A(b) of the Citizenship Law.

^[8] See : Diagram 1. As shall be seen below, the Entry to Israel Law addresses the issue of entry to, and residency within Israel by non-citizens, which includes the issue of ‘permanent residency’

Similar to 'residency', birth in Israel does not, per se, lead to obtaining Israeli citizenship, as an additional condition is required; at least one parent has to be an Israeli citizen. Birth and residency in Israel can be an adequate basis for obtaining Israeli citizenship for those born following the establishment of the State of Israel and who have never possessed another nationality and if such person applies to the Interior Ministry after reaching the age of 18 and before reaching the age of 21, provided that at the time of the application s/he has been living in Israel for five consecutive years^[9]. However, even if these conditions are met by the concerned individual, the interior minister has the power to reject the application if this person has been convicted in a security case or has been sentenced to five years or more of imprisonment^[10].

Apparently, 'naturalization' is theoretically the main and often the only, although not unconditional, possibility for Palestinian residents of East Jerusalem to obtain Israeli citizenship. Article 5 of the Citizenship Law which deals with obtaining citizenship through naturalization, requires the following six cumulative conditions in the concerned individual, unless exempted from some by the interior minister:

1. The applicant should be present in Israel.
2. The applicant should have been living in Israel for three years within the five years preceding the application.
3. The applicant has the right to permanent residency in Israel.
4. The applicant has settled in Israel or intends to do so.
5. S/he is moderately acquainted with Hebrew language.
6. The applicant should renounce his/her previous nationality or prove that s/he will not remain a foreign national upon becoming an Israeli citizen.

Nevertheless, meeting the above six conditions does not mean an individual will automatically obtain Israeli citizenship as the Interior Minister still has the discretion to grant it or to reject the application, and if granted, the applicant must state the following: "I affirm that I will be a loyal citizen of the State of Israel."

Based on the above, if a resident of East Jerusalem wishes to obtain Israeli citizenship by means of naturalization, s/he should have a permanent residency in Jerusalem, moderately know Hebrew and has to, unless exempted, renounce their Jordanian citizenship. Furthermore, it should also be noted, that in practice when some Jerusalem residents applied for Israeli citizenship, they were obliged to give up their Jordanian passports. There is no reliable, let alone official, figure for the number of Palestinian Jerusalemites who obtained Israeli nationality and consequently an Israeli passport^[11]. By the end of 2005, the Central Bureau of Statistics estimated that 93% of the Arab residents of Jerusalem have the status of "permanent residents" (including only 3% who obtained this status through "family unification"), 5% of the Arab residents have the status of

^[9] Art. 4A(a) of the Citizenship Law.

^[10] Art. 4A(b) of the Citizenship Law

^[11] Becoming an Israeli citizen and obtaining an Israeli passport, is conditioned upon declaring loyalty to the state of Israel, and this is conceived by the mass majority of Palestinian as betraying the Palestinian cause and deserting to the enemy side, and disclosing such a fact is very embarrassing for those who apply. Thus, neither the applicants nor Israel are willing to disclose the exact figure.

“citizen” (including 12%, who obtained Israeli citizenship through naturalization) and 2% with an unidentified status.^[12]

Once a person becomes an Israeli citizen, s/he will not forfeit the Israeli citizenship unless s/he renounces it in writing, with the approval of the Interior Minister, or it is cancelled as per few cases that are identified by the Citizenship Law as amended on 28 July 2008^[13]. Such cases include; first, if the citizenship is obtained on the basis of falsified information, the Minister of Interior is authorized within three years to cancel it.^[14] Second, an administrative court may cancel the citizenship of an Israeli citizen if s/he betrays the State of Israel^[15] e.g. commits an “act of terror” as defined in the Prevention of Funding of Terror, 2005 or is active in a terrorist group as defined in the same Law^[16], or if s/he commits an act that implies treason against the State of Israel^[17], or if s/he obtains citizenship or permanent residency of any state or territory of those listed in the supplement to the Law which include: Iran, Afghanistan, Lebanon, Libya, Sudan, Syria, Iraq, Pakistan, Yemen and Gaza Strip.^[18]

b. The 1952 Entry to Israel Law^[19]:

While the Citizenship Law covers the rules and provisions related to citizenship in Israel, the Entry to Israel Law addresses the issue of entry to, and residency within Israel by non-citizens, which includes the issue of ‘permanent residency’. The entry of non-citizens to Israel and their stay in the country is possible by obtaining an “oleh (a Jewish immigrant)” visa or an entry visa under this Law. The Interior Minister has the power to issue entry visas and “stay permits” for periods ranging between five days and three years as follows:

1. A visa and a stay-transit permit up to five days
2. A visa and a stay-visit permit up to three months
3. A visa and a temporary residency permit up to three years
4. A visa and a permanent residency permit^[20]

The law bestows upon the minister, the power to extend the visit permit from time to time, provided that the total extension periods do not exceed two years^[21]. The minister can also extend the temporary residency permit, provided that each extension does not exceed two years^[22]. In regards to the permanent residency permit, there are no provisions in the Entry to Israel Law as to the conditions leading to obtaining such a permit, or when it would cease to be in effect. The issue of granting a permit for permanent residency in Israel is actually left to the discretion of the

^[12] A summary of statistics related to Jerusalem residents was published under the title «Jerusalem Fortieth Anniversary: Overwhelmed by Dreams» on the site: <http://www.nfc.co.il/>.

^[13] The Citizenship Law (Amendment No.9), 2008, published in the Compilation of Laws of Israel, No.2176 (8/8/2008), p. 810.

^[14] Article 11 (a) of the Citizenship Law.

^[15] Article 11 (b) of the Citizenship Law

^[16] Article 11 (b) (2) (a) of the Citizenship Law

^[17] Article 11 (b) (2) (b) of the Citizenship Law

^[18] Article 11 (b) (2) (c) of the Citizenship Law

^[19] Published in the Israeli Compilation of Laws, 1952, No. 111, p. 354.

^[20] Article 2 of the Entry to Israel Law .

^[21] Article 3(2) of the Entry to Israel Law .

^[22] Article 3(3) of the Entry to Israel Law .

Interior Minister, who does not grant such permits without obtaining a recommendation by the security apparatuses, usually the “Shabak”. Often, such applications are made by a spouse holding an Israel ID card for “family unification” with the other spouse, who does not hold such ID. Until few years back, procedural guidelines adopted by the Interior Ministry in this regard have not been declared.^[23] All that was declared to the public in this regard and stated by the Ministry is that the approval of ‘family unification’ applications would require the following conditions: First, the couple is bound by an official marriage contract. Second, the couple lives in Jerusalem and their address is in Jerusalem. Third, there is no security or criminal deterrence in the person to be granted the residency status^[24]. Yet, as we shall see below, the Entry to Israel Law, together with the Citizenship Law, have been amended several times since 2003, and more conditions and obstacles in the way of Palestinians seeking family unification, have been added including that an application is not processed if the “non Israeli” spouse is under the age of 25 if female and under 35 if male^[25].

Applicants of family unification often complain about the long period starting from the date of application up until a decision is issued to reject or accept the application, which may last for several months. In the past, based on the experience of the present writer, this time period usually exceeded a year and has even reached two years. In addition to ‘family unification’, permanent residency in Jerusalem can also be obtained on the basis of birth in Israel/Jerusalem provided that the child is born to a parent residing in Jerusalem^[26]. In the latter case, child registration is usually not problematic if both parents, or at least the father has residency status in Jerusalem and is holding an Israeli ID card. However, if the mother is the holder of the Israeli ID card and wishes to register her child in her ID card and the Israeli residents’ registry, she has to prove that the child is living with her and that the center of her and her child’s life is in Jerusalem, and not in the West Bank or Gaza Strip. This discrimination between men and women is attributed to the assumption adopted by the secondary legislator (i.e. the Interior Ministry) that fathers in Arab society are the heads of their households and that wives and children are dependent on the husband-father and live in the place he chooses to live in^[27].

For not a clear reason, the Entry to Israel Law is silent as to the question when does permanent residency expire and the conditions defining when a permanent residency permit expires are set in a secondary legislation : the 1974 Entry to Israel Regulations.. Article 11(c) of these regulations provides that a permanent residency permit expires if a condition made by the Minister for maintaining the permit’s effect is not met, or if a change is made to the visa associated with the permit by an unauthorized person, or “if the permit holder leaves Israel and settles in another country.” Article 11A of Regulations defines “settling in another country,” as when a permanent resident either:

^[23] Presently, the procedural guidelines related to applications for “family unification” and child registration (detailing the different steps and numerous documents to be submitted to the interior minister) can be found on the Ministry’s website at: <http://www.moin.gov.il>.

^[24] For years, these conditions were not officially published but known to the writer through his experience in representing clients applying for family unification. Nowadays, the conditions to be fulfilled and document to present in this regard are published on the Ministry website.

^[25] See: section 4 of this paper.

^[26] Article 12 of the Entry into Israel Regulation, 1974.

^[27] This “assumption” was clearly stated in a letter of 1986 signed by Mr. Ya’ari, the then legal advisor to the Ministry of Interior, sent to the Association of Civil Rights in Israel (ACRI).

1. stays outside Israel's borders for at least 7 years,
2. receives a permanent residency permit in another state, or
3. becomes a national of another state by means of naturalization.

