

How Israel Legalizes Forcible Transfer

The Case of Occupied Jerusalem

Jerusalem Legal Aid and Human Rights Center (JLAC)

Israel's policy to repress, discipline, and displace Palestinians in occupied Jerusalem rests as heavily upon bureaucracy and legally sanctioned demographic engineering as it does on direct force.

The right of Palestinian Jerusalemites to the city is violated by Israel's discriminatory construction and planning policies, home demolitions, and the systematic denial of building permits. The very existence of Palestinians in their own city is made extremely precarious by Israel's draconian implementation of residency revocation. The routine of registering their children is turned into a draining process. And they can be deprived of their universally recognized human right to live with their families under the same roof solely for having a spouse from the West Bank or the Gaza Strip.

To get a better understanding of Israel's complex apparatus of permits, and to quantify the extent of its influence on the life of Palestinians, the Jerusalem Legal Aid and Human Rights Center (JLAC) submitted a formal request to the Israeli Ministry of Interior (MOI) for official figures regarding residency revocation, child registration and family unification in Jerusalem. Figures provided by the Ministry of Interior pertain to the years 2013, 2014, 2015, 2016, and through the first eight months of 2017.

Residency Revocation: Illegal in Their Own City

According to MOI figures provided to JLAC, 287 Palestinians in Jerusalem were stripped of their residency status in the city between 1 January 2013 and 31 August 2017. Among the 287 Palestinians whose residency was revoked during this period are seven children. In the first eight months of 2017 alone, seventeen

Palestinians, including two children, had their residency revoked. Even though this represents a drop compared to the previous four years – *when the annual average was 67.5 residency revocations* – we treat the residency revocation of one person as a significant human rights violation.

It is hard, though, to pinpoint one specific reason for the decline in residency revocations in 2017. One explanation could be purely bureaucratic and logistical. The Israeli Ministry of Interior in occupied Jerusalem has been swamped with applications for the newly required biometric identification documents, which prompted it to temporarily slow down residency revocation procedures. A more plausible explanation has to do with the increase of awareness among Palestinian Jerusalemites to the factors that could lead to residency revocation. To protect their vulnerable residency status in the city, Palestinians know that they have to comply with Israel's strict and arbitrary requirements because they have no other option.

Among the common legal justifications used by the Ministry of Interior to strip Jerusalem residents of their residency is the “center of life” policy. If a Jerusalem resident is deemed by the Ministry of Interior to have moved her/his center of life outside Jerusalem for a period of seven years, s/he risks losing her/his residency in Jerusalem even if s/he does not acquire another residency and even if that new “center of life” is a nearby city in the West Bank. Since the “center of life” requirement is broadly defined and amorphous, its scope of application is vague, discretionary and mired in inconsistency.

In addition to the “center of life” policy, Israel uses residency revocation as a measure to punish Palestinian Jerusalemites accused of carrying out attacks against Israeli targets. Punitive residency revocations could also target the families of alleged attackers.

The latter constitutes collective punishment, which is prohibited under customary International Humanitarian Law including Article 40 of the 1899 and 1907 Hague Regulations and Article 33 of the Fourth Geneva Convention, among others.

JLAC asserts that all residency revocations, whether on punitive grounds or based on the arbitrary “center of life” policy, amount to legalized forcible transfer, a war crime under Article 49 of the Fourth Geneva Convention.

Family Unification: Fragmented and Torn Apart

Under the Citizenship and Entry into Israel Law (*temporary provision*), Palestinian citizens of Israel and residents of occupied Jerusalem who are married to spouses from the West Bank or the Gaza Strip face severe restrictions to their right to family unification. Palestinians who live in the Gaza Strip or are registered as Gaza residents are absolutely barred from living with their spouses in areas under Israeli jurisdiction.

Another blanket prohibition on family unification is imposed on West bank male spouses below the age of 35 and female spouses below the age of 25. The “temporary” order, passed in 2003 and extended on a nearly annual basis ever since, constitutes a form of ethnic and national profiling as it ascribes an assumption of a priori dangerousness to entire groups of individuals based on their nationality, place of residence and even place of registration. It encroaches upon the fundamental right to family life as protected

by Article 16(3) of the Universal Declaration of Human Rights and Article 23(1) of the International Covenant on Civil and Political Right, ratified by Israel.

It also amounts to collective punishment by authorizing the rejection of applications for family unification if a member of the applicant's extended family is deemed by Israel to pose a "security threat," a caveat often abused and broadly applied. The Israeli Supreme Court, known as the High Court of Justice, rejected two separate petitions demanding the law be struck down, justifying its decision on security grounds.

West Bank Palestinians who are married to Palestinians from Jerusalem and meet the age condition stipulated by the law are permitted to apply for status pursuant to family unification. If their application is accepted, what they usually get is a temporary permit that only protects them against deportation without granting them any civil status, social and economic rights or even a driving license.

