

## Recent Documents

# Punitive Residency Revocation:

## The Most Recent Tool of Forcible Transfer

*The following documents were recently released by the Community Action Center at al-Quds University, in cooperation with al-Haq, Society of St. Yves, Jerusalem Legal Aid and Human Rights Center, Civil Coalition for Palestinian Rights in Jerusalem, and BADIL Resource Center for Palestinian Residency and Refugee Rights.*

As part of a 49-year-long occupation, Israel has taken advantage of a wave of violence in Jerusalem over the past six months to implement policies and practices aiming at forcibly transferring Palestinians from the city. In a dangerous precedent, the Israeli minister of interior has punitively revoked the residencies of at least 13 Palestinians on the basis of “breach of allegiance to the state of Israel.” Requiring Palestinians to have loyalty toward the occupying power is a blatant violation of international humanitarian law, which prohibits the imposition of swearing allegiance to the occupying power. If the criterion of allegiance is not suppressed before it is cemented in Israeli law, this opens the door for the displacement of thousands of Palestinians from East Jerusalem as a form of collective punishment.

East Jerusalem is considered occupied territory under international law following the illegal annexation by the Israeli occupying power in 1967. The Israeli government is implementing policies that ensure Israel’s domination by working to guarantee a Jewish demographic majority through colonization and “silent transfer” of Palestinians. Israel articulated a clear government policy that sought to maintain a demographic balance of 60 percent Jews to 40 percent “Arabs”<sup>1</sup> within the Israeli declared boundaries of the Jerusalem municipality – which it unilaterally declared as the unified capital of Israel in 1980. Israel has used a variety of methods to reduce the Palestinian population of the city:

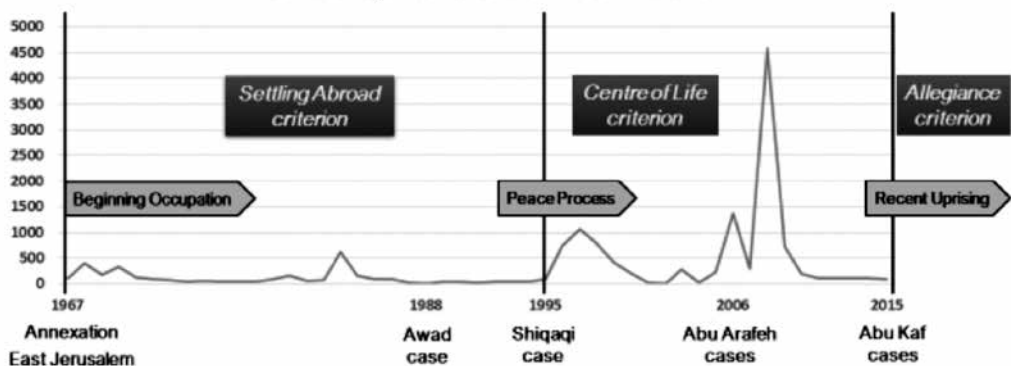
- Revoking residency status of East Jerusalem Palestinians;
- Expropriating land and property, denying building permits, and demolishing houses of Palestinian in a systematically discriminatory manner;
- Severely restricting family (re)unification

and child registration of East Jerusalem Palestinians;

- Physically isolating East Jerusalem from the rest of the West Bank, in part by building the annexation wall.

By granting Palestinians a “permanent” residency status to live in Jerusalem, Israel treats around 300,200 Palestinians like immigrants whose entry into Jerusalem and residency in Jerusalem is a revocable privilege, instead of an inherent right. The Israeli minister of interior has discretionary powers to revoke a residency status.<sup>2</sup> Revocation of permanent residency status is the most direct tool used to forcibly transfer Palestinians from East Jerusalem. This policy, which was used by Israel more than 14,565 times between 1967 and 2015,<sup>3</sup> is illegal under international law.

### *Residency Revocation 1967–2015*



The policy of Palestinian transfer from Jerusalem through revocation of residency was developed in three main phases:

**1967–1995:** An East Jerusalem Palestinian can lose his residency status by: “settling outside Israel” for a period of 7 years or by receiving the status of resident or citizen in another country. Some 3,150 residencies revoked in 28 years.

**1995–ongoing:** The aforementioned criteria were suddenly broadened: an East Jerusalem Palestinian now loses his residency status by moving his “center of life” outside Israel even if he was residing abroad for less than 7 years and did not obtain a residency status or citizenship of a foreign country. Israel now considers moving to the West Bank and Gaza as residing abroad. More than 11,300 residencies revoked in 19 years.