The Israeli government considers the residents of East Jerusalem as 'permanent residents' of the State of Israel and thus are subjected to the aforementioned provisions. The Israeli High Court has also endorsed this position in the High Court case 282/88 *Mubarak Awad vs. Prime Minister and others*^[28], the court decided the following:

"In summary: the States jurisdiction and administration apply to East Jerusalem. Based on this applicability, the entry to Israel law also applies to East Jerusalem. Therefore, the stay of East Jerusalem residents, who have not been naturalized, is possible by a residency permit. Every person covered by the census conducted in 1967 is regarded as holding a permanent residency permit."^[29]

The Court turned down the claim that the Entry to Israel Law does not apply to East Jerusalem residents because it addresses the issue of *consensual* entry to Israel, while the Jerusalemites occupied by Israel did not "enter" to Israel by their will, but rather Israel entered into their place and lives. As demonstrated above, the Court resorted to an assumption that Jerusalem residents covered by the census conducted in June 1967 are regarded as if they were granted permits of permanent residency in Israel. The Court also rejected the claim raised by the lawyers of the appellant (Mr. Awad) that, by the application of the Israeli jurisdiction, authority and administration to East Jerusalem, its residents have gained an Israeli "quasi-citizenship" or "constitutional residency" in the city, and therefore, the Interior Ministry does not have the power to cancel such status and to deport the appellant from Israel on the pretext that he has settled in another state^[30]. The Court also rejected the claim that Article 11A of the Entry to Israel Regulations is unlawful and beyond the powers of the Interior Ministry because it defines conditions and circumstances when a permanent residency in Israel expires, despite the fact that the law under which they were issued does not contain any instructions in this regard^[31]. The Court decided that a permanent resident may forfeit his/her residency in any of the cases stated in aforementioned Article 11A and added that the permanent residency permit may expire, and cease to be in effect automatically and without the need for issuing an official decision of cancellation if the specific conditions of the case reveal that permanent residency in Israel, on which the effect of the permit depends, is not available any more^[32]. In each of these cases, the Interior Minister may issue an order to deport the concerned person under Article 13 of the Entry into Israel Law on the pretext of illegal stay in the country. In its decision, the Court explained that no importance is given to the feelings of the concerned person towards Jerusalem or to the fact that s/he keeps longing to return to Jerusalem while settling abroad. According to the Court, what matters is the fact that s/he has moved to settle outside the borders of Israel^[33]. Based on the above, the court reached a decision the appellant Awad has forfeited his right to residency in Israel as he left Jerusalem to the United States, where he settled, got married and

[28] Israeli High Court Decisions, Vol. 42 (2), p. 424.

[29] Ibid, p. 431.

[30] Ibid, p. 428.

[31] Ibid, p. 432.

[32] Ibid, p.433.

[33] Ibid.

obtained the U.S. nationality and a U.S. passport. Therefore, the court endorsed the Interior Minister's decision ordering to deport him from Israel^[34].

In the High Court case No. 7023/94 *Fathiya Shikaki vs. Interior Minister*^[35], the Court reaffirmed the position taken in *Mubarak Awad* regarding the status of Jerusalem residents as 'permanent residents' in Israel and the loss of residency rights by the virtue of settling outside Jerusalem (i.e. outside Israel). In his review of the details of the case, Justice Goldberg said, "The appellant was covered by the census of 1967 as a resident of East Jerusalem and got an Israeli ID card, but she did not naturalize [request nationality]. Therefore, her situation is that of holding a permanent residency permit under the 1952 Entry to Israel Law^[36]." When the court found that the appellant was married in 1985 to Fathi Shikaki, a resident of Gaza Strip and then leader of the Islamic Jihad, and that she moved to live with her husband upon his deportation in 1988, giving birth to their three children in Syria, and that she came back to Jerusalem only after six years as a visitor, the court decided that her permanent residency permit has expired automatically and that the appellant has forfeited her right to permanent residency in Israel^[37]. Therefore, Ms. Shikaki was forced to leave Jerusalem. In its decision, the court explained that the three categories stated in Article 11A of the Entry to Israel law in regard to "settling in another country" is not an exhaustive list and the fact that the concerned person is settled in another country, and thus has forfeited his/her permanent residency in Israel, can be judged from facts and circumstances other than those stated in Article 11A^[38].

The above two decisions by the Israeli High Court have had serious implications for the residents of East Jerusalem, mainly enabling the Israeli Interior Ministry to revoke their residency in cases when their stay outside the borders of Israel has not exceeded seven years. Following the court decision in *Shikaki*, the Interior Ministry started to gradually confiscate the Israeli ID cards from Jerusalemite women married to Jordanians, then it started to revoke the ID cards of male and female residents of East Jerusalem claiming that "the center of their lives has moved to outside Israel," although they have been leaving under the so-called policy of "open bridges" adopted by the Israeli government since 1967 and according to exit permits valid for three years and have been returning prior to the expiration of these permits^[39]. In mid nineties, Interior ministry staff in East Jerusalem office confiscated a large number of ID cards from residents applying to renew their cards based on "instructions" from Israeli staff at Allenby Bridge^[40]. This was part of a policy adopted by the Interior Ministry aiming at revoking the right of permanent residency of some thousands of Jerusalemites, using the pretext of their residence outside the city ("outside Israel"). Although complete data is not available, published figures indicate that the residency right was revoked for at least 689 Jerusalemites in 1996, for 606 in 1997, for 788 in 1998 and for 394 in 1999. ^[41]As these steps, in our opinion, indicated a change in the policy adopted by the ministry towards this particular population group, the ministry was supposed to announce this change in

^[34] Ibid.

^[35] Not yet (officially) published. The decision can be found on the following website: www.pador.co.il.

^[36] Ibid.

^[37] Ibid.

^[38] Ibid.

^[39] Halabi, Usama, *The Legal Status of Jerusalem City and Its Arab Population*, Institute for Palestine Studies, Beirut, 1997.,p.96.

^[40] Ibid.

^[41] Halabi, Usama, *Israeli Laws and Judicial System as Tools for Accomplishing Political Objectives*, published by the Civic Coalition for Defending the Palestinians' Rights in Jerusalem, Jerusalem, July 2007, p.15.

the policy in public and to allow those who may be affected by this change a chance to adapt and/or take appropriate decisions in light of this change. However, backed by the authority of the High Court, in the case 7952/96 *Fares Bustani vs. Interior Ministry*^[42], the Ministry continued to revoke ID cards. This was the first case where the court approved the revocation of the residency status of a Jerusalemite on the basis of his work and residency in Jordan (whereas the appellant is a holder of a Jordanian passport similar to thousands of Jerusalemites, a fact the Israeli Interior Ministry was fully aware of). The appellant did not benefit from the fact that his exit to Amman and entry to Jerusalem through Allenby Bridge were by a valid exit permit. The court decided that the appellant has moved the center of his life from Jerusalem to Amman and that his summer visits, even if on an annual basis, did not change this fact^[43].

Israeli considers residency in the West Bank and Gaza Strip as “residency in another country” or “residency outside Israel’s borders” and therefore, Jerusalemites who move to live in these areas are vulnerable to losing their right to residency status in Jerusalem. In the past, living outside the expanded municipal boundaries of Jerusalem has led Jerusalemites to lose their social security benefits, such as allowances for children born to the family after they have moved out of Jerusalem, but not to lose the residency status and the Israeli ID card. However, in 1995 the Israeli Interior Ministry started to revoke the Israeli ID cards of Jerusalemite women married to West Banker men and living with their husbands outside the Israeli defined Jerusalem municipal boundaries on the pretext that they have forfeited their right to permanent residency in Jerusalem^[44]. As already mentioned, revocation of Jerusalemites’ ID cards continued at a higher pace in 1996 also on the basis of their residency in, and moving the center of their lives to “the territories” (i.e. the West Bank, including areas that have not been transferred to the control of the Palestinian Authority). This Israeli position, aimed at reducing the number of Palestinians in Jerusalem has continued through to the present time and has become increasingly aggressive since the start of the third millennium, as will be explained later in this document^[45].

Finally, It should be noted that the Israeli High Court, in a decision made on 20 September 2007, reaffirmed its decision in *Shikaki* and reaffirmed once again the validity of its decision in Mubarak Awad’s case^[46]. In its decision in Administrative Appeal No. 5829/05 *Saleh Dary and others vs. the Interior Ministry*^[47], the Court referred to Justice Barack’s opinion in Awad’s case and added, “the decision that East Jerusalem population are treated as if they have obtained a permanent residency permit under the Entry to Israel Law shall naturally imply that the cancellation of this status is made under the arrangement stipulated in this law and the regulations issued hereunder.”^[48] The Court later quoted Justice Barack stating that “the permanent residency is in essence a reality of life. When the permit [of permanent residency] is granted, it shall give a legal quality to this reality. If the reality is gone, the permit shall have no meaning and shall be revoked automatically.”^[49]

[42] Not yet (officially) published. The decision can be found on the following website: www.pador.co.il. This case was handled by the present writer.

[43] Ibid, paragraph 8 of the Court’s decision.

[44] Halabi, Usama, *The Legal Status of Jerusalem City and Its Arab Population*, p.97.

[45] See section 4 of this paper.

[46] Supra, note 27.

[47] Not yet (officially) published. The decision can be found on the following website : www.pador.co.il.

[48] Ibid, paragraph 7 of the decision.

[49] Ibid.

3. Rights and Duties Attached to Citizenship and Residency in Israel:

After examining the difference between citizenship and residency in Israel in terms of the conditions for obtaining each and those leading to forfeiting each, we will elaborate on the rights and duties attached to both. Particular attention will be paid to implications of permanent residency in East Jerusalem on the rights and duties of the Arab population of the city in certain aspects.

a) Voting and Nomination Rights:

The right to vote for and be nominated to the Israeli Parliament (Knesset) is limited to Israeli citizens^[50], whereas the law allows permanent residents to participate in the elections to the local authorities both as voters and candidates^[51]. Therefore, the right of East Jerusalem's population as "permanent residents in Israel" is limited to the participation in the elections to Jerusalem municipality. The population of the occupied Jerusalem have participated in these elections in the past to varying degrees: In the years 1969, 1978 and 1983, the proportion of those participating in the elections ranged between 15-20%, which declined in 1989 to less than 3% and then increased again in 1993 elections to 7% of those with the right to vote^[52]. The low proportion of Jerusalemites participating in the municipal elections has not changed dramatically.