According to official MOI data provided to JLAC, between 1 January 2013 and 31 August 2017, 2,666 family unification applications were submitted in occupied East Jerusalem: 1,264 of these applications were accepted, 600 applications were rejected, 688 are still pending and 114 applications were suspended. Six of these pending applications were submitted in 2013, 28 in 2014, and 89 have been pending since 2015.

This means that applying for temporary permit for family unification is a daunting bureaucratic and legal procedure that can take three to four years on average. The number of family unification applications submitted each year appears to be consistent with an annual average of nearly 540. The majority of the applicants are women. The rejection of family unification applications tears entire Palestinian families apart while the current legal framework makes it extremely difficult to obtain anything more than a temporary permit that constantly requires a renewal.

Child Registration: Years of Uncertainty

Palestinian residents of Jerusalem who are married to Palestinians from the West Bank have to register their children in Jerusalem in order to guarantee their rights to social security, healthcare, and education in Jerusalem.

According to MOI data provided to JLAC, between 1 January 2013 and 31 July 2017, 8,304 child registration applications were submitted in East Jerusalem: 5,735 of them were accepted, 850 were rejected, 17 were suspended, and 1,702 are still pending. One hundred of these applications are pending since 2013 while 224 are still pending since 2014, indicating that child registration applications take the longest time to be resolved – four to five years on average. The systematic delay in processing and accepting child registration applications violates Article 7(1) of the Convention on the Rights of the Child, which Israel has ratified.

Children who are not registered or whose application for registration is pending are stuck in a perpetual cycle of uncertainty. The lack of registration means that they are ineligible for social security stipends and free healthcare. Registration is also required to be able to enroll in schools and to have a legal status. If children turn 14 before being

registered, they will have to apply for status in Jerusalem through the family unification procedure. It is not uncommon for a family where one spouse is from the West Bank and the other is from occupied Jerusalem to have some children who are registered as Jerusalem residents and others who are registered as West Bank residents or have no legal status at all.

Child registration is yet another emotionally taxing bureaucratic procedure that imposes huge stress and legal fees on Palestinian families. Jerusalem residents usually bear the brunt, as they are the ones who have to follow up the cases.

Disposable Bodies, Controllable Lives

In October 2015, a wave of individual attacks by Palestinians rocked Jerusalem, triggering a widespread repression campaign by Israeli forces against the city's Palestinian population. The repressive measures included closures and strict movement restrictions, punitive house demolitions, the lengthy withholding of Palestinian attackers' corpses, and punitive residency revocation. The October 2015 unrest briefly drew outside attention to the fragile "normalcy" of life in Jerusalem and to the dire conditions Palestinians face. For Palestinians, however, tensions and repression have punctuated everyday life for the past fifty years. Simmering below the surface, this everyday violence to which Palestinians are exposed is often underreported and perpetuated by law and order.

Under Israeli law, Palestinian residents of occupied Jerusalem are classified as "permanent" residents, transmuted into disposable bodies and shackled to Israeli bureaucracy and permit system. Israel has, by its own admission, revoked the residency status of more than 14,500 Palestinian Jerusalemites since 1967. In reality, the number of Palestinians affected by this policy is significantly higher: it includes the children and possibly grandchildren who have quietly lost their residency rights in Jerusalem as a result of the original revocations. The Israeli permit system, including residency revocation, family unification, and child registration, constitutes a major pillar of Israel's policy to control every aspect of Palestinian life in Jerusalem. Israeli official data show that ostensibly mundane practices such as child registration and family unification can take more than five years to be resolved, placing Palestinian families under the constant monitoring and surveillance of the Ministry of Interior and Social Security Services. It creates an absurd reality where Palestinian children and adults are deemed illegal and disposable in the city where they were born, raised, and have lived their entire lives.

The silent and invisible plight that this permit system inflicts upon hundreds of thousands of Palestinians, and the function it fulfills in the Israeli "master plan" of demographic engineering, warrant as much attention and exposure as army raids, police brutality, and physical force.

Annex: Changes in Residency Status

Year	Residency Revocations	Children
2013	62	3
2014	71	0
2015	87	1
2016	50	1
2017 (ongoing)	17	2
Total	287	7

Year	Child Registration Applications	Pending	Suspended	Rejected	Approved
2013	1,898	100	1	353	1,444
2014	1,877	224	1	200	1,452
2015	1,796	315	2	148	1,331
2016	1,808	315	12	124	1,148
2017 (ongoing)	925	539	1	25	360
Total	8,304	1,702	17	850	5,735

Year	Family Unification Applications	Pending	Suspended	Rejected	Approved
2013	542	6	18	157	361
2014	565	28	30	157	350
2015	586	89	24	132	341
2016	528	227	30	105	166
2017 (ongoing)	445	338	12	49	46
Total	2,666	688	114	600	1,264

Since its inception over 40 years ago, the Jerusalem Legal Aid and Human Rights Center (JLAC) has formed a specific and specialized niche for itself, that of rendering legal aid to vulnerable communities in combating human rights violations. JLAC has since become a key and major player in certain interventions, undertaking pro-bono legal cases related to house demolition, forced displacement, land confiscation, and more recently settler violence.