**2006–ongoing:** In addition to the center of life policy, the Israeli minister of interior now also punitively revokes the residency status of East Jerusalem Palestinians who “breached their duty of allegiance to the state of Israel.” Consequently, East Jerusalem Palestinians who have never left Jerusalem become liable to residency revocation. At least 12 punitive residency revocations so far.

Punitive Residency Revocation is the most recent policy aiming at forcibly displacing Palestinians from East Jerusalem. So far, it is unclear how many Palestinians were punitively revoked of their residency status on the grounds of “breach of allegiance to the state of Israel.” Here are some cases:

**June 2006:** the residencies of three elected members of the Palestinian legislative council and the Minister for Jerusalem Affairs were revoked. A petition (HCJ 7803/06, Abu Arafah et al.) which challenges the authority of the minister of interior to revoke a permanent residency status based on this new ground is still pending before the Supreme Court.

**January 2016:** without awaiting the judgment of the Supreme Court, the minister of interior revoked the residencies of four East Jerusalem Palestinians who are suspected of committing criminal offences.

## **The Illegality of Residency Revocation and Punitive Revocation**

Both the general policy of residency revocation and the new criterion of allegiance to Israel, flagrantly violate international humanitarian law:

- The forced displacement of Palestinians from occupied East Jerusalem is considered a war crime (art. 8 ICC-Statute) and a serious breach of the Fourth Geneva Convention (art. 49 & 147 GC IV). As the revocation of residency policy forms part of a widespread and systematic forcible transfer policy directed against a civilian population, it may even amount to a crime against humanity (art. 7 ICC-Statute).
- The criterion of allegiance is illegal because international humanitarian law explicitly forbids the treatment of an occupied population as if it had a duty of allegiance to the occupying power (art. 45 Hague Regulations and art. 68, 3 GC IV).
- The revocation of residency violates the basic right of Palestinians to leave and return to their own country (art. 12 ICCPR): “no one shall be arbitrarily deprived of the right to enter his own country.”
- The revocation of residency results in the forcible transfer of the Palestinian civilian population thus denying Jerusalemites basic human rights: rights to family life, health, education, work, and many other civil, political, social, economic, and cultural rights.
- The revocation of residency rights in East Jerusalem violates international humanitarian law, which stipulates that the occupying power may not act as a sovereign legislator or extend its own legislation over the occupied territory (art. 43 Hague Regulations and art. 64, 2 GC IV).
- The policy of status revocation exclusively targets the Palestinian civilian population of Jerusalem, and thereby clearly violates the principle of non-discrimination (art. 26 ICCPR).

## Document 1: Security Cabinet Measures<sup>4</sup>

The Security Cabinet met yesterday evening (Tuesday, 13 October 2015) to continue its discussions on the security situation and approved a series of additional steps to deal with the wave of terrorism:

- The Israel Police is authorized to impose a closure on, or to surround, centers of friction and incitement in Jerusalem, in accordance with security considerations.
- In addition to the demolition of terrorists' homes, no new construction will be permitted at the site where a terrorist's home has been demolished.
- The property of terrorists who perpetrate attacks will be confiscated.
- *The permanent residency rights of terrorists will be revoked.*
- The operational force of the Israel Police will be enlarged and expanded.
- 300 additional security guards will be recruited for public transportation in Jerusalem at a cost of NIS 80 million.
- IDF units will reinforce the Israel Police in cities and along roads.
- The IDF will be instructed to deploy units in sensitive areas along the security fence in the immediate term. Prime Minister Benjamin Netanyahu directed that staff work be done on completing the security fence including in the southern Hebron Hills area.

The Security Cabinet will reconvene this afternoon (Wednesday, 14 October 2015) to deal with additional issues including incitement.

## Document 2: Notice of Intent to Revoke the Residency of 'Abid Dwayat'<sup>5</sup>

*On the evening of 13 September 2015, 64-year-old Israeli Alex Levlovitch lost control of the car he was driving in the East Jerusalem neighborhood of Sur Bahir, resulting in an accident that killed Levlovitch and injured two passengers in the car. Israeli police determined that Levlovitch lost control of the vehicle after Palestinian youths had thrown stones at it. The Israeli authorities tied the stone throwing to clashes earlier in the day at al-Haram al-Sharif, and labeled it a "terror attack." Police sweeps after the crash caught up 'Abid Dwayat, a resident of East Jerusalem, whom the police accused of having thrown stones at Levlovitch's car. Dwayat's permanent residency status was revoked by Silvan Shalom, the Israeli minister of interior, on 21 October 2015. This is the text of the "Notice of Intent" to strip Dwayat of his residency, with emphasis by the editors indicated in italics.*

I hereby inform you that I am considering the revocation of your permit for permanent residency in Israel, in accordance with the powers vested in me under Section 11(a) of the Entry into Israel Law 5712-1952.