The low proportion of those participating is an indicator that the majority of the Palestinian population is against the Israeli presence in the city, considering the participation in the elections of Jerusalem municipality a behavior that can be interpreted as giving legitimacy to Israel's decision to absolve the Arab municipality of Jerusalem and annex East Jerusalem to Israel. The participation in the elections to the "unified" municipality has adverse implications for the Palestinian legal and political struggle over Jerusalem as it feeds into the official Israeli position claiming that Jerusalem— is one city with one municipality and the capital of one state, Israel.

b) The Right to Obtain an Israeli Passport:

The 1952 Passports Law^[53] states that the right to obtain a passport is limited to Israeli citizens^[54]. A citizen shall use his/her Israeli passport in exiting and entering Israel even if s/he has more than one nationality. Non-citizens residing in Israel or those with an unidentified or questionable nationality shall obtain a travel document (Laissez Passer) that they can use in leaving and returning to Israel. While a passport is valid for ten years^[55], a travel document is valid for only one year, and renewable only for another year. Since the population of East Jerusalem is considered as 'permanent residents' in Israel, rather than citizen, they do not have the right to obtain an Israeli passport, although are eligible for a travel document. Applications to obtain or extend the validity of a passport or travel documents can be made at the Interior Ministry offices inside Israel or in Israeli consulates and embassies abroad.

^[50] Article 6 of Basic Law: the Knesset.

^[51] Article 7 of Local Authorities (Elections), 1965.

^[52] Halabi, Usama, *Jerusalem Arab Municipality*, PASSIA, Jerusalem, 1994, p. 35.(Arabic)

^[53] Published in the Compilation of Israeli Laws, 1952, p. 260.

^[54] Article 2(a) of the Passports Law.

^[55] Article 4(a) of the Passport Law.

c) Exit From and Entry to Israel:

Every Israeli citizen staying abroad has the right to enter Israel. This right however is NOT granted to non-citizens. For visitors and residents, including permanent residents, entry and stay in Israel requires obtaining an entry visa and a residency permit according to the Entry to Israel Law and regulations issued hereunder. Exit from Israel is the right of every one, but this right may be restricted in certain cases, such as when there is a basis to suspect that the exit of a certain person, whether a citizen or a resident, may interfere with the security of the state^[56].

Entry to and exit from Israel takes place through border crossings identified by law, including, inter alia, Ben Gurion Airport, Dov Airport (Tel-Aviv), Haifa port, Eilat port, Damia Bridge and Allenby (King Hussein) Bridge and Sheikh Hussein (Ma'oz) Bridge known also as the Jordanian River Crossing^[57]. Residents of East Jerusalem usually leave through Ben Gurion Airport by using the travel document (Laissez Passer) or through Allenby or Damia Bridge by using their Jordanian passports and an "exit permit" valid for three years. In many cases, during the eighties and nineties, the Interior Ministry, in cooperation with the Bridges Authority affiliated to the Civil Administration and the Military Administration, have banned Jerusalem residents from traveling abroad for "security reasons" or allow their travel on a condition that they are of certain age and stay abroad for at least nine months. The bridges remained under the Israeli control even in the period following the Declaration of Principles agreement. Although there is an agreed upon Palestinian presence in certain sites, the final decision of letting in and out remains an Israeli decision^[58].

d) Employment in the State Service:

Israeli citizenship is a prerequisite for employment in the state service in accordance with Article 16 of the State Service (appointments) Law of 1959^[59] which states that only Israeli citizens shall be appointed in state service positions. Any individual renouncing his/her nationality shall be considered as resigning from his/her position. There are however, exceptions to this rule: Article 40 of the same law allows appointing a person in state service by a special contract if s/he meets other conditions defined by the law. Additionally, Article 23 of the Judicial and Administrative Settlements (combined text) Law of 1970 granted the Prime Minister the power to issue regulations to exempt a person living in a territory where Israeli law is applied from the condition of nationality in order to be appointed as a public servant. Apparently, these exceptions permit the Israeli government to appoint residents of East Jerusalem in governmental institutions and departments, such as the social security agency and population registration department of the Interior Ministry. Those residents of East Jerusalem who obtained the Israeli citizenship and became Israeli citizens do not require the exceptions. Other than working in State service, Israeli law does not require Israeli citizenship for employment.

^[56] Article 6 of the Emergency Regulations (Exit to Abroad), 1948. See also: H.C. 488/85 Daher vs. Minister of Interior, Compilation of High Court Decisions, Vol.40(2),p. 701.

^[57] See: Entry to Israel (Border Terminals) Order, 1987.

^[58] Since November 1994, and according to the Oslo Agreement (and its annexes), persons holding Israeli and foreign passports enter into Israel from Jordan through Shekh Hussein Bridge where there is no Palestinian presence. On the other bridges, however, there is a Palestinian presence, but, the final decision to allow entrance into Israel or into the Palestinian Authority Area is Israel's.

^[59] Published in the Compilation of Israeli Laws,1959, p. 86

e) Taxes:

With regard to taxes, Israeli law does not differentiate between an Israeli citizen and a permanent resident. Income tax is due from any income generated in Israel whether by a citizen, permanent resident or even a foreigner. Israel has imposed income tax on the residents of East Jerusalem and opened a branch for the tax authority in the city. The Value Added Tax (VAT) is also due from dealers, craftsmen and service providers such as lawyers, engineers, physicians, etc. working in East Jerusalem^[60]. In addition, and in view of the application of Israeli law to Jerusalem, taxes levied on properties have also been imposed on the population of the City, such as the “environmental improvement tax”^[61] and the “property tax”^[62]. Similar to other municipal councils, Jerusalem municipality imposes a property tax known as ‘Arnona’ on houses and businesses. This tax is levied from the population to enable the municipality to provide services to the city’s residents. However, as to Arnona on properties used for living, it is estimated at different rates according to the area and where the structure is located. The city is divided to residential areas A, residential areas B and then residential areas C. The tax rate in each one of these areas is different than the two others but the same rates are used for the population of East and West Jerusalem. This means that residents of area A or B in West Jerusalem pay per sq. meter the same amount paid by residents of area A or B in East Jerusalem, although the services offered by the municipality in East Jerusalem is not at the same level as those offered to West Jerusalem and the development, recreation and social services enjoyed by Jewish neighborhoods is totally absent in most Arab neighborhoods^[63]. Similarly, shops and hotels are required to pay the same rates of the ‘Arnona’ tax (which is much higher than that imposed on houses) in East and West Jerusalem although the resources and revenues of such businesses in East Jerusalem are much less than those in the West Jerusalem.

f) Zoning and Building:

The 1965 Zoning and Building Law^[64] does not differentiate between citizens and residents. Conditions required for any person wishing to construct a building, including the requirement to issue a building license, apply to all people in the city. However, the discriminatory policy adopted by the Israeli Government and the Jerusalem municipality, in terms of zoning and building in Jerusalem has caused a complicated housing crisis in Arab neighborhoods, forcing a large number of East Jerusalem residents to meet their need for housing space in villages and suburbs around Jerusalem. This policy has two main features. The first is the intensive confiscation of Arab lands that took place between the years 1968 -1970 and later in 1980, in 1982 and in 1992, for the establishment of Jewish settlements, leading to a shortage in lands available for Arab building and to the development of the Jewish community in East Jerusalem^[65]. For example, by the end of

^[60] Imposed in accordance with Value Added Tax Law, 1976, Published in Compilation of Israeli Laws, 1976, p.52.

^[61] Imposed in accordance with Land Improvement Tax Law, 1963, Published in Compilation of Israeli Laws, No. 405, 1963, p.156.

^[62] Imposed in accordance with Property Tax and Compensation Fund Law, 1961, Published in Compilation of Israeli Laws, No. 337, 1961, p.100.

