



A “New Housing Policy” for East Jerusalem And the Distortion of the “Reality on the Ground”

**The Civic Coalition for Jerusalem
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On the 29 June 2009 it was reported that the Jerusalem Mayor, Nir Barkat, was “set to announce” a new housing policy that will “freeze demolition orders” for approximately “70 percent of unauthorized construction” and negotiate “compensation terms with families evicted from the remaining 30 percent” of the homes constructed without a building permit in East Jerusalem. In addition, the Mayors office further revealed that the new planning policy would include “increasing construction opportunities in some areas, expanding housing in others and stopping illegal construction in areas where no construction is allowed.” The Mayors office also stated that it would be taking into consideration the “reality on the ground” throughout the development and implementation of this new “housing policy” for East Jerusalem.

The announcement of a forthcoming “new housing plan” has attracted considerable media attention for what is perceived as an unprecedented “departure from earlier statements” and policy. What is unfortunate however is that an equal amount of attention was not given to the inconsistency between planning policy and the “reality in the ground” in East Jerusalem. Any new housing policy strictly premised on the “reality on the ground” in East Jerusalem will only perpetuate the severe housing shortage, which in turn serves as the impetus behind the phenomenon of so called “illegal construction”, and will invariably result in the continuation of “administrative” house demolitions in East Jerusalem.

As a result of the existing planning regime and the numerous insurmountable obstacles of the building permit application process, approximately 20,000 homes in East Jerusalem, housing some 180,000 residents, have been constructed without a building permit. Jerusalem Mayor Nir Barkat’s “new plan”

sanctions the eviction of families from 30 percent of these residential units, as well as their subsequent demolition. The “reality on the ground“ of such a policy equates to the destruction of 6000 Palestinian homes and the forcible displacement of approximately 54,000 Palestinian residents within East Jerusalem. Furthermore, it is beyond any doubt that this 30% has been carefully calculated to target Palestinian lands slated for expropriation and settlement expansion including the Old City, the Al-Bustan area of Silwan, Sheikh Jarrah, and the Mount of Olives and Holy Basin areas. Its is unmistakably clear that this “new housing plan” is a disingenuous attempt to rebrand a long-standing Israeli policy and cloak the mass evictions, widespread house demolitions, targeted land expropriations and forcible displacement of thousands of Palestinians as a “new housing plan.”

The Mayors office also confirmed yesterday that since Barkat took office the municipality has been working on a planning policy for East Jerusalem, which includes “increasing construction opportunities in some areas, expanding housing in others and stopping illegal construction in areas where no construction is permitted.” Nevertheless, the Mayor’s office further explained “the reality on the ground will be taken into consideration in the planning process” throughout East Jerusalem.

The “reality on the ground” in East Jerusalem however is a discriminatory zoning policy that by design fails to meet the needs of its residents. Of the 71,000 dunums of land unlawfully annexed to the Jerusalem Municipality following the June 1967 war, 35% was confiscated for the construction of Israeli settlements in which over 195,000 Israeli settlers now reside; 40% is zoned as “green areas” for public use and where construction is prohibited; 6% is zoned as “unplanned areas” where no Town Planning Schemes have been approved and therefore no construction is permitted; another 6% is zoned for public infrastructure such as roads; leaving just 13% of the territory of East Jerusalem zoned for Palestinian construction. Of this 13% however, a vast majority is already densely populated rendering further construction impossible. Therefore, any “new housing policy” based on “the reality on the ground” that seeks to prevent “construction in areas where no construction is permitted” will only perpetuate the severe housing shortage, which in turn serves as the impetus behind the phenomenon of so called “illegal construction”, and will invariably result in the continuation of “administrative” house demolitions in East Jerusalem.

According to Barkat eliminating the house demolition policy would “send the wrong message out to law breakers” and that if you are “building without the appropriate permits you need to be prepared to suffer the consequences.”

The iniquitous Israeli policy of house demolitions in East Jerusalem is both well known and well documented. In 2008, the Jerusalem Municipality issued 958 demolition orders and demolished 87 homes in East Jerusalem, a 32 percent increase from 2007. Since January of 2009, the Jerusalem Municipality has

issued 1,052 demolition orders and has demolished 21 Palestinian homes throughout East Jerusalem.

Israel's policy of house demolitions however is a direct consequence of the broader urban planning policy in East Jerusalem. In regards to planning, the explicit and repeatedly stated objective of this policy is to maintain a Jewish demographic superiority, and as a result, Israeli geographical control over East Jerusalem. To achieve this demographic and geographic reality, the Jerusalem Municipality has vigorously implemented a discriminatory planning regime in East Jerusalem that effectively limits the amount of land available for Palestinian construction; significantly reduces the building density within these areas; severely encumbers the building permit application process; and systematically denies building permits to Palestinian residents.

The natural growth rate of the Palestinian population in East Jerusalem requires the construction of 1,500 homes annually. However, according to the Deputy Mayor of East Jerusalem affairs, Yakir Segev, "only 18 permits were issued in 2008" thus resulting in a gap of approximately 1482 "authorized" residential units in East Jerusalem. Consequently, in order to meet the housing needs of their growing families, Palestinian residents of East Jerusalem are forced to build without a permit and live under the unrelenting threat of impending demolition.

The media coverage of this "new plan" also brought attention to the fact that the recently amended, although yet to be approved, Jerusalem Master Plan will not authorize "retroactive construction permits" but rather categorize "unlawfully constructed homes" as "gray houses" and will allow City Hall "to collect municipal taxes, which will be invested in a separate municipal company to improve East Jerusalem." This statement could not be more distant from the "reality on the ground" in East Jerusalem.

All residents of Jerusalem, both East and West, are required to pay municipal taxes. The services they receive in return however, differ significantly. East Jerusalem residents, who make up 36% of the population of Jerusalem, receive 7% of the budget, while 64% of the population who reside in West Jerusalem receives 92% of the budget. This discriