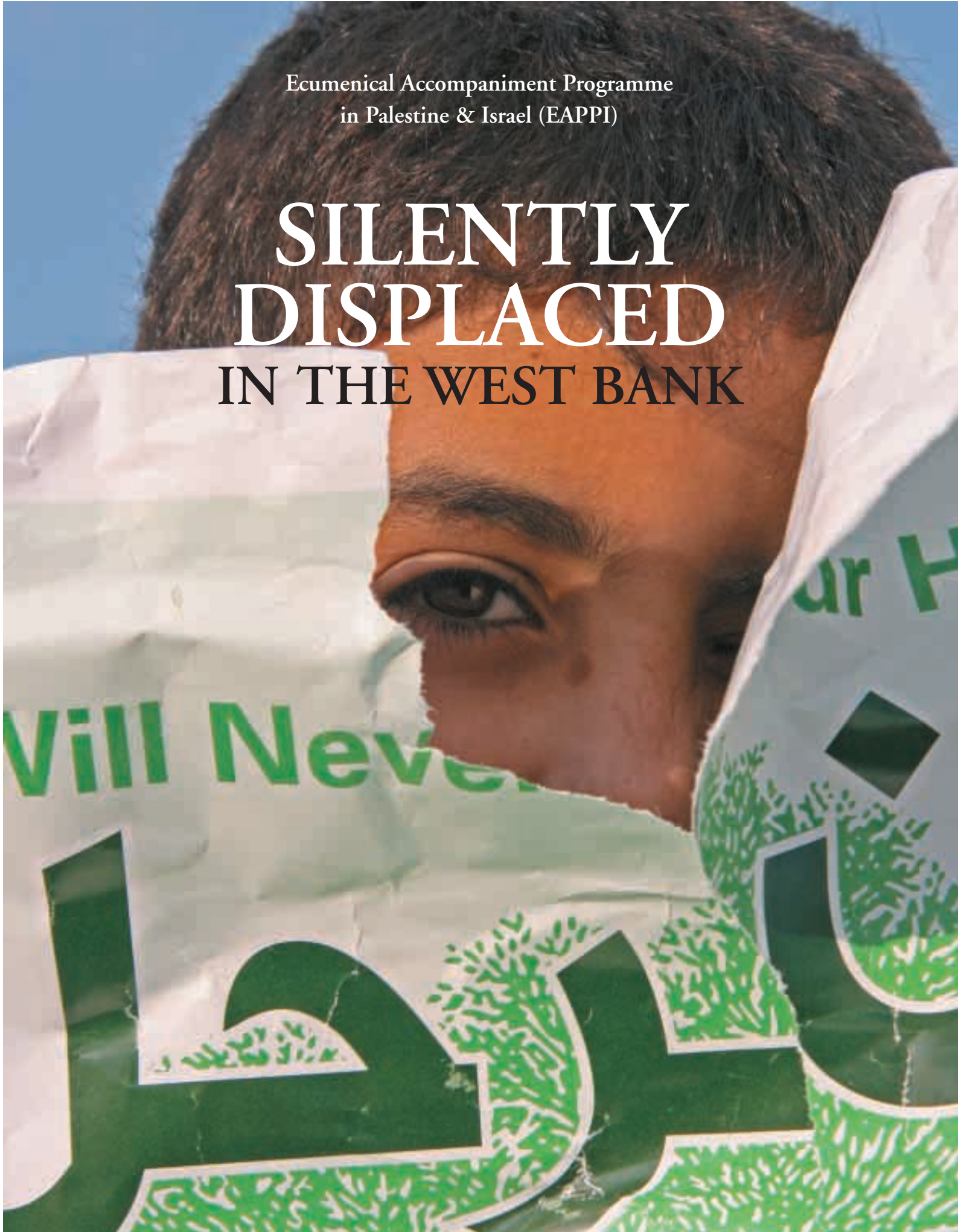


Ecumenical Accompaniment Programme
in Palestine & Israel (EAPPI)

SILENTLY DISPLACED IN THE WEST BANK



10K.net

فلسطين
لا اله الا الله
الله اعلم
P.O.
C.A.

פלסטינה
פתחת
השכור

فتح الصليب
سنة





لبنان بقتنا زلزل
بعينهم في راه حبراف

الجداد

لبنان بقتنا زلزل
بعينهم في راه حبراف
وطن القدس عامرة
وليس وطن

The Separation Wall in Abu Dis, close to Cliff Hotel in Jerusalem.

The Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) seeks to support local and international efforts to end the Israeli occupation based on principles of international humanitarian and human rights law. Responding to a call from the Heads of Churches in Jerusalem to stand in solidarity with the churches and people in Palestine, the World Council of Churches launched the EAPPI in 2002. Since then, over 500 Ecumenical Accompaniers (EAs) from 16 countries have volunteered for three-month periods. EAs monitor and report violations of human rights and international humanitarian law, support acts of non-violent resistance alongside local Christian and Muslim Palestinians and Israeli peace activists, offer protection through non-violent presence, engage in public policy advocacy and, in general, stand in solidarity with the churches and all those struggling against the occupation.



Ecumenical Accompaniment Programme
in Palestine and Israel (EAPPI)
www.eappi.org

The EAPPI is a World Council of Churches programme

Published by: EAPPI
Editor: Matilda Svensson
Photographer: Mats Svensson
Printer: Emerezian Est. print@emerezian.com

ISBN 978-2-8254-1534-4

June 2009

SILENTLY DISPLACED IN THE WEST BANK

The Ecumenical Accompaniment Programme
in Palestine & Israel (EAPPI)

FOREWORD

by Manuel Quintero
EAPPI international coordinator

Armed conflicts or natural disasters force them to abandon their homes, grasping at survival. They do not cross state boundaries, but are displaced to other areas of the national territory as they seek minimal protection and support. It has happened many times in human history, but only in the last few decades have this phenomenon and its social, cultural, economic and demographic implications attracted the attention they deserve from the international community and specialized agencies.

They are “internally displaced people”, and estimates suggest that there are approximately 25 million in the world today. Most are women and children, with some 5 million in Sudan and over 3 million in Colombia, countries torn apart by protracted and bloody conflicts. As opposed to “refugees” who have crossed borders and enjoy the protection of international law, at least in theory, there is no international convention or specific mandate concerned with the plight of internally displaced people.

The Palestinian people have lived the drama of forced exile and displacement for over 60 years now. The creation of the state of Israel in 1948 meant the deportation of hundreds of thousands of people to whom the basic right of living in the land of their ancestors was callously denied. Following the 1967 war, Israeli adopted a policy permitting settlements in the Occupied Palestinian Territory although this was deemed as illegal and formally denounced by the United Nations. Recent years have seen the building of a “security” Wall, also ruled illegal by the Hague International Court. Each of these events has proven a decisive factor in the internal displacement of Palestinians in the West Bank, the Gaza Strip and East Jerusalem. According to reliable sources, 115,000 Palestinians have been internally displaced since 1967.