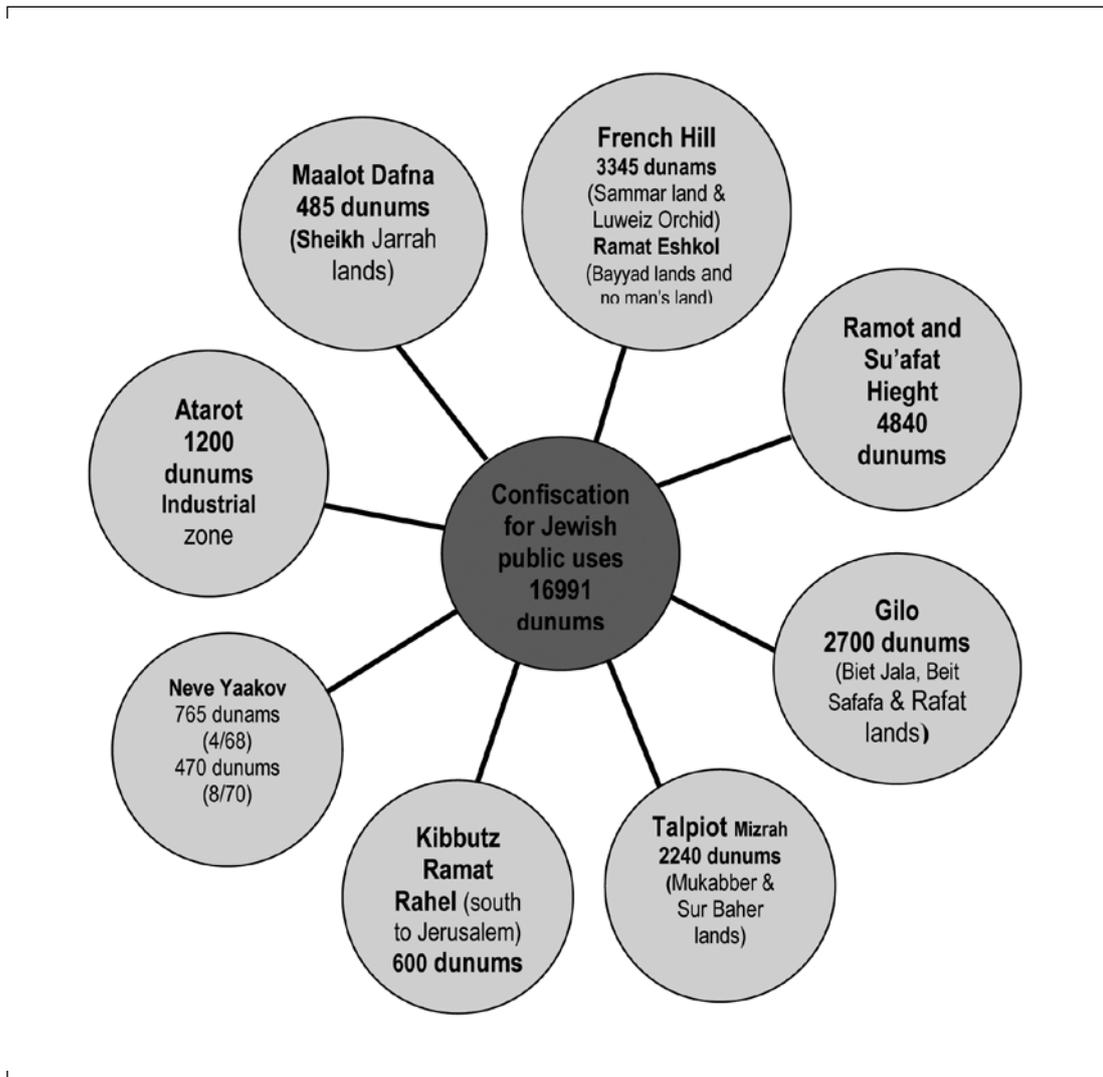
^[63] For example, there are 67 parks in west Jerusalem and 3 in east Jerusalem, and in most places there are no pavements for pedestrians to use.

^[64] Published in the Compilation of Israeli Laws, No.467 (12-8-1965), 1965, p.307.

^[65] Between the years 1968 and 1970, not less than 16,991 dunams were confiscated for “public use” and used in fact to build the following Jewish settlements: French Hill, Ramat Eshkol, Ramot, Gilo, Talpiot Mizrah, Neve Yaakov, Maalot Dafna and Atarot. In 1980 another 4400 dunams were confiscated and used to build Pisgat Ze’ev settlement. See: Halabi Usama, *The Legal Status of Jerusalem and its Arab Population*, p. 21-22 and references cited in

1970, Israel had confiscated not less than 16, 991 dunams of Arab land in the de-facto annexed area for “public purposes” under the **1943 Land (Acquisition for Public Purposes) Ordinance**, as demonstrated in diagram 2 below.

Diagram 2 Confiscation of land for “public purposes” 1968-1970



Moreover, as of May 1995, approximately 38,000 housing units were built for the Jewish population on the 23,378 dunams of Arab lands confiscated for “public purposes”^[66]. The second feature of the Israeli discriminatory policy is the neglect of the needs of the Arab population. Building and development plans have been focusing mainly on finding solutions and meeting the needs for the Jewish community. With the exception of small housing projects, such as “Nusseibeh” housing project in Beit Hanina, which includes 400 housing units, and another project in Wadi Al-Joz with

[66] “A Policy of Discrimination: Land Confiscation and planning and Building in East Jerusalem”, a Report by B’Tselem, Jerusalem, 1995, pp. 51-52 (Hebrew).

24 housing units, Jerusalem Municipality and the Housing Ministry have not helped in establishing housing projects within the boundaries of East Jerusalem for the Arab population^[67]. When Jerusalem Municipality developed a proposed zoning scheme for Shu'fat and Beit Hanina areas with 18,000 housing units (including the existing units), both the Housing Ministry and the Interior Ministry represented by the Jerusalem Governor (head of the district committee on zoning and construction) objected to the plan, which led to a reduction in the number of housing units to only 7500 units^[68]. The proportion of the "open green" land in this plan was 25% while the allotted ratio of the construction area to the land area in Arab neighborhoods ranges between 50% and 75%, compared to 125% in some Jewish neighborhoods, such as the project approved by the municipality in Ras Al-Amoud, owned by Yshevat Beit Aurot^[69]. Moreover, while the zoning of Pisgat Zeev settlement (built on lands owned by residents of Shu'fat and Beit Hanina villages) took only three years, the zoning process for Beit Hanina took more than 13 years and several other Arab neighborhoods in Jerusalem remain without a zoning scheme. In addition to the discrimination in the Israeli zoning and building policy against the Arab population, Israeli authorities have been banning the implementation of self-managed Arab housing projects, such as the teachers housing project in Atarot (Kalandia) area.

As a natural result of Israel's zoning and building policy, the Arab population of Jerusalem has been forced to resort to unlicensed building in order to solve their housing problems. Jerusalem municipality has responded to this by issuing administrative orders of demolition whenever the building is detected before being erected and inhabited. The municipality has also filed lawsuits before the Municipal Affairs Court against those who have already built and inhabited an unlicensed house and obtained court orders of demolition. It should be noted that right wing political groups in the Knesset often pressure the municipality to implement the demolition orders in East Jerusalem. For example, a number of Knesset members resorted to the High Court, claiming that the municipality has not implemented a large number of demolition orders issued against houses located in Arab neighborhoods^[70]. Finally, it is estimated that 15,000-20,000 buildings in East Jerusalem have been built without permits; i.e 40% of the total number of buildings^[71], and that Israeli authorities have demolished some 2000 houses since 1967^[72]. In addition, some 3000 demolition orders are pending against Palestinian buildings^[73]. Another estimation made by UN OCHA in its May 2009 report is that at least 28% of all Palestinian homes in East Jerusalem are at risk to be demolished for being built illegally^[74].

g) "Social security" benefits:

The Social Security Agency pays different benefits to eligible persons under the Social Security (Combined Text) Law of 1995^[75], which replaced and introduced numerous amendments to the Social Security (combined text) Law of 1968. The 1995 law came to ensure a certain level of social

^[67] Halabi Usama, *The Legal Status of Jerusalem and its Arab Population*, p. 107 and references cited in.

^[68] Ibid., p.108.

^[69] Ibid., pp.108-109.

^[70] H.C 1901/94 *Uzi Landau and others vs. Jerusalem Municipality and others*, published in compilation of High Court Decisions, Vol. 48(4), p. 403.

^[71] Margalit, Meir, *No place like Home-House Demolition in East Jerusalem*, ICAHD. Jerusalem. 2007.

^[72] JERUSALEM-*Israeli Settlement Activities & Related Policies*, PASSIA, Jerusalem, June 2009, p.22.

^[73] Ibid.

^[74] Ibid.

^[75] Published in the Compilation of Israeli Laws, No. 1522, 1995, p. 210.

welfare, particularly for vulnerable social groups. Benefits payable under the 1995 Law include: benefits for elderly people^[76], for widows^[77], work-related injuries^[78], maternity benefits that include a hospital allowance, a birth allowance and a birth benefit^[79], child benefits^[80], unemployment benefits^[81], disability benefits^[82], and benefits to ensure the rights of the workers in case the employer becomes bankrupt or the company is resolved^[83]. Each of these benefits require special eligibility conditions that must be met by a person in order to receive that form of benefits from the social security agency. A common condition for paying benefits to elderly people, widows, unemployed workers and children is that the concerned person should be **“insured”**, i.e. residing in Israel. As indicated in its relevant articles, **the Law requires residency (not citizenship) as a main condition for being eligible to receive the above mentioned benefits**. Since the population of East Jerusalem has become permanent residents in Israel following the annexation of their city, persons meeting the remaining conditions shall be eligible to receive the above benefits.

The Social Security Agency opened a branch in East Jerusalem and started to offer services to the population that were covered by the census in June 1967 and were given Israel ID cards. Initially, the agency did not require recipients to remain living within the municipal boundaries of Jerusalem according to a decision made on 13 February 1973 by an inter-ministerial committee created by the Israeli Government. This decision stated that “any person holding an Israeli ID card based on their residency status in Jerusalem and who maintain making their due payments to the social security incessantly shall keep enjoying the social security rights even if they move their place of residence to outside the boundaries of Jerusalem municipality.” Apparently the decision aimed at reassuring the rights of residents that have been forced to move their place of residence to Jerusalem suburbs for one reason or another. During this time, the Mayor of Jerusalem voiced his support of this decision, stressing that “the competent bodies have not revoked the ID card of anyone so far. The municipality has reached an agreement with officials in the Interior Ministry and a governmental decision was made to ensure that no harm is made to Arab residents who are forced to search for a solution to their housing problem outside the boundaries of the City^[84].” However, the official policy in this regard has changed rapidly and the Jerusalemites who moved to live outside the municipal boundaries started to pay the price. For example, the Social Security Agency stopped paying child benefits to many families when it found that they are living in areas such as Al-Ram, Ezareyeh (Bethany), Abu Dis and Dahiat Al-Barid on the pretext that they are living outside Israel^[85]. The Social Security Agency interpreted the inter-ministerial decision made in 1973 as securing the rights of the population to benefits for children born in Jerusalem **before** the date their families moved to live in the aforementioned suburbs, while children born **after** that date shall not receive benefits. The National Labour Court has confirmed this position^[86].