The section sets forth:

The Minister of Interior may, at his discretion

(1) . . .

(2) Revoke a permit for residency granted under this Law

The intent to revoke the residency permit rests on the murderous act you committed on September 13, 2015, when, according to information provided by the Israel Police, you threw rocks at a vehicle. As a result of this act, an Israeli civilian was killed.

You committed this act using the freedom of movement granted to you as a result of carrying an Israeli identity card.

This act is a clear breach of allegiance to the State of Israel.

*In the circumstances, given the severity of the act you committed and the blatant breach of allegiance to the State of Israel described above, I am, as aforesaid, considering exercising my power to revoke your permit for permanent residency in Israel.*

You are hereby granted the right to present to me, in writing, any arguments you may have with respect to the aforesaid, within 30 days, following which I will consider your arguments prior to making a decision.

### **Document 3: Extract from Residency Revocation Decision of ‘Abid Dwayat<sup>6</sup>**

*On 15 December 2015, Dwayat submitted written arguments to appeal the decision to revoke his permanent residency (see Document 3) and on 24 December 2015, an oral hearing was held, during which Dwayat “claimed that he had lived his entire life in Jerusalem and studied in Jerusalem and that there was no compelling reasons to justify the revocation of his status.” Aryeh Deri, appointed minister of interior on 11 January 2016, confirmed the revocation of Dwayat’s permanent residency status on 19 January 2016 in a letter to Dwayat’s lawyer, Michal Pomeranz, excerpted here with emphasis by the editors indicated in italics.*

On October 21, 2015, the then Minister of Interior, Mr. Silvan Shalom, notified your client that the revocation of his permanent residency status in Israel was considered according to the power vested in the Minister of Interior under section 11(a) of the Entry into Israel Law, 5712-1952. . . .

Based on all of the reasons which were specified in said notice, after I was convinced that your client had been given a fair opportunity to present his arguments against the intention to revoke his permanent residency status in Israel by written arguments as well as in an oral hearing, and after sufficient administrative evidence was presented to me which indicates that your client had committed the acts attributed to him as will be specified below, I decided to revoke the permanent residency status of your client in Israel.

The decision to revoke the permanent residency status is made following the murderous terror attack committed by your client on September 13, 2015. . . .

Said terror attack was committed by your client by taking advantage of the freedom of movement in Israel which derives from the fact that he has permanent residency status in Israel and holds an Israeli identification card. A permanent residency status in Israel is based on a material connection between the resident and the state, in the sense that the state regards itself obligated and responsible towards the resident and in the sense that the resident carries the burden associated with said connection and coexistence and is obligated in the most basic sense not to act against the state or take action which

undermines its existence. In this context, in view of the host of rights and obligations arising from a permanent residency status, the residency status requires basic commitment and loyalty in view of the fact that residency, and all the more so permanent residency, is not a status which only grants rights without any obligations and as such it embodies practices which pertain to the collection of duties and obligations of the person who holds said status and who wishes to continue to hold it.

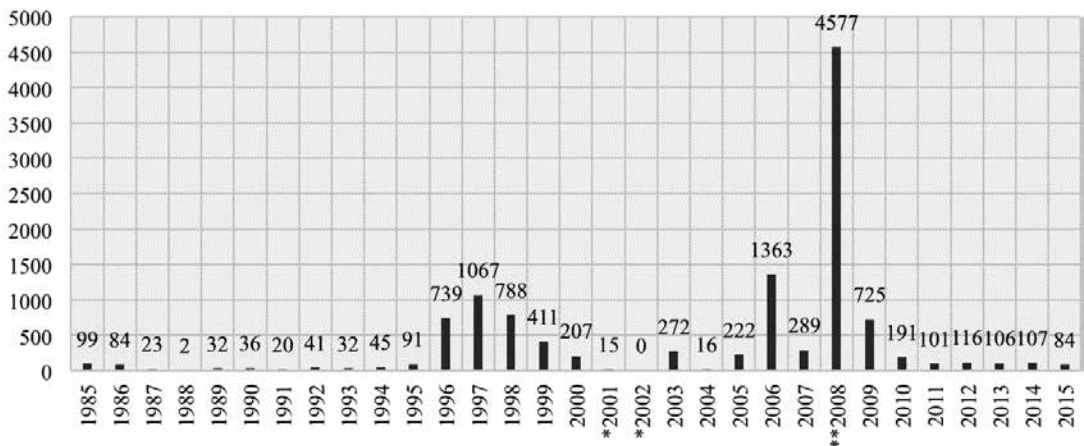
A permanent residency status is revoked in very extraordinary cases and after consultation with the Attorney General, and is limited to cases in which the most fundamental nature of the permanent residency status in Israel is undermined, such as in the case at hand.

The acts of your client were carried out based on nationalist motives in a bid to injure Jews on Rosh Hashanah eve, together with others, and caused the death of an innocent Israeli citizen and seriously injured another citizen as part of a wave of terror directed against the security of the state and the safety of its citizens and residents – by taking advantage of the freedom of movement and accessibility to a major traffic route in Jerusalem. *These actions constitute a brazen and severe violation of the basic commitment embodied in a permanent residency status as stated above, namely – the most fundamental commitment to the state which grants the status holder rights and privileges of a resident, with all ensuing consequences.*

In view of the severity of the actions and their results, and against the severe circumstances of the wave of terror, and after I have considered all of the above, *I decided to exercise the power vested in me and to revoke the permanent residency status of your client in Israel.*

#### **Document 4: Revocation of Residency Status in East Jerusalem (1985–2015)**

##### ***Revocation of Residency Status in East Jerusalem (1985–2015)***



## Endnotes

- 1 The demographic target for 2020 of 60 percent Jews and 40 percent Arabs was set by the municipal authorities of Jerusalem in 2009: "Master Plan 2000," local master plan for Jerusalem deposited by the district commission. This target has also been adopted by the district master plan. For more on the Jerusalem Master Plan, see: Francesco Chiodelli, "The Jerusalem Master Plan: Planning into the Conflict," *Jerusalem Quarterly* 51 (Autumn 2012): 5–20; Ir Amim, "Analysis of the Jerusalem Mater Plan 2000," *Journal of Palestine Studies* 40, no. 1 (Autumn 2010): 193–96.
- 2 Revocation of permanent residency status is regulated by section 11 of the Entry into Israel Law (1952). This section is very broadly drafted and does not contain any criteria to clarify which permits are liable for revocation, giving the minister of interior discretionary powers to cancel any permit of residence. Article 11(a)(2) reads: "The Minister of the Interior may at his discretion . . . cancel any permit of residence granted under this Law." See: Article 11(a)(2), Entry into Israel Law, 5712-1952, Published in *Sefer Ha-Chukkim* no. 111 of 15 Elul 5712 (5 September 1952), 354, online at [www.unodc.org/res/cld/document/law-no--5712-1952--entry-into-israel-law\\_html/Entry\\_Into\\_Israel\\_1952.pdf](http://www.unodc.org/res/cld/document/law-no--5712-1952--entry-into-israel-law_html/Entry_Into_Israel_1952.pdf) (accessed 23 June 2016).
- 3 Figures based on B'Tselem, "Statistics on Revocation of Residency in East Jerusalem," updated 27 May 2015, online at [www.btselem.org/jerusalem/revocation\\_statistics](http://www.btselem.org/jerusalem/revocation_statistics) (accessed 23 June 2016); Letter from Mali Davidian, Freedom of Information Officer, to Adv. Benjamin Agsteribbe, HaMoked: Center for the Defence of the Individual, "Re: Revocation of Permanent Residency Status of Jerusalem Residents in 2015," 28 February 2016, online at [www.hamoked.org/files/2016/1160430\\_eng.pdf](http://www.hamoked.org/files/2016/1160430_eng.pdf) (accessed 23 June 2016).
- 4 Prime Minister's Media Adviser, *Security Cabinet Approves Anti-Terror Measures*, 13 October 2015, online at [mfa.gov.il/MFA/PressRoom/2015/Pages/Security-Cabinet-approves-anti-terror-measures-13-Oct-2015.aspx](http://mfa.gov.il/MFA/PressRoom/2015/Pages/Security-Cabinet-approves-anti-terror-measures-13-Oct-2015.aspx) (accessed 23 June 2016). Emphasis (in italics) by the editors.
- 5 Silvan Shalom, "Notice of Intent to Act under Section 11(a) of the Entry into Israel Law 5712-1952," 21 October 2015, online at [www.hamoked.org/files/2015/1159854\\_eng.pdf](http://www.hamoked.org/files/2015/1159854_eng.pdf) (accessed 26 June 2016).
- 6 Aryeh Mahlouf Deri to Michal Pomeranz, "Re: Decision according to section 11(a) of the Entry into Israel Law: Your client: Mr. Dwayat," 19 January 2016, online at [www.hamoked.org/files/2016/1160035\\_eng.pdf](http://www.hamoked.org/files/2016/1160035_eng.pdf) (accessed 23 June 2016).