An acute sense of loss and uprooting is alive in the soul of the Palestinians, an historically rural people with roots as deeply planted in their homeland as those of their olive orchards and orange trees. This book tells us about this sense of loss and the existential drama of thousands of Palestinians who are banned from returning to their homes by the unlawful occupation of their land.

Participants in the Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) wrote the narratives compiled in this book. The EAPPI is an initiative of the World Council of Churches aimed at accompanying Palestinians and Israelis in their nonviolent actions and concerted advocacy efforts to end the occupation and seek a just peace in the region. Participants in the programme monitor and report violations of human rights and international humanitarian law, offer protection through nonviolent presence and engage in public advocacy.

The testimonies compiled by Ecumenical Accompaniers (EAs) are passionate but not biased, for the authors drew on a wealth of objective, factual information. These EAs should be praised for having illuminated another dimension of the suffering of the Palestinian people for churches and Christians the world over.

With amazing insight Dvora Amir, an Israeli poet born in Jerusalem during the 1948 war, once wrote:

*Whoever scars the house of another,
in the end his eyes will be scarred.
Whoever uproots the house of another,
in the end his soul will be uprooted.*

List of Acronyms	8	
<hr/>		
Introduction	11	
<hr/>		
Conceptualization of Internal Displacement	14	
<hr/>		
Internal Displacement in the Occupied Palestinian Territory	21	
<hr/>		
Case Studies of Potential Displacement in the West Bank	24	Closure, Movement Restrictions and Tightening Control
		<hr/>
		An Nu'man: Decreasing options and increasing hardships
		<hr/>
	28	Home Demolitions and Evictions
		<hr/>
		The case of the Al Kurd family in Jerusalem
		<hr/>
	49	The Wall and its Associated Regime
		<hr/>
		Jayyous: a village in the shadow of the wall
		<hr/>
		Jubarah village
		<hr/>
		Al Walaja
		<hr/>
	66	Settler Violence and Harassment
		<hr/>
		Settler violence in Asira al Qibliya
<hr/>		
Conclusions and Recommendations	78	
<hr/>		
Annex: Guiding Principles on Internal Displacement	81	

LIST OF ACRONYMS

CP	checkpoint
DCL	District Civil Liaison Office
DCO	District Coordination Office
EA	Ecumenical Accompanier and “EAPPI Ecumenical Accompaniment Programme in Palestine and Israel”
EU	European Union
GoI	Government of Israel
IASC	UN Inter-Agency Standing Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IDMC	Internal Displacement Monitoring Centre
IDF	Israeli Defence Force
IDP	internally displaced person
IHL	international humanitarian law
IOM	International Organization for Migration
IVGC	Fourth Geneva Convention
MFA	Ministry of Foreign Affairs
NGO	Non-governmental Organization
NRC	Norwegian Refugee Council
OCHA	UN Office for the Coordination of Humanitarian Affairs
oPt	occupied Palestinian territory
PA	Palestinian Authority
PLO	Palestine Liberation Organisation
RSG	Representative of the Secretary-General
UNHCR	United Nations High Commissioner for Refugees
UNROD	UN Register of Damage caused by the construction of the Wall
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East





I. INTRODUCTION

Since the first Arab-Israeli war in 1948, Palestinians have suffered several waves of forced displacement. At the end of 2008, there were an estimated 7 million Palestinian refugees and more than 110,000 internally displaced Palestinians, representing 70% of the entire Palestinian population worldwide (10.1 million).¹ An additional 30,000 to 90,000 people are reportedly at risk of displacement. However, while refugees benefit from a specific international regime devoted to ensuring protection and assistance when their own leadership cannot or will not, international action on behalf of the internally displaced is ad hoc and therefore not assured. This difference in international obligations is particularly alarming as the scope of internal displacement in the occupied Palestinian territory (oPt) is rising due to a number of measures, including revocation of residency rights, deportation, house demolitions and evictions, land confiscation, closure and movement restrictions, Israeli settler harassment, the Separation Wall² and military operations.³

Although it has been recognized that these measures are displacing people, there appears to be a general reluctance to categorize these people as internally displaced persons or IDPs. There are nevertheless certain legal aspects that cannot be disputed. For example, the oPt is occupied by Israel and thereby governed by the rules belonging to the special legal regime of occupation. Furthermore, because the Israeli-Palestinian conflict is classified as an international one, international humanitarian law (IHL) as specified in the four Geneva Conventions is applicable to the entire oPt.⁴ All High Contracting Parties, signatories of the Fourth Geneva Convention,⁵ have obligations to respect and ensure respect of the Convention as it applies to the oPt, and are bound by its regulations. Moreover, customary IHL as laid down by the 2005 ICRC study⁶ applies in the context of the Israeli occupation of the Palestinian territory.

After a brief conceptualization of internal displacement, this report highlights the issue of internal displacement in the West Bank. Ecumenical Accompaniers (EAs), present in six locations throughout the West Bank and Jerusalem, have produced a number of case studies of current causes and threats of displacement in the oPt.⁷ Although the causes for forced displacement are in many cases interlinked and connected, four overarching themes are apparent: closure, movement restrictions and tightening control; home demolitions and evictions; the Wall and its associated regime; and Israeli settler violence and harassment.

Under the theme of closure, movement restrictions and tightening control, the EAPPI Bethlehem team reports on the hardships of the village of An Nu'man, which according to human rights agencies is suffering from "systematic property destruction, land appropriation and de facto annexation, physical and psychological harassment and restrictions on movement ... to create living conditions so unbearable as to bring about the gradual indirect forcible transfer of residents out of the village."⁸ Providing regular presence at home demolitions, the Jerusalem team reports on the case of the Al Kurd family, 1948 refugees from Jaffa and Talbieh, who were displaced for a second time when they were forcefully evicted from the East Jerusalem neighbourhood of Sheikh Jarrah to provide a home for Israeli settlers in November 2008.



The Wall and its associated regime constitute multifaceted grounds for forced displacement. The Jayyous team reports on the effects of the Wall, which was completed in that area in 2003 and isolated 75 percent of Jayyous' agricultural land between the Green Line and the Wall, seriously restricting access and the ability to farm the land. After considerable pressure from the village and the international community, the Israeli authorities agreed to re-route the Wall and are currently doing so, but the question is where and whether those affected by its location have actually been seriously consulted. The Tulkarem team explores the village of Jubarah, located in the so-called "closed" or "seam zone" between the Green Line and the Wall. Accessible only for residents of Jubarah, the village is effectively cut off from the rest of the West Bank. The Bethlehem team reports on the village of Al Walaja, which stands to lose some 50 percent of its land to make way for expanding Israeli settlements, the route of the Wall and the construction of a new Israeli-only bypass road.