^[76] Article 244 of the Social Security Law.

^[77] Article 252 of the Social Security Law.

^[78] Articles 75-157 of the Social Security Law.

^[79] Articles 39-64 of the Social Security Law.

^[80] Articles 65-73 of the Social Security Law.

^[81] Articles 158-179 of the Social Security Law.

^[82] Articles 195-222B of the Social Security Law.

^[83] Articles 180-192 of the Social Security Law.

^[84] Al-Anbaa Newspaper, 15/8/1980.

^[85] Usama Halabi, *The Legal Status of Jerusalem and its Arab Population*, p. 114.

^[86] For example see: File No. MZ o-38 Rafiq Shweki and others vs. National Security Agency, Compilation of the National Labour Court Decisions, Vol. 19, p. 111.

While a significant number of the East Jerusalem population forfeited their right to the different social security benefits (for living outside the municipal boundaries) and some have forfeited their right to residency in Jerusalem (when the Interior Ministry decides that they are living “outside Israel”), the Jewish settlers maintain their right to the different social security benefits in spite of their residency in the West Bank and Gaza Strip. Israeli settlers have benefited from the 1987 Social Security Regulations (Applicability to Certain Categories of Covered Persons). Article 2 of these Regulations states that “the provisions of the [social security] law shall apply to every person living or working in the territory [the West Bank and Gaza Strip U.H] as if they are living or working in Israel, if they are Israeli citizens or have the right to return to Israel under the 1950 Law of Return^[87].”

Following the signing of the Oslo accords and their endorsement by the Knesset, amendments were made to the Social Security Law affecting and even annulling rights that had been gained by Palestinian residents of East Jerusalem who had moved to the West Bank (“Judea and Samaria”) or Gaza Strip under the 1987 Regulations (Rights and Duties of Those Not Residing in Israel) or the 1993 Regulations (Payments to Jerusalem Residents Who Moved Their Place of Residence to Judea, Samaria and Gaza Strip). The Palestinians were affected by amendments made to Article 192A of the 1968 Social Security (Combined Text) Law, which was amended later to become article 378 in the 1995 Social Security (Combined Text) Law^[88], limiting the rights and benefits granted by the Law to “Israeli resident ’ in the territory”. Paragraph ‘a’ of the same article defined an “Israeli resident in the territory “ as one who works or lives in the West Bank and Gaza and **is an Israeli citizen or has the right to enter to Israel according the Law of Return** and who would have been listed as an Israeli resident if s/he happen to have his place of residence in Israel” (emphasis added).

This amendment came into effect as of 21 December 1994 and is clearly limited to the Jewish population and excludes the Arab Palestinians holding Israeli ID cards. Accordingly, Palestinian Jerusalemites holders of Israeli ID cards, who live in the West Bank or Gaza have become ineligible to receive the security benefits other than benefits associated to injury in a work accident taking place in Israel. Under the aforementioned amendment, any accident taking place after the amendment came into effect shall not be considered a “work accident” if it takes place outside Israel, even if on the way to or from work in Israel. Another result stemming from the definition of “Israel resident in the territory” as stated in article 378 of the 1995 Social Law was that Jerusalemite mothers giving birth in Israeli hospitals lost their rights to have hospital expenses covered by the Social Security Agency, and to receive birth allowances and benefits if they happen to live with their husbands in Gaza or the West Bank, even if their husbands work in Israel^[89].

b) Health insurance:

The right to obtaining medical treatment under the Official Health Insurance Law of 1994^[90] is also conditional on the concerned person being a “resident” of Israel. Thus, losing the right of residency in Jerusalem leads to losing the right to obtaining medical health. For the purposes of this law, a

^[87] Published in the Compilation of Israeli Regulations, no. 5029, (10/5/1987), p. 913.

^[88] See infra note no. 74.

^[89] Article 40 of the Social Security Law of 1995.

^[90] Published in the Compilation of Israeli Laws, No.1469, 1994, p.156.

“resident” means the “resident” under the Social Security Law, which includes “Israeli resident in the territory” under article 378 of the Law, i.e. Jewish settler living in the West Bank^[91].

4. The start of the third millennium : more constraints on family unification and increased risks of losing residency and social benefits :

The period since the start of the third millennium has been characterized by continued implementation and intensification of Israel’s discriminatory policy, which has sought, since the beginning of the occupation in 1967, to realize the idea of “the largest possible land with the smallest possible Arab population.”^[92] During this period, Israeli policy has been implemented through numerous steps taken by the Israeli authorities, the most prominent of which, in terms of the achieved and expected outcomes, are twofold: the first was the enactment of the Citizenship and Entry to Israel Law (Temporary Order) of 2003^[93] (referred to hereafter interchangeably as “the Citizenship and Entry to Israel Law” or “the Temporary Order”). The second fold was the construction of “Jerusalem Incubator,” which is part of the “separation wall”, separating Jerusalem, with its expanded boundaries, from the rest of the West Bank.^[94]

These two steps, however, were only taken after the Israeli Parliament had taken a step with symbolic and political dimensions regarding the status of Jerusalem and its boundaries as delineated by the Israeli government in June 1967. On 7 December 2000, shortly after the failure of the Camp David negotiations between the late Yaser Arafat, (then head of the Palestinian Authority) and Ehud Barak (then the Israeli prime minister), the Israeli Parliament amended the Basic Law: Jerusalem, the Capital of Israel and added three new articles^[95]: Article 5 of the amended Law states that for the purposes of this law, the boundaries of Jerusalem “shall include, among others, the entire area described in the annex to the decree on expanding the jurisdiction of Jerusalem municipality of 28 June 1967, which was issued under the Municipalities’ Law.”^[96] Article 6 bans the transfer of any power vested by the law in the Israeli Government or in Jerusalem municipality in relation to Jerusalem jurisdiction to “any political or authoritative foreign element or to any similar foreign element whether permanently or for a limited period.” And Article 7 of the Law provided that “the provisions of articles 5 and 6 cannot be amended except by a basic law enacted by the majority of Knesset members.”

a) Citizenship and Entry to Israel Law (Temporary order):

This law was enacted on 6/8/2003 to limit the possibility of family unification for Palestinian Jerusalemites and their Palestinian spouses from the West Bank and Gaza Strip, even if this would lead (and it is in fact leading) to the break-up of such “mixed” families. This “temporary law” which still prevented the Minister of the Interior from issuing a permanent or even a temporary residency visa to those considered as “residents of the territory,” i.e., residents of the West Bank or Gaza. This definition includes those who are registered in the population registry of the “territory” or living in the “territory” even if not registered there. In addition, this law prevents the promotion of the

^[91] Article 2 of the Official Health Insurance Law.

^[92] Meron Benvenisti, Jerusalem: *The Torn City, Jerusalem*, Isratypest Ltd., 1976, pp. 113-115.

^[93] Published in the Compilation of Israeli Laws, 2003, No. 1901, p. 544.

^[94] This paper does not address the Structural Plan of Jerusalem 2000 initiated by Jerusalem municipality.

^[95] Published in the Compilation of Israeli Laws, 2000, No. 1760, p.28.

^[96] See Diagram 1: “The creation of the Israeli legal framework for annexation – June 1967”

non-Jerusalemite spouse from his/her status to a higher status under the Entry to Israel Law.^[97] For example, those whose applications for family unification were approved and who obtained a visa for a stay in Israel (B visa) will not obtain – after the required 27 months – a permit for temporary residency (A / 5 visa), which in addition to the right to work in Israel, is accompanied by the right to receive benefits from the Social Security Agency or the right to receive health services. The provision halting the promotion from one visa to another was applied retroactively. This has resulted in large numbers of spouses from the West Bank holding the same visa for many years and not knowing when they will finally achieve “family unification” by obtaining a permanent residency^[98].

This Temporary Order came to replace the governmental decision No. 1813 issued on 12 May 2002, which provided for suspending all decisions regarding family unification and closing all the doors for any new applications, including the registration of children born outside Jerusalem or in Jerusalem for a Jerusalemite mother and a West Bank or Gazan father. The pretext used to justify this decision is that perpetrators of some suicide bombings inside the Green Line had received assistance and guidance in reaching the place of the bombing from persons carrying an Israeli ID obtained through family unification^[99]. Although this justification was security-related (and used for the subsequent temporary law), the primary goal was to prevent large numbers of Palestinians from outside Jerusalem from entering the city and to other cities in Israel through marriage, followed by family unification. In this context, it should be noted that Eli Shai, then the Minister of Interior from Shas party, published a booklet attempting to prove that Palestinians consider the family unification process “a realization of the right to return through the back door.”^[100] It is not coincidental, therefore, that the title of the aforementioned governmental decision was “policy of family unification regarding the Palestinian Authority population and foreigners of a Palestinian origin”.

The Citizenship and Entry to Israel Law (Temporary Order) was amended on 27 July 2005^[101], where slight positive changes were made, opening the door for applications for family unification of non-Jerusalemite husbands over the age of 35 years and of non-Jerusalemite wives over the age of 25^[102]. Additionally, the interior minister was allowed to grant a permanent or temporary residency visa to children up to the age of 14. The Military Commander of the West Bank was bestowed the power to grant a visa of stay in Israel for children over the age of 14. But the law bans granting a residency visa in Israel to those considered as “residents of the territory” if the Minister decides, based on a recommendation from the competent security bodies, that the concerned person or a member of his/her family may pose a threat to Israel’s security^[103]. The effect of the Temporary Order has been extended for periods of six months, most recently on 17 July 2006 ending on 16 January 2007, when the prime minister issued a decree under the Government’s power according to article 5 of the Temporary Order^[104].

^[97] Published in the Compilation of Israeli Laws, 1952, No. 111, p. 354.

^[98] The Author has handled a larger number of cases of people suffering from this problem.

^[99] In a brief submitted to the Israeli Supreme Court, setting as High Court of Justice (HCJ 7052/03, 7102/03, 7642/03, 7643/03, 8099/03 8263/03, 1065/03 Adalah and others vs Ministry of Interior and others) the State Attorney, representing the Interior Ministry, claimed that the number of Palestinians holding Israeli IDs and involved in such incidents was 26. Whereas the total number of those obtained Israeli ID through family unification was several thousands.

^[100] The booklet was published on 12 May, 2002.

^[101] The Amendment was published in the Compilation of Israeli Laws, 2005, No. 2018, p. 544.

^[102] The explanation given to this amendment was that those involved in attacks inside Israel were within an age group below this age. See Article 3 of the Law.

^[103] See Article 3D of the Law.

^[104] The decree was published in the Compilation of Israeli Regulations, 2006, p.657.

On 28 March 2007, the Knesset passed a second amendment to the Citizenship and Entry into Israel LAW (Temporary Order)^[105]. This amendment expanded the list of persons whose family unification is subjected to the aforementioned restrictions to include, in addition to West Bank and Gaza residents, spouses from Iran, Syria, Lebanon and Iraq^[106]. Moreover, the second amendment added an article entitling the Interior Minister to grant a temporary residency permit or a permit of stay in Israel, for “humanitarian reasons,” to those who have a relative living legally in Israel”. However, this is conditional to the recommendation of a special committee established for this purpose. The amendment explained that for the purposes of this article, the “relative” being the applicant’s spouse or the couple having children shall not be considered a “humanitarian reason.”^[107] The amending law extended the effect of the Citizenship and Entry to Israel Law to 31 July 2008^[108]. Soon after this amendment, the effect of the Temporary Order was extended once again to 31 July, 2009 by a decree issued by the Prime Minister under the Government’s power according to article 5 of the Temporary Order which allow amendment to up of one year each time.^[109] Indicating its strong will to continue with its discriminatory policy towards the Palestinians seeking family unification, the Israeli Government approved on 19 July, 2009 the proposal by Eli Shai, Minister of Interior, to extend the effect of the Temporary Order once again until end of July 2010.^[110]

It is worth noting here that the Israeli High Court of Justice, in High Court case 7052/03 *Adalah and others vs. the Interior Minister and others*, has approved the constitutionality of the Temporary Order of 2003 on 14 May 2006 with a majority of 6 judges out of 11^[111]. The majority of judges justified their decision to allow causing damage to the right to family life by the pretext of security threats associated with the entry of Palestinians from the West Bank and Gaza to Israel and the inability of the Israeli security systems to examine all cases individually^[112]. The court rejected petitions filed by Arab and Israeli human rights organizations and Arab and Jewish Knesset members and kept the law intact. On the day following the hearing (14 February 2006), Hebrew newspapers published a statement by the vice-president of the High Court (currently retired) Mish’eil Hashin, who was among the majority approving the law, referring to couples who want to live together in Israel: “Nobody denied them the right to establish a family, but they can live in Jenin instead of Um Al-Fahm.”^[113] However, Adalah did not give up, and filed another petition against the Citizenship and Entry to Israel Law (Temporary Order)(Amendment No. 2), 2007. This petition which challenge the constitutionality of the Temporary Order in its current amended text, was heard on March 15, 2009 but still pending a final decision by the Israeli Supreme Court^[114].

[105] Published in Compilation of Israeli Laws, 2007, No. 2092, p. 295.

[106] The relevant countries are listed in the Supplement to the Law.

[107] Article 3A1(h)(1).

[108] Article 5.

[109] The decree was published in the Compilation of Regulations, No. 6692, 2009, p. 1134.

[110] Veiler-Polak, Dana, “The Government Approves the Proposal by Minister of Interior to Extend the Effect of the Temporary Order Concerning the Citizenship and Entry to Israel Law”, Haaretz Newspaper, 20 July, 2009. www.haaretz.com/hasite/spages/1101200.html .

[111] HCJ 7052/03, 7102/03, 7642/03, 7643/03, 8099/03 8263/03, 1065/03 *Adalah and others vs Ministry of Interior and others* (not yet published). The decision can be found on the following website: www.pador.co.il.

[112] Ibid.

[113] Haaretz Newspaper, 15 February, 2006.

[114] . HCJ 830/07 *Adalah and others vs. Minister of Interior and others*.

Certainly, the failure to obtain family unification keeps the concerned person in an unbearable situation. On one hand, s/he is forced to leave “Israel”, as his/her stay there is considered illegal. But on the other hand, s/he is linked and attached to a family: a spouse and children. If s/he does not abide by the law and leave, s/he will be arrested and taken to court, which may sentence him/her to imprisonment. If a decision is issued against the “violating” spouse, it will become later a “criminal deterrent” surely preventing the approval of his/her family unification application. A worrying step in this regard was taken by the Israeli authorities on 19 July 2006, when the Knesset passed first reading (out of three) of a draft law called: “Entry to Israel Law (Amendment No. 19)”, which in summary stipulates that any person illegally staying in Israel for a period over 30 days, shall not be allowed to obtain any status unless s/he leaves Israel for one or more years, even if s/he is a spouse or a relative of an Israeli citizen^[115]. Due to the fact that restrictions on residency are mainly imposed on Palestinian Jerusalemites and their spouses, persons mainly affected by this draft law in regard to “family unification” will be Arabs, particularly families whose application for a family unification in favor of a spouse was rejected and s/he did not leave the country. However, this draft law may also affect relatives of non-Jews who are married to Jews but who are not subject to the 1950 Law of Return^[116].

Finally, it should be noted that the Israeli justice minister has recently proposed a draft law to amend the Basic Law: Human Dignity and Freedom aiming at preventing the Israeli High Court from examining petitions on the constitutionality of decisions issued under the Return, Nationality and Entry to Israel laws. The main purpose is to prevent the possibility of canceling the Nationality and Entry to Israel law (Temporary Order) in view of a new petition that has been filed and is to be examined claiming unconstitutionality of this law.^[117] The proposed draft amendment states that “the proposed amendment reflects a belief prevailing among the Israeli public that the state of Israel has the right and duty to control entry, residency and naturalization of non-residents according to the values of the declaration of independence, Zionist perceptions and the state’s security, economic and social needs.”^[118] It is not surprising, therefore, to know that the Israeli Government has intensified its efforts during the years 2006- 2008 to sharply increase the number of persons whose status of permanent residency was revoked. According to Haaretz, the Ministry of Interior has confirmed that they have revoked permanent residency status of 1363 Jerusalemites during the year 2006 and of 4, 577 Jerusalemites in 2008 i.e more than 50% of the total number of persons that their status was revoked until then^[119].

b) The “Separation/Annexation Wall” surrounding Jerusalem:

The other important and critical step in this period, which reflects Israel’s position of keeping the—“Greater Jerusalem” (including Ma’ale Adumim in the east, Giv’at Zeev in the northwest and Efrat and Beitar settlements in Bethlehem Area in the south and south west) under its control, is

^[115] Shahar Ellan, “A License for love”, Haaretz Newspaper, 27 July 2006, p.B6.

^[116] The Law of Return, grants the right to Israeli citizenship to non-Jew married to a Jew (born to a Jewish mother or converted to Judaism), including a spouse of a Jewish grandchild. Yet, any person outside this protection curricula cannot obtain a status in Israel through this Law (such as a mother of a non-Jewish spouse of a Jew or children of a non-Jewish spouse of a Jew from previous marriage).

^[117] Haaretz Newspaper, May, 2008, front page.

^[118] Ibid.

^[119] Hason, Neer, “A Sharp Increase in Number of Palestinians from East Jerusalem that Israel Has revoked their Residency”, Haaretz Newspaper, December 2009, front page and on page 2.

the decision to build a separation Wall in and around the city, with estimated length of 168 km^[120], referred to by the Israelis as the “Jerusalem Envelope”^[121], in order to isolate the city in its expanded boundaries from the West Bank.

The decision to build the Wall in Jerusalem area was made by the inter-ministerial committee on national security on 11 September 2002 and was approved again on 20 August 2003.^[122] By May 2006, 33 km of the Wall in the Jerusalem area were completed^[123]. Another 24 km of this Wall were subject to objections^[124] and 19 petitions against it were pending in the Israeli High Court of Justice^[125]. According to the latest information published by the Israeli Ministry of Defence on August 14, 2007, 7 petitions against the Wall in the Jerusalem Area were pending before the Supreme Court^[126]. By mid-2008, it was estimated that almost 50% of the construction was completed.^[127] The Wall in the Jerusalem area de facto annexes 228.2 km or 3.9% of the West Bank, and when completed, it will effectively separate over 230,000 Palestinian Jerusalemites from the rest of the West Bank^[128]. It separates Jerusalem from Bethlehem in the south, from Ramallah and the surrounding villages and suburbs such as Dahiet Al-Barid, Al-Ram, Bir Nabala, Beit Hanina village, Biddo, Beit Iksa, and Beit Surik in the north and northwest, and from Abu Dis and Ezarreyeh (Bethany) in the east. The Wall also separates parts of expanded Jerusalem itself, as is the case with Shu’fat refugee camp, which is located within the municipal boundaries as delineated by Israel in 1967 but has become completely beyond the Wall to the east.

According to a research by Yesrael Kamhi from Jerusalem Institute for Israeli Studies, the number of Jerusalemites holding Israeli IDs who will remain outside the route of the “Separation /Annexation Wall” is between 80,000 and 90,000^[129]. The same research indicates that Jerusalem will be turned from a central city to a border city and the Wall will invoke misery and rage among the affected Palestinians, which may increase their participation in “terrorist activities” against Israel in the future. The research also warns that the construction of the Wall may increase the unlicensed building in Arab neighborhoods in an attempt to absorb Jerusalemites returning to live within the city boundaries due to the Wall and may increase the number of Arabs renting houses in Jewish neighborhoods for the same reason^[130].

A joint survey conducted by BADIL Centre and the Palestinian Central Bureau of Statistics between 15 May and 10 June 2006 and published on 4 July 2006 clearly illustrates the impact of the Wall on the lives of Palestinians living in its area. The survey sample included 981 Palestinian

^[120] <http://he.wikipedia.org/wiki/PASSIA>, “JERUSALEM-Israeli Settlement Activities & Related Policies”, a newsletter, Jerusalem, June 2009, p. 20.(PASSIA)

^[121] The Wall is surrounding “Greater Jerusalem”, and the term (Otef Yerushalayem in Hebrew) indicates a close protection of the City and other Palestinian areas that turned out to be in the “Israeli side” of the Wall.

^[122] The website of Israel’s security wall (which Israel insist to call it fence): <http://www.securityfence.mod.gov.il/Pages/Heb/matara.htm>

^[123] Haaretz Newspaper, May 17, 2006.

^[124] Ibid.

^[125] <http://www.securityfence.mod.gov.il/Pages/Heb/hadashot.htm>. (Accessed on May 2006)

^[126] <http://www.securityfence.mod.gov.il/Pages/Heb/hadashot.htm#news76>. (Accessed on July 11, 2009)

^[127] PASSIA, p. 20.

^[128] Ibid. See also : Cnaan Liphshiz, UN: *Separation fence will sever Jerusalem from West Bank*, Haaretz Newspaper, May 23, 2009.

^[129] An overview of the study was published in Makor Rishon website: www.makorrishon.co.il.

^[130] Another overview of the main conclusions of the aforementioned research (which was submitted in a report to the Israeli government before it was later published in a book) were published in Haaretz Newspaper on October 6, 2005 (Nadav Shargai, “Wall Route in Jerusalem May Create Difficult Social Problems”).

households (composed of 5148 persons) living in Jerusalem district and found that 17.3% of the sample have changed their previous place of residence due to “the Wall and its consequences”, i.e., to “keep their IDs”^[131]. In addition, it was found that 63.8% of individuals 16 years old and over are thinking of changing their current place of residence because of its location relative to the Wall or for other reasons related to the Wall^[132]. The survey also reveals the direct negative impact on people’s access to health services and education, as well as the separation from relatives.

It should also be noted in this regard that the Israeli Government does not hide the fact that there is a political dimension for the Wall’s route in Jerusalem area, additional to the claimed security dimension. In its response to petitions against the Wall’s route in the north of Jerusalem, the state prosecutor explained that the route within or on the municipal boundaries of the city has political meanings and implications as it passes through an area under the Israeli sovereignty. In the session held on 21 May 2006, the Israeli Supreme Court Chief in Justice, Ahron Barak, plainly stated that Israel has the right to build a security wall on the municipal boundaries within its sovereignty and, hence, the question whether the Wall is built there for security or political reasons is irrelevant^[133]. He then questioned: What right do the residents of Al-Ram located in area B have to appeal against Israel’s right to build a Wall within its area of sovereignty? Consequently, the Court rejected the appeal in December 2006^[134].

Hence it is not unreasonable to say that the Wall constructed around Jerusalem is a new delineation of the municipal boundaries with a wider geographic area (including Ma’aleh Adumim) and a fewer number of Palestinians (excluding Shu’afat refugee camp). And for sure, this Wall is serving the Israeli goal of securing the control over Palestinian land and people—the goal for which Israel has employed its legislative and judicial systems in addition to its governmental and administrative system. By creating an obvious physical barrier between what is “in” and what is “out”, the Wall will cause thousands of Palestinian Jerusalemites to lose their right of residency if they continue to live outside the wall and outside the municipal boundaries for seven years or more^[135].

5. The Judaization policy continues in Jerusalem and its surroundings:

In May 2007, it was published that the local committee for zoning and building in Jerusalem municipality decided to start the construction of 20,000 housing units in two areas beyond the Green Line and within the expanded municipal boundaries of 1967: Al-Walajeh in the south and the Airport area (Atarot) in the north. Elli Pollack, who served as the head of the committee and the deputy mayor, was quoted to say that the aim is to create continuity between Jerusalem and Ghosh Itzion (Bethlehem area) in the south and settlements in Beit Eil area in the north^[136].

^[131] A summary of the Survey was published in a press release on July 4, 2006. For more details, see: *Forced Displacement as a result of the Construction of the Wall and its Associated Regime in Occupied East Jerusalem: A Pilot Study of Badil Resource Center for Palestinian Residency and Refugee Rights in cooperation with the Palestinian Central Bureau of Statistics (PCBS)*, Bethlehem-Ramallah, 4 July, 2006.

^[132] Ibid.

^[133] The Author was present in court when Chief Justice Barak expressed his opinion in response to an argument made by one of the petitioners’ lawyers, and thus confirms that this information is correct.

^[134] HCJ 5488/04 A-Ram Municipal Council et-al v. Gov. of Israel, submitted on 10/6/04, ruling on 13-12-06 (not yet officially published).

^[135] This one of the cases stipulated in Article 11A of Entry to Israel Regulations of 1974 and lead to losing the permanent residency.

^[136] Haaretz Newspaper, May 10, 2007.

On 11 March 2008, it was reported that the Government of Israel started to “register in the Land Registry Jewish properties located in the Jewish quarter in the Old City of Jerusalem”. Thus, it is the first time that, from a legal formal point of view, Jewish ownership of properties in the Jewish quarter, which came under Israel’s control along with the Old City since 1967, is being documented^[137].” The newspaper added that, in preparation for property registration, buildings in the quarter were surveyed and a new numeration system was adopted not only for the buildings but for each single apartment/housing unit^[138]. It was also reported that the registration of properties located in the Jewish quarter at the Land Registry Office is conducted by the Governmental Corporation for the Development of the Jewish Quarter, under the Corporations’ Unit in the Housing Ministry. The news report also explains that a unique registration method was created due to problems associated to the specific characteristic of the site: when it was found that the buildings are interlinked either through their lower or upper parts and their boundaries go beyond individual lots, a decision was made not to suffice by recoding the land portion, the lot and the building, but to record the number of the apartment or the housing unit. According to the news report, more than 120 properties out of 600 have been registered so far. Presently, the area of the quarter is 133 dunums, comprising 15% of the Old City, while its original area was only 5 dunums^[139].

The unprecedented fact is that this step provides a specific legal cover for the defacto Israeli control since 1967 under the provisions of the Israeli Land Registration Law by documenting and registering Jewish individuals’ ownership of properties they are occupying. Nevertheless, nothing in this step can alter the status of the Old City with its different quarters under the international law as an occupied area, and nothing alters the duty of the occupiers to refrain from altering the realities on the ground. This step also does not conform to the duty of entering negotiations with good will in order to reach a just solution for the issue of Jerusalem, for which a solution is still pending since the partition resolution and the declaration of the city as a special status area outside the boundaries of the Jewish and Arab states (*corpus separatum*)^[140]. This technical step should be viewed in its actual place and size within the bigger picture that reflects the whole set of measures taken by the Israeli government in their attempt to strengthen the Jewish presence and weaken the Arab presence in the city and its surroundings.

In a press conference held by the then Israeli Prime Minister Ihud Olmert and the chancellor of Germany, Angela Merkel, on 17 March 2008, Mr. Olmert stated:

“There will be places, where construction processes or additions to existing buildings will go on because these places will remain in the hands of Israel in any future agreement. This includes Jerusalem, first and foremost. We build in Jerusalem because everybody knows that the state of Israel will never give up neighborhoods such as Har Homa, which - as you know - is an integral part of Jerusalem^[141].”

On 9 March 2008 it was published that the Minister of Building and Housing Zeev Boim is continually giving instructions to his office staff to go on with the construction in Agan Ha’ayalot in Givat Zeev (northeast of Beit Duqqa). The Minister stated that “the renewal of the construction

[137] Haaretz Newspaper, May 11, 2008.

[138] Ibid.

[139] Ibid.

[140] UN General Assembly decision No. 181, issued on November 29, 1947.

[141] Haaretz Newspaper, March 17, 2008.

in Agan Ha'ayalot is an important indicator. The addition of hundreds of housing units is part of a policy aimed at responding to the increasing demand and the need to balance and ensure a reasonable level of prices, while responding to the demographic needs in Jerusalem. I intend to proceed with the activation of this policy in order to strengthen and construct Jerusalem^[142].”

In addition, Haaretz newspaper reported on 17 March 2008 under the heading “A plan is approved to build thousands of housing units in East Jerusalem”:

“Two weeks ago, the district committee on zoning and construction in Jerusalem approved a plan to construct 2200 housing units in the area Givat Hamatos in East Jerusalem. This plan will include the construction of 4000 units, which, once completed, will isolate the residents of Beit Safafa neighborhoods, totaling 11,000, within a continuum of Jewish buildings

In this stage, the approval is made to open the plan for objections...

.... The area of Givat Hamatos is located between Gilo neighborhood, Beit Safafa neighborhood and Hebron road. This is one of the largest open areas in the municipal boundaries of Jerusalem. It was explained to the committee that construction in this area is important for the future of the City. About 40% of the area of the plan is under the ownership of Israel Land Administration, 20% are owned by Jews and about 40% are owned by Palestinians.”^[143]

Finally, it is worth mentioning here that the current Israeli Prime Minister, Netanyahu, has restated recently the known Israeli position in response to the American criticism to the Israeli position to allow construction of some 20 apartments for Jews in the Shepherd Hotel, in East Jerusalem's Sheikh Jarrah neighborhood:

“United Jerusalem is the capital of the Jewish people in the State of Israel, and our sovereignty over the city is not subject to appeal.”^[144]

To maintain this position and ensure its control over the Palestinian land and people in East Jerusalem, Israel has subjected them both to intensive use of its laws and policies as shown in diagram 3 below:

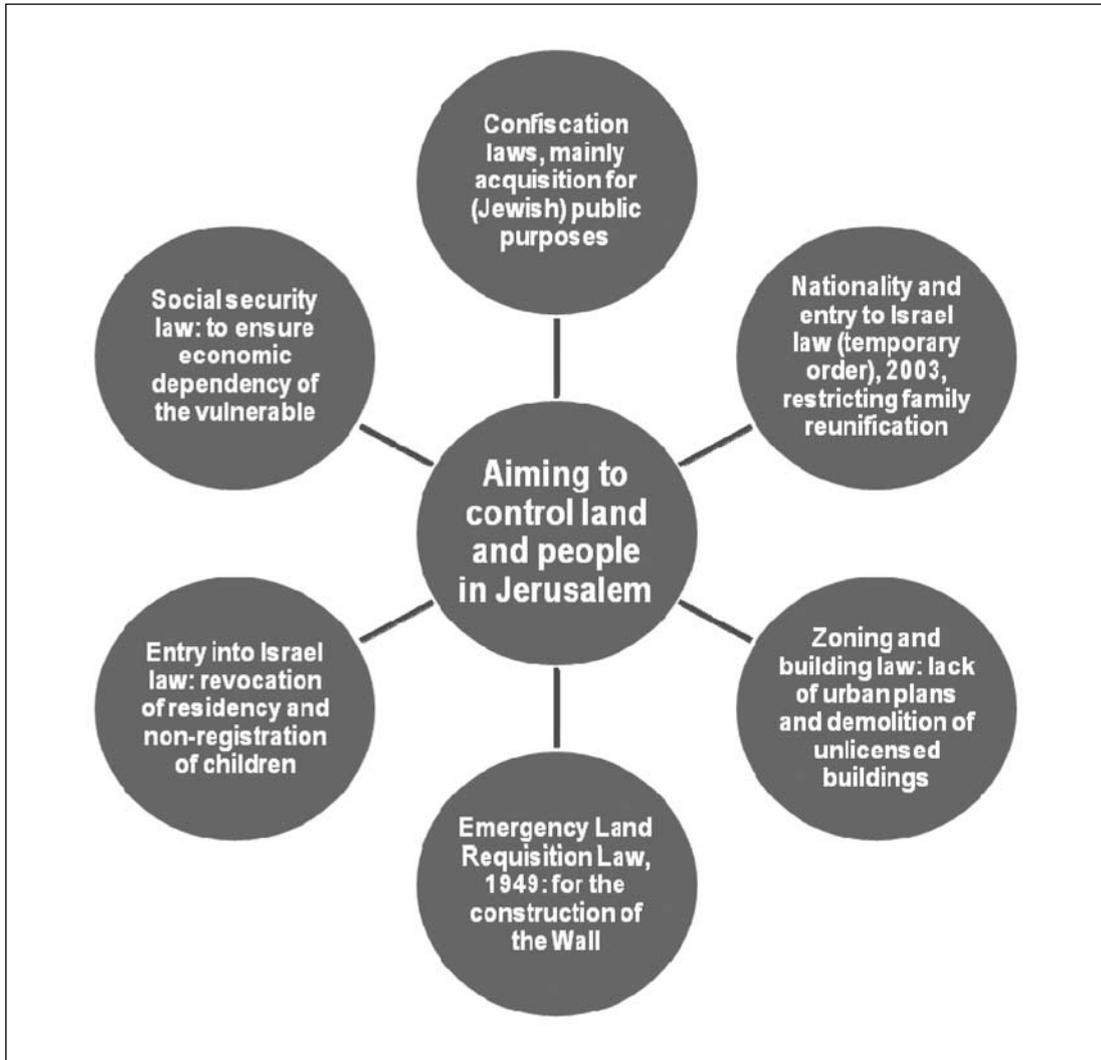


[142] www.moh.gov.il

[143] “A plan is approved to build thousands of housing units in East Jerusalem”, *Haaretz*, 17 March 2008.

[144] Akiva Eldar, “No difference to U.S. between outpost, East Jerusalem construction”, *Haaretz Newspaper*, July 20, 2009.

Diagram 3: Israeli laws used to ensure control over people and land



6. Conclusion and Closing Remarks:

Israel has adopted a policy aimed at assuring its control over East Jerusalem and other areas occupied in 1967, and at strengthening the Jewish presence in Jerusalem and its surroundings and ensuring a Jewish demographic prevalence at the expense of Arab presence. To achieve these goals, Israel has applied its administration to the area concerned and has used its national laws as political tools.

However, East Jerusalem has been and remains an occupied area, governed by the laws of armed conflict relating to occupation. Under these laws, the occupying power is prohibited from altering the city's features and geography and from imposing constraints on its population with the aim of forcing them out. International law does not acknowledge annexation, nor does the act of occupation, no matter how long it lasts, grant the occupier sovereignty^[145]. The occupier may have

^[145] See especially Part III, Section III of the Geneva Convention relative to the protection of Civilian Persons in Time of War. Geneva, 12 August 1949. Available at www.icrc.org/ihl.nsf/FULL/380?OpenDocument

the authority and administration but sovereignty remains in the hands of the occupied people. i.e., the Palestinian people living in the city, and has the right to self-determination.^[146]

It is worrying to see that many states deal with Jerusalem as a “regular” Israeli city, ignoring the realities of the occupation that began in 1967 and have yet to end^[147]. Hopefully, the statements issued recently by the United States,^[148] the European Union and the UN Secretary General Ban Ki-Moon,^[149] demanding Israel not to build more apartments for Jews in East Jerusalem, indicate a real and more serious change in this regard. The UN Secretary General reminded Israel of its obligation as an occupier and stated that “if Israel continues settlement activity, it will not only be acting contrary to international law but also to a strong international consensus”^[150]

Certainly, the occupation of East Jerusalem and the forced application of Israeli laws and administration on its Palestinian population have altered their status from the Israeli point of view, making them attached in the different aspects of their lives to the Israeli institution and affected by how it applies its laws and regulations, often against the interest of the Palestinian population. However, until an agreed upon solution on the future of Jerusalem is reached, ensuring equality and decent living for all its residents, the Palestinian residents of Jerusalem have no choice other than to remain attached to their city and be aware of obstacles and traps created by the Israeli laws and practices, in order to avoid them and prevent any grave consequences that may ensue, such as losing their right to residency in the city under Israeli law. The continued presence of the Palestinian population in Jerusalem is testament to the people’s resilience and fortitude in their city, and constitutes a main factor in ensuring the success of any future solution seeking to make Jerusalem also “the Capital of the Palestinian State.”

Endnotes:

1 *Usama Halabi has been a Law Researcher and Advocate in Jerusalem since 1987. He serves on the Board of ṭB’Tselem: The Israeli Information for Human Rights in the Occupied Palestinian Territories, and was a founding member of the Arab Cultural Association in Nazareth, where he served on the Board until 2001. He also was a founding member of Mada al-Carmel, the Center for Applied Social Research in Haifa. Mr. Halabi received his Law degree from Hebrew University. He holds a MA in Law specializing in national discrimination in Israeli law and a second MA in International Legal Studies from American University in Washington, DC. His research focuses on constitutional and administrative law, planning law and land expropriation. His published work deals with the legal jurisdictional status of Jerusalem, Israeli practice in the West Bank and Gaza, and the status and rights of the Arab minority in Israel. In addition to seven published books, he is the author of numerous articles in professional journals and local and international newspapers. His most recent book is entitled, “Limits of a Place in Human Existence: Two Dimensions, Geography and Demography in Israel’s East Jerusalem Policy Between 1967 and 2000” (Ramallah, Jerusalem Association for Legal Aid and Human Rights, 2001). His recent article is entitled: “The Legal Status and Rights of the Palestinians Displaced as a Result of the June 1967 War”, *The Palestine-Israel Journal*, Vol. 15No.4, 2009,p.54.

^[146] The right to self-determination of peoples is recognized in the Charter of the United Nations as well as international human rights law. See especially Article 1 of the International Covenant on Civil and Political Rights (1967) and General Comment 12 of the Human Rights Committee, 13 March 1984. Both available at www.ohchr.org.

^[147] Reference is made to the Report on the Situation of Human Rights in the OPTs, by John Dugard, the then UN Special Rapporteur for the Occupied Palestinian Territory, Geneva, August 2005.

^[148] *Infra* note 138.

^[149] News Agencies, “Israel envoy: No crisis with U.S over settlements”, www.haaretz.com/hasen/spages/1102126.html (22/7/2009)

^[150] *Ibid.*