Israeli settler violence against Palestinian civilians is on the rise. UNOCHA reports that in most cases, it is ideology-driven, organized violence, the goal of which is to assert settler dominance over an area, and in some cases, so systematic as to directly contribute to the displacement of Palestinian residents.⁹ The Hebron and Nablus governorates were particularly targeted in the autumn of 2008, when the EAPPI Yanoun team reported on settler harassment and actions in Asira al Qibliya.

This publication is guided by the idea that although displaced persons need to be assisted, the international community has a responsibility to try to prevent their displacement in the first place. Effective information, documentation and early warning systems are critical aspects of protecting those facing the threat of forced displacement. In this publication, the EAPPI uses its field presence and experience to highlight certain vulnerable areas in the West Bank, thereby providing a cross-cutting view of the diverse and interconnected causes of potential displacement today.

II. CONCEPTUALIZATION OF INTERNAL DISPLACEMENT

A widely used indicator of suffering in war zones is the number of “refugees,” that is, exiles who flee across the borders of their country of origin.¹⁰ When such people are forced migrants within their own countries, they are often even more vulnerable. While international law entitles refugees to physical security, human rights protection and assistance, no such legal guarantees exist for those who participate in an “exodus within borders.”¹¹ The internally displaced fall under the sovereign authority of their governments, which, if not actually their persecutors, may be unable or unwilling to help them. This growing category of war-affected populations still has no institutional sponsor or formal international legal framework, leading the vice-president of the International Crisis Group to describe them as “orphans of conflict.”¹²

Over the past two decades, the ratio of refugees to internally displaced persons has seen a dramatic reversal. When IDP data were first gathered in 1982, there was one IDP for every ten refugees;¹³ at present the ratio is approximately 2.5:1.¹⁴ As the nature of war has changed in the last few decades, with more and more internal conflicts replacing interstate wars, the number of IDPs has increased significantly to some 26 million worldwide who are displaced within the borders of their own countries as a result of armed conflict, internal strife and serious violations of human rights.¹⁵ The growing number of IDPs worldwide has forced the international community to organize itself to remedy the shortcomings in international assistance and protection for these people. In 1992, UN Secretary-General Boutros-Ghali submitted the first analytical report on IDPs to the UN Commission on Human Rights.¹⁶ Later that year, Boutros-Ghali designated Francis Deng, a former Sudanese ambassador and minister of state for foreign affairs, to serve as the Representative of the Secretary-General (RSG) on Internally Displaced Persons.¹⁷ RSG Deng developed what has since become one of the central tenets behind the efforts to assist and protect this disparate group: “sovereignty as responsibility.”¹⁸

SOVEREIGNTY AS RESPONSIBILITY

The idea of “sovereignty as responsibility” has two essential parts: governments are responsible for the human rights of their citizens as part of the essence of statehood, but when they are unwilling or unable to provide for the security and well-being of their citizens, an international responsibility arises to protect vulnerable individuals.¹⁹

By reconciling humanitarian concerns and issues of sovereignty through the conception of “sovereignty as responsibility,” RSG Deng paved the way for the international acceptance of his thirty Guiding Principles on Internal Displacement. These principles attempt to bring together in one document the relevant principles of international human rights and IHL, clarify grey areas and fill in gaps that may exist in relation to the protection of IDPs. Although the principles were issued more than a decade ago and are merely guiding, many of them have already achieved customary law status.²⁰

GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

Since the end of World War II, international human rights law, international refugee law and IHL have developed along separate paths, with distinct normative and institutional frameworks. IDPs are not explicitly mentioned in the guarantees of existing international law. From the outset of his mandate, RSG Deng therefore envisioned the gradual development of a defined normative base to govern the situation of IDPs prior to and during displacement, as well as during return, resettlement and reintegration.²¹ Initially faced with widespread opposition to creating a special category for the internally displaced from both governments and organizations such as the International Committee of the Red Cross (ICRC) and the International Organisation for Migration (IOM),²² Deng and his legal team gradually obtained their acceptance and even active collaboration in elaborating standards for IDPs. In 1998, 50 years after the adoption of the Universal Declaration of Human Rights, the thirty Guiding Principles on Internal Displacement were finalised at a meeting of international legal experts and representatives of UN agencies, regional bodies and non-governmental organizations.²³





The Wall in Ar Ram, Jerusalem, separates Palestinians from Palestinians.





A passage for Palestinians to Jerusalem.



It is important to emphasize that the Guiding Principles “should be understood not as a layer of completely new international obligations but as a tool to facilitate the application of existing international legal standards.”²⁴ Although they reflect and are consistent with international law-synthesizing human rights law, humanitarian law and refugee law - they do not constitute a binding instrument. This was a deliberate choice by Deng and his colleagues as a non-binding instrument was considered to be the most realistic and quickest way to proceed. Additionally, it was believed that it would “attain authority through use and help create the moral and political climate needed for improved protection and assistance for the internally displaced while avoiding confrontation with governments opposed to binding rules.”²⁵ Deng expressed the hope that the Principles would contribute, over time, to the creation of “a moral and political climate in which they might eventually attain the force of customary law.”²⁶

Until the beginning of the 1990s, IDPs had been defined negatively: they were people who had fled their homes, but who were not refugees (having remained in their country). The drafting of the Guiding Principles on Internal Displacement refined the working definition, identifying IDPs as:

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.

Recognizing that the reasons for displacement are often complex and interrelated, this definition is the broadest one in use at the international and regional level. It tries to “strike a balance between too narrow a framework that risks excluding people and one so broad that it could prove operationally unmanageable.”²⁷

The new definition and the compilation of Guiding Principles were integral in formulating a more comprehensive approach in dealing with internal displacement, to steer away from the prevailing approach that Deng and his colleagues felt was too concentrated on the delivery of emergency relief. They reasoned that strategies to address mass displacement need to encompass “prevention, protection, and political and economic solutions as well.”²⁸ In addition to the Guiding Principles, Deng and his colleagues therefore outlined preventive strategies in the form of “effective information and early warning systems, good governance, a strengthened civil society, and humanitarian intervention prior to mass displacement”²⁹ in addition to underlining that the restoration of peace has to be accompanied by rehabilitation and development programmes. They argued that without such solutions, albeit costly and time-consuming, “there is little or no chance that the underlying causes of the conflict will be addressed, that displacement will be resolved, and that reconciliation, reconstruction, and development will follow.”³⁰

Applying both to governments and insurgent forces, the Principles are non-derogable and applicable in all circumstances.³¹ By providing a yardstick for monitoring the treatment of IDPs, they are today seen as an important advocacy tool for humanitarian, human rights and development organizations.

III. INTERNAL DISPLACEMENT IN THE OCCUPIED PALESTINIAN TERRITORY

One of the least recognized groups of internally displaced persons in the Middle East exists within the oPt due to the lack of internationally accepted borders between Israel and its neighbours, including the future State of Palestine. The UN's vague use of the term "displaced person" is further complicating the issue for IDPs in the oPt. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) does not distinguish between "refugees" and "IDPs," providing aid to all "persons whose normal place of residence was Palestine during the period 1 June 1946 and 15 May 1948, who lost both home and means of livelihood as a result of the 1948 Arab-Israeli conflict" as well as their descendants.³² According to UN Security Council Resolution 237(1967), the term "displaced person" refers to Palestinians displaced within and from the West Bank and Gaza Strip as a result of the 1967 Arab-Israeli conflict and their descendants.³³ The General Assembly also subsequently endorsed UNRWA to also "provide humanitarian assistance ... on an emergency basis and as a temporary measure," to persons displaced as a result of the June 1967 Six-Day War and subsequent hostilities.³⁴ In a situation where various generations of displaced persons have accumulated without the prospect of durable solutions, the added value of applying a new label and a new "regime" specifically tailored for IDPs needs to be considered.

The Geneva-based Internal Displacement Monitoring Centre (IDMC) considers Palestinians, who have been displaced from their homes in Gaza and the West Bank due to deliberate home demolitions and evictions, and have remained in these areas, to be IDPs and not refugees since they have not left their country.³⁵ As Gaza and the West Bank are considered a single territorial unit under the Oslo Accords,³⁶ the IDMC argues that movement between the two areas does not engender refugee status. With internal displacement on the rise in the oPt,³⁷ it is critical that the international community recognizes it as such, in order to engage in the prevention, protection and assistance of those facing forced displacement in addition to those who have already been displaced.

Estimates of the total IDP population in the oPt remain controversial and vary according to sources, existing data and applicable definition of IDPs. Estimated numbers of IDPs in the oPt vary between 24,500 and 115,000.³⁸ There is no registration system and no systematic data on internal displacement, although the Inter-Agency Displacement Working Group (DWG) formed in January 2008 under the auspices of the protection sector (now called the Protection Cluster) of the Office of the UN High Commission for Human Rights (OHCHR) in the oPt is making considerable headway in this regard. The DWG was established after nearly two years of efforts by a small number of local and international NGOs, who worked to raise awareness of the problem and its solutions. Most agencies argue that in the oPt, the term IDP includes the following groups of people:

- 1) Palestinians originating from the West Bank or the Gaza Strip, who were internally displaced for the first time during the 1967 Israeli-Arab conflict.
- 2) Palestinians originating from the West Bank or the Gaza Strip who were (and continue to be) internally displaced as a result of human rights violations by the Israeli occupation regime after the 1967 Israeli-Arab conflict.³⁹

התורן
התורה
02-6390711

For months, a narrow opening was left in the Wall in Ar Ram, through which only young children could squeeze.



All of these people were indeed displaced as a result of an armed conflict and/or violations of human rights and have remained within the territories. Using the working definition of the Guiding Principles, they can be considered IDPs. The United Nations has defined forced population transfer as the “systematic, coercive and deliberate ... movement of population into or out of an area ... with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another.”⁴⁰ It is clear that forceful displacement risks altering the demographic composition of the population, therefore amounting to a violation of human rights law and IHL. It is time to address the underlying causes for displacement and focus on prevention and protection. The Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) is visibly present in vulnerable communities, listens actively to local people’s experiences, giving voice to peoples’ daily suffering under occupation and produces first-hand written materials and testimonies. We will now present seven case studies of communities that, for different reasons, are particularly vulnerable to forced displacement.

IV. CASE STUDIES OF POTENTIAL DISPLACEMENT IN THE WEST BANK

Since 1967, Palestinians in the occupied West Bank have experienced continued forced displacement through a number of measures, including closure and movement restrictions, home demolitions and evictions, the Wall and its associated regime, confiscation and annexation of land, and Israeli settler harassment and violence.

CLOSURE, MOVEMENT RESTRICTIONS AND TIGHTENING CONTROL

Since the Second Intifada in 2000, the West Bank has been increasingly fragmented as a result of land appropriation, continuing restrictions in access and movements and the development of a two-tier infrastructure which benefits Israeli settlers in the West Bank, including East Jerusalem. According to UNOCHA, approximately 38 percent of the West Bank, including East Jerusalem, is off limits to Palestinians, due to Israeli settlements and informal outposts, military infrastructure and firing zones, Israeli-designated nature reserves and “closed areas” or “seam zones” between the Separation Wall and the Green Line.⁴¹ The situation of the small village of An Nu'man typifies the extent to which the closure regime, Israeli infrastructure and settlement expansion contribute to forced displacement.

AN NU'MAN: DECREASING OPTIONS AND INCREASING HARDSHIPS

This report discusses Israel's infringement of a number of human rights of residents of the Palestinian village of An Nu'man, including their right to work, to health care, to education and simply the right to a livelihood.

From An Nu'man you can see the towering apartment blocks of Har Homa, an Israeli settlement just a couple of kilometres from the village boundaries, where the cranes are seen working all day long. In the settlement, it is possible to see increased livelihood, opportunity and a future. From An Nu'man

you see a settlement inching closer, a cement surveillance tower behind you, and a highway that you can never use.

A bureaucratic mistake

An Nu'man is a small village southeast of Jerusalem with some 200 inhabitants in 20 homes.⁴² The village's problems are largely a result of what could be considered as a bureaucratic mistake. In 1967, An Nu'man was unilaterally and illegally absorbed into the expanded boundary of Jerusalem by the Israeli authorities without informing the villagers. However, the inhabitants were recorded as residents of the West Bank and issued with West Bank identity cards. The absurd result is that the residents and their houses belong to different legal and

administrative systems: the houses and land are part of the (annexed) Jerusalem municipality, while the inhabitants are residents of the West Bank.⁴³ Because they are deemed by the Israeli government to be living illegally in the homes they have had for generations, options for the residents of An Nu'man are dwindling fast. Their removal from their homes is slow and indirect, but no less effective. Rather than forcibly removing the people, the Israeli government confines them in a closed space where it is virtually impossible to develop their land and homes. This leads to the residents having no other option but to develop elsewhere - An Nu'man is bleeding its inhabitants. Meanwhile, the expansion of Har Homa settlement is on schedule.

In 1992, the Jerusalem municipality informed the residents of An Nu'man that the presence of West Bank identity card holders in a community inside Jerusalem was illegal.⁴⁴ In 1993 and 2007, the residents petitioned the Israeli Supreme Court for the village to be recognized as part of the West Bank, or, alternatively, for residents to be issued with Jerusalem identity cards and to receive a master plan and services from the Jerusalem Municipality. The latter case is still pending.⁴⁵

Although the village is officially located inside Jerusalem, the Jerusalem Municipality refuses to provide essential services to the "illegal" residents. Located within the Jerusalem borders, however, the village is not permitted to receive any services from the Palestinian Authority in the West Bank. As UNOCHA refers to the situation, the villagers of An Nu'man are truly "living in limbo."⁴⁶

In 1996 the children of An Nu'man were forced to leave the school in Umm Tuba, a village north of them, as they did not have Jerusalem residency rights and so were not entitled to use the municipality's school system. The road link to the nearest city, Bethlehem, was repeatedly closed for periods of 20-30 days between 1998 and 2003. During this time, the Israeli authorities broke water pipes leading to the

village⁴⁷ and uprooted telephone poles provided by the Palestinian Authority.⁴⁸ Throughout the 1990s no building permits were granted in the village and those who did build were promptly issued with demolition orders or forced to pay fines.

According to B'Tselem,⁴⁹ an Israeli Human Rights organization, the failure of the Ministry of the Interior and the Jerusalem Municipality to recognize the residents of An Nu'man as residents of Jerusalem is part of the policy of all Israeli governments since 1967. "The policy's goal is to maintain the 'demographic balance' in Jerusalem, meaning that the percentage of Palestinians in the city must not be allowed to exceed a certain ceiling" - formerly set at 25 percent and now 30 percent.⁵⁰

The checkpoint

Upon the completion of the separation wall, the village is now surrounded on three sides. In May 2006, a military checkpoint was established at the entrance to the village, where residents' names are registered. It is virtually impossible for the community to receive outside visitors, public transportation has ceased, and most service providers are prevented from entering or no longer come because of delay and harassment at the checkpoint. The community has no shops, school, mosque or health facilities. The checkpoint further complicates normal activities such as

shopping and going to school, because of the regular cases of delays and humiliation that are reported there. Numerous villagers have testified that they have been ordered to remove their clothes under threat of being shot. Children have also been subjected to intimidating and degrading treatment.⁵¹

Present situation

Due to their unique situation The residents of An Nu'man face a particular set of hardships that are not experienced by other West Bank residents. A decision by the Israeli High Court of Justice on 9 July 2008 stated that the separation barrier would not be dismantled in the area which has severed the village from the rest of the West Bank. The only option for the residents of An Nu'man to make their presence in their homes legal is to submit a request to the Israeli Ministry of the Interior for a temporary permit to access their own village, thereby undergoing the Ministry's arbitrary scrutiny, hoping that no security issues are raised to deny such a permit. Should the permit application be refused, the applicants will have no option but to leave their homes and indirectly be forcibly transferred from their place of origin.⁵²

According to the Jewish-Arab group Ta'ayush,⁵³ this temporary permit will allow villagers to enter Jerusalem but not to stay there. No travel into Israel is allowed. At

best it is a fragile permit that needs to be renewed every six months at the whim of Israel's security needs. Many residents will not apply for the permits out of principle and the consequences of this are not known at this time. Efrat Ben Zeev from Ta'ayush says, "It is very easy to drive them away from An Nu'man now". It is believed there are two families that have already moved out of the village, although residents do not talk of this as most of them feel a very strong purpose to stay in An Nu'man.

Daily life

What most affects An Nu'man villagers is the interruption of their family and social life. Children cannot invite friends to their homes; families are unable to have any guests or visits from their relatives living in the West Bank, not even if someone is ill or during special occasions such as weddings or holidays.

Young couples are prevented from building in the community because of the impossibility of receiving construction permits. Those who have built houses anyway have been unable to obtain permits retroactively, and have faced steep fines and/or demolition of their homes. Two homes were demolished in December 2005 and a pending demolition order has been issued.

Testimony

Ghassan, 25, built a house in the neighbouring village of Dar Salah. If he wants to marry, he needs a house and since he can't build in An Nu'man, he did the next best thing. Tradition says that the wife comes to live in the husband's village but this is not possible in An Nu'man as she would not be able to get a permit to live inside the village. The possibility of marrying from the village is extremely slim since there are only two extended families. But he is building a house nearby just in case, even though he is not planning to leave the village.

Ghassan does not yet have a wife but he is holding out for the situation to change in the village. And his story is not unique. There are about ten marriage-age men in the village in the same situation, and they feel that the village needs to come before marriage. If the situation changes Ghassan will sell the house and build a new one in An Nu'man. "I would rather stay unmarried than leave An Nu'man. Land comes first for Palestinians," he says. "The village is a part of us, I can't leave it."⁵⁴

In recent years, village land has been confiscated to construct a Border Police Base, and the Mazmoriyya terminal, and for part of a settler bypass road to connect Har Home and the settlements of Teqoa and Noqedim in the southern Bethlehem

governorate.⁵⁵ In addition, the Jerusalem Municipality Master Plan 2000 envisages the planned expansion of Har Homa settlement on a portion of An Nu'man's land.⁵⁶ Human rights organisations have claimed that what is occurring in An Nu'man is clearly a case of indirect forcible transfer, not justified by the security of the occupied population, and not by imperative military reasons. The concept of forcible transfer is considered a war crime.⁵⁷

In an affidavit to Al Haq, a Palestinian human rights organization, a villager states: "We feel isolated and under siege. The authorities, so we see, are trying to make things hard for us, to molest us and our children and to cut us off from our entire surroundings, all in order to hinder us and to cause us despair on the way to abandoning our village."⁵⁸

The right to freedom of movement is enshrined in Article 12 of the International Covenant on Civil and Political Rights. Also, according to Article 43 of The Hague Regulations, the occupier is required to take all measures in its power to ensure that public life continues in the area under its control. The Israeli barrier around the village infringes on the basic right granted to all persons to move about freely and without restrictions in their country. Under international law, East Jerusalem has the same status as other areas on the West Bank,

so village residents should have the right to enter East Jerusalem.

Israel has created in the occupied Palestinian territory a separation regime based on discrimination, applying two separate systems of law on the same area and basing the rights of individuals on their nationality. This is an unsustainable system. By creating a physical barrier between the village and the West Bank and not allowing the

inhabitants to have any contact with either the Palestinian Authority or the Jerusalem Municipality, their infrastructure of existence will be totally undermined. Ultimately they will leave the village “of their own accord.”⁵⁹

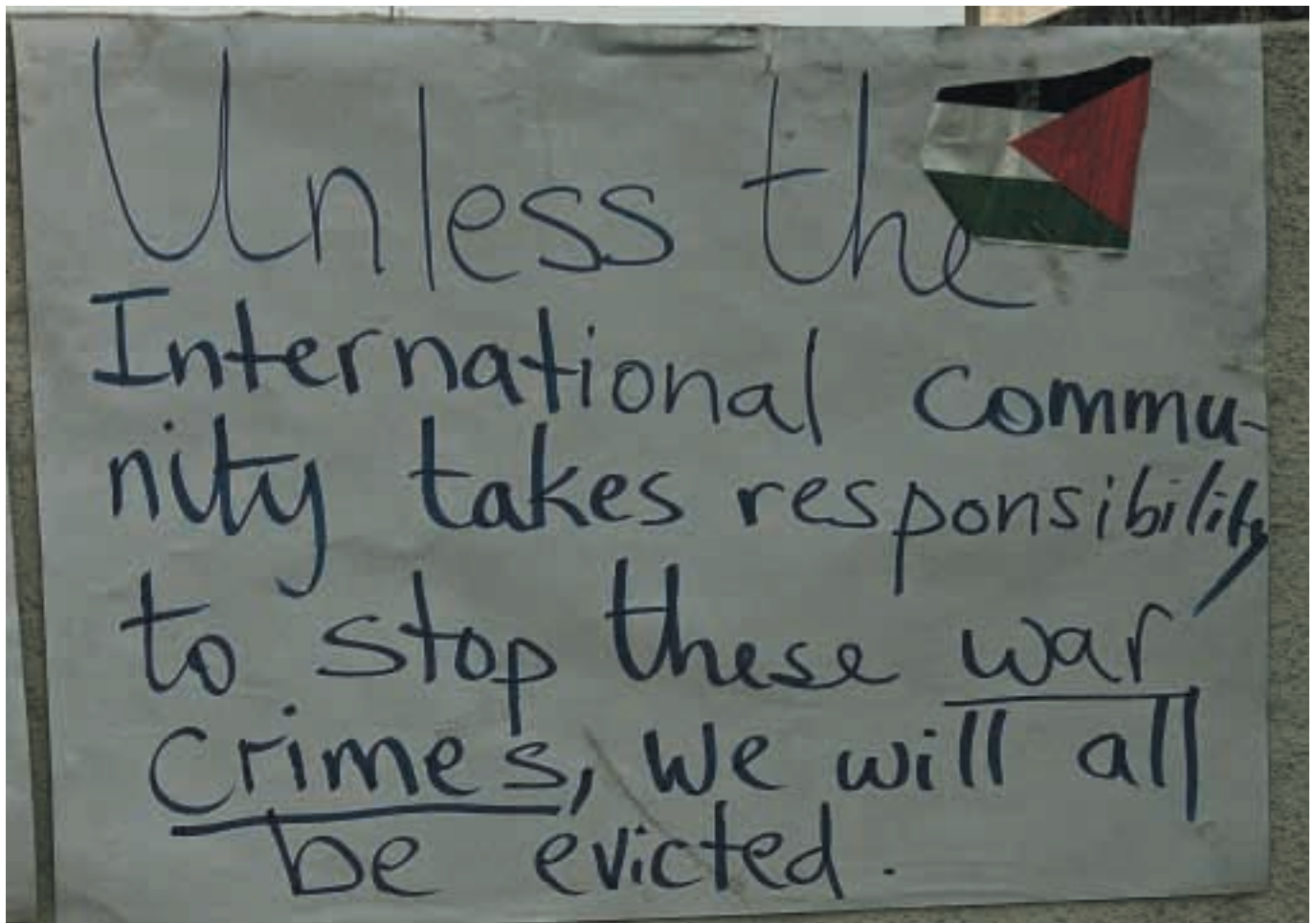
Har Homa settlement is deemed to be one of the fastest growing communities since the bulldozers first arrived in March 1997. Its population is expected to grow to 25,000

in the near future.⁶⁰ In light of the Israeli government’s refusal to change the position of the separation barrier,⁶ it should grant all residents of the village permanent residence status in Jerusalem so that they may have access to Jerusalem, as well as receive municipal services from the Jerusalem municipality.

Text: Dirk Gieselmann, Niina Karling, Pat Woods and Scott Smith, October 2008.

HOME DEMOLITIONS AND EVICTIONS

According to the Israeli Committee Against House Demolitions (ICAHD), Israel has demolished over 24,000 Palestinian houses in the oPt between 1967 and 2009.⁶² The protection of private property against confiscation, unless required by imperative military necessity, is a long-standing rule of customary international law, recognized in the Lieber Code and the Brussels Declaration and codified in the Hague Regulations and the Fourth Geneva Convention.⁶³ The violation of this rule through “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly,” is a grave breach under the Geneva Conventions.⁶⁴ Israel accordingly justifies the demolition of Palestinian houses by referring to three specific reasons: administrative reasons, military operations and punitive demolitions. As of April 2009, 4,694 Palestinian homes have been demolished by the Civil Administration for administrative reasons, that is,



Fawzieh Al Kurd "Um Kamel" has become a symbol of Palestinian resistance.







First evicted, then robbed.





Neighbours help Um Kamel to level the ground around the protest tent after the Caterpillar has cratered the privately owned land.



NAKBA
لنساء النكبة

عائدون
الى بورتنا في الطاب
القفصون هوناه
We want our Homes in
Talbieh, Katamon.....

for lack of building permits, which therefore account for approximately 26% of defined demolitions.⁶⁵ It is important to point out that in most cases, Palestinians have no choice but to build “illegally” as permits are almost impossible to obtain. According to Amnesty International and B’Tselem, demolitions for administrative reasons are based on “a discriminatory policy that has consistently refused planning permission to Palestinians while giving Israelis permission to set up settlements.”⁶⁶ Article 53 of the Fourth Geneva Convention declares that the destruction of property “is prohibited, except where such destruction is rendered absolutely necessary by military operations.” With these administrative demolitions there is no pretence of military action, and as such they are clear violations of international law.

11,798 Palestinian homes have been destroyed due to military operations since 1967, accounting for about 65.5% of defined demolitions.⁶⁷ Although imperative military necessity allows for the destruction of personal property, the ICRC’s commentary on Protocol I draws attention to the fact that it is at the discretion of the Occupying Power to interpret this clause in a reasonable manner, keeping a sense of proportion in comparing the military advantages to be gained with the damage done. The ICRC warns that “unscrupulous recourse to the clause concerning military necessity would allow the Occupying Power to circumvent the prohibition set forth in the Convention.”⁶⁸ Large-scale demolition operations of civilian homes immediately after an attack on Israelis suggest different interpretations of the principle of proportionality, since there is arguably no absolute military necessity to destroy this property.⁶⁹

ICAHD reports that 1,523 Palestinian homes have been demolished as “collective punishment and deterrence” affecting families of people known or suspected of involvement in attacks on Israeli civilians.⁷⁰ These demolitions account for 8.5% of all defined demolitions. B’Tselem reports that the policy has left 4,182 Palestinians homeless since the beginning of the second Intifada.⁷¹ The Israeli policy of punitive house demolitions is a flagrant breach of international law which, as we have seen, allows destruction of property only when necessary for a military operation.⁷² According to the ICRC, “military operation” is defined as “the movements, manoeuvres and actions of any sort, carried out by the armed forces with a view to combat.”⁷³ Punitive house demolitions do not meet this definition and human rights organizations have therefore stated that the policy amounts to collective punishment, which is a violation of IHL in itself.⁷⁴ Article 33 of the Fourth Geneva Convention states, “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.” The policy of punitive house demolitions was officially suspended by the IDF in February 2005, after it reached the conclusion that rather than deterring attacks, punitive demolitions only enflame the people and lead to more attacks. However, the practice was resumed on 19 January 2009.

THE CASE OF THE AL KURD FAMILY IN JERUSALEM

Internally displaced Palestinians generally fall into two groups: those who fled from their homes in 1947-48 but remained in the area that became the state of Israel in 1948 - approximately 338,000 people, and those displaced during the 1967 war and since the beginning of the occupation -

currently over 110,000 persons.⁷⁵ The second category includes displaced persons due to home demolitions and evictions. There are also people who have been displaced twice and are counted in both groups.⁷⁶ One such unfortunate family is the Al Kurd family living in the Sheikh Jarrah neighbourhood of East Jerusalem.

The EAPPI has accompanied the Al Kurd

family since the day they received their eviction order in July 2008. The writers of this report coincidentally began serving their three-month term as Ecumenical Accompaniers on the day of the Al Kurd family’s forced eviction in November 2008. The EAs visit the family several days a week and have seen the tent into which they moved be demolished, time and time again, with their own eyes. The case has gained

some international attention from volunteers, media and diplomats, very much thanks to the continuous struggle of Um Kamel, Mrs. Al Kurd.

The legal status of East Jerusalem and its residents

Between the years 1948 and 1967, Jerusalem was divided into two distinct areas. West Jerusalem occupied 38 square kilometers (Km²) and was under Israeli control while East Jerusalem covered 6 km² and was under Jordanian authority. Following the six-day war in June 1967, Israel occupied the West Bank and unilaterally annexed 70.5 km² of the occupied area, integrating it within the Jerusalem municipality. This territory consisted of East Jerusalem, including the whole of the Old City, and 64 km² of the West Bank, including 28 villages. This meant that almost overnight, the area of Jerusalem tripled and it became the largest city in Israel.⁷⁷ The annexation contravenes international law and was not recognized by the UN Security Council or UN member states.

Following the annexation, the government organized a census in these areas. Persons not present at the time the census was taken lost forever their right to reside in Jerusalem. Those who were present became permanent residents. They were permitted to become Israeli citizens if they met certain conditions, but for political reasons most did not apply. Instead, they accepted Jerusalem residency, which gave them more limited rights than Israeli citizens but did afford them some privileges that West Bankers do not enjoy, such as health insurance and social benefits. But Jerusalem residency, unlike Israeli citizenship, is easily lost and rarely regained.⁷⁸ Also, unlike

citizenship, permanent residency is passed to the holder's children only if they were born in East Jerusalem or Israel and if their parent holds a Jerusalem ID card.⁷⁹

Planning policies

Throughout its occupation, Israel has significantly restricted Palestinian development in East Jerusalem. UNOCHA reports that over one third of East Jerusalem has been expropriated for construction of illegal Israeli settlements, while only 13 percent of the annexed area is currently zoned by the Israeli authorities for Palestinian construction.⁸⁰ However, the building permit application process is complicated and expensive, and the number of permits granted per year to Palestinians does not meet the existing demand for housing. UNOCHA reports that the gap between housing needs based on population growth and the legally permitted construction is estimated to be at least 1,100 housing units per year.

Because of the difficulties in trying to obtain building permits from the Israeli authorities and due to the lack of feasible alternatives, many Palestinians risk building on their land without a permit in order to meet their housing needs. At least 28 percent of Palestinian homes in East Jerusalem have been built in violation of Israeli zoning requirements, meaning that some 60,000 Palestinians are at risk of having their homes demolished.⁸¹

Since 1967, the Israeli authorities have demolished thousands of Palestinian-owned structures in the occupied Palestinian territory, including an estimated 2,000 houses in East Jerusalem. Between 2000 and 2008,

the Israeli authorities demolished more than 670 Palestinian-owned structures in East Jerusalem due to lack of permits. According to B'Tselem, the Israeli Information Center for Human Rights, 89 houses in East Jerusalem were demolished in 2008, making more than 400 people homeless.⁸²

A Judaization of East Jerusalem?

Palestinians have long argued that evictions and demolitions are an attempt by Israel to reduce the number of Palestinians in East Jerusalem to allow settlement expansion and to pre-judge a final status peace agreement.⁸³ There is a plan from 2004 by the Israeli municipality in Jerusalem, which states as its goal "to secure an absolute Jewish majority in the city by creating a framework to proceed with the development of the city of Jerusalem as a capital for the Jewish state." The plan warns the government that the number of Palestinians in the city, if left to their present growth rate, will reach 40 percent of the Jerusalem population in 2020, which will undermine the government's decision to maintain an approximate 70:30 Jews to Palestinians ratio.⁸⁴

Palestinian and Israeli critics argue that the Israeli government and private Jewish groups are working in concert to build a human cordon around Jerusalem's Old City and its disputed holy sites to "Judaize" these historically charged areas. According to a Washington Post investigation, the eviction of the Al Kurd family is part of a plan to move Jewish residents into Palestinian neighbourhoods to consolidate Israel's grip on strategic locations.⁸⁵ A spokesman for Jerusalem City Hall rejected the accusations by saying that municipal enforcement is carried out equally and according to the law

and that the demolition of houses built on “public land” took place only after the residents lost their appeals in the district and supreme courts.⁸⁶

The case of the Al Kurd family
Evictions are much less common but no less alarming than house demolitions.

Background

In 1956, housing units were built in the Sheikh Jarrah neighbourhood in East Jerusalem for the purpose of providing housing for Jerusalemite families, including the Al Kurd family who were refugees from Jaffa and West Jerusalem. The construction of these units was carried out in cooperation between the Jordanian government represented by the Ministry of Construction and Development and the United Nations Relief and Works Agency for Palestine Refugees, UNRWA. The agreement between the two bodies indicated that the Jordanian Government would offer the land for UNRWA to build the housing units in return for the resettled refugees relinquishing part of the services offered by UNRWA, namely food assistance.⁸⁷ The families were given the properties under 33-year leases, which would revert to full ownership as long as they paid a token rent and kept the properties in good order.⁸⁸

Orthodox Jews from a religious organization, the Sephardi Jewry Association, claim that they purchased the land in the late 19th century - it is close to an old Jewish tomb popular with pilgrims. In 1967, when Israel annexed East Jerusalem, the property was taken by the Custodian for Absentee Property, an Israeli institution that had also

taken control of all property left behind by the 700,000 Palestinians who fled or were forced out in the 1948 war.

Two Jewish groups, the Oriental Jews Association and the Knesset Yisrael Association, began a legal process to reclaim ownership of the property and in 1972 the court gave control of the land to the heirs of two rabbis who appeared to be the 19th-century owners. The Al Kurd family was forced to pay rent to its new landlords, which it refused in principle.⁸⁹

Settlers moving in

While the Al Kurd family continued legal proceedings challenging the settlers’ claim, the settlers started filing suits against the Palestinian family. In 2001, settlers occupied half of the house.⁹⁰ The area of the seized section of the house is 78 m². The family unequivocally denied the settlers’ claim to the land, insisting that they have no legal documentation to prove it. Settler organizations have offered the Al Kurd family large sums of money in return for selling the house to them, but the family has refused.⁹¹

In 2006, the court ruled the settlers’ claim void, recognizing it was based on fraudulent documents. Subsequently, the Al Kurd family lawyer petitioned the Israeli Land Registrar to revoke the settler’s registration of the land and state the correct owner of the land. Although it did revoke the settlers’ claim, the Israeli Land Registrar refused to register the Al Kurd family’s ownership of the land.⁹² Based on the same grounds, another 27 families in the Sheikh Jarrah neighbourhood are now threatened with eviction.⁹³

According to Kamel Al Kurd, the son of the family, the Al Kurds have for years lived with constant settler surveillance around their home, verbal threats, offered bribes and actual invasion of settlers into their house. The settler families arrived and stayed on a rotational basis, making it even more difficult to secure their removal through the courts. Despite the fact that their claim to the land was revoked, settlers were given the keys to the Al Kurd’s family home extension by the Jerusalem municipality.

Eviction orders to both parties

The Al Kurd family went to the Israeli Supreme Court and obtained an eviction order against the settlers in 2007. In spite of this, the settlers remained in the building.

In July 2008, the Israeli Supreme Court ordered the eviction of the Al Kurd family for their refusal to pay rent to the settlers for use of the land. Although the settlers’ claim to the land had been revoked two years earlier, the court based their decision on an agreement made between a previous lawyer for the family and the settlers even though the Al Kurd family, and the Sheikh Jarrah neighbourhood as a whole, rejected this agreement and fired their legal representative at the time.

According to the Al Kurd family, in the beginning of 2008, the two settler associations who were claiming ownership to the Al Kurd’s land sold their claim to the property to a large investment company called Nahalat Shamo’an. In turn, the company presented plans to build 200 housing units atop the ruins of the present Palestinian community of 28 homes. As such, the “legal” proceedings to evict the Al

Kurd family were set in motion. The Al Kurd family's lawyer petitioned the Magistrate Court, the District Court and the High Court on 13 July 2008 to block the proceedings. However, all petitions were denied. On 15 July, the lawyer petitioned the High Court yet again with two demands: the first was to stop the eviction proceedings against the Al Kurd family and the second was to reconsider the validity of the settlers' claim of land ownership. On 16 July, the Israeli High Court refused to look into the issue of the Al Kurd eviction while asking for additional clarification about the lawyer's second demand no later than 20 July 2008. The clarifications were presented to the Court within an hour of the request.

The eviction of the Al Kurd family

At 03.30 in the morning of 9 November 2008, the Al Kurd family was forcefully evicted from the house. According to Mrs Al Kurd, Um Kamel, she was helping her sick husband Mohammed with a bedpan when she heard a knock on the door.

Outside the front door stood almost one hundred policemen and Border Police, who burst into her house. She was dragged into the street and her husband was taken into the neighbour's house. An ambulance was called when Mohammed Al Kurd, who was wheelchair-bound, became ill but the police did not let the ambulance reach the home. Um Kamel and her husband were evicted in their pyjamas and not allowed to take any belongings from the house.

When she appeared at the press conference later in the day, Um Kamel was dressed in clothes she had borrowed from her neighbours. Mohammed Al Kurd was taken to hospital shortly after the press conference.

Um Kamel's protest tent

Um Kamel was invited to put up a tent on a compound approximately 50 metres from the family house on land owned by a Palestinian. Since then, she has been staying there continuing her struggle for the neighbourhood and the other 27 families with eviction orders.

Her tent has become known as the Um Kamel protest tent. A large number of visitors have showed their respect and solidarity by visiting the tent.

The Committee of the Residents in Sheikh Jarrah considers the Israeli legal system to be designed to serve Jewish interests at the expense of Palestinian rights. The Committee also deplored the Israeli High Court's decision to evict the Al Kurd family and characterized it as unfair and constituting a dangerous precedent. The Committee claims that the decision is setting a precedent for the seizure of the other 27 housing units in the neighbourhood, confirming that the eviction of people from their homes comes in the context of establishing a new Israeli settlement in East Jerusalem.

Several demolitions of the tent

Since the eviction, the tent has been demolished several times because the Israeli authorities consider it to be an illegal building on the land. The fence around the





land has also been demolished and holes have been drilled into the ground to make access more difficult. After every demolition, the tent has been put up again.

In the night of 22 November 2008, less than two weeks after their eviction, Mohammed Al Kurd, who suffered from a serious kidney disease, passed away after a heart attack in hospital. Three days of mourning followed with hundreds of family members, friends, neighbours, internationals, politicians and religious leaders visiting the mourning tent in Sheikh Jarrah.

Mohammed Al Kurd was buried near the Al Aqsa Mosque after the family had requested the settlers to allow his body to be brought to visit the house for the last time. The request was rejected.

Um Kamel's struggle will surely continue. She and her tent are increasingly seen as a symbol of Palestinian resistance.

Al Kurds set precedent

On Sunday, 2 August 2009, just before 5:00AM, a large number of police officers in riot gear broke into the Hannoun and Ghawi family homes and forced all 53 inhabitants, including 19 children out at gunpoint.

Insensitive to the cultural norms, the police even refused to allow the women to properly dress before being thrown out on the street.

After arresting numerous Israeli and international peace activists who tried to intervene and stop the evictions, the police loaded the families possessions onto a truck and dumped them at a municipal site on the edge of Jerusalem. Just hours later, both homes were given to Israeli settlers and security personnel were stationed outside to ensure that the rightful owners do not erect tents within sight of the houses.

Now 25 other Palestinian families in Sheikh Jarrah remain threatened with eviction notices.

Text: Bente Bertheussen, Fofu Lerefolo, Helena Koumi and Liz Burroughs, January 2009.









Home demolition in Silwan, Jerusalem, November 2008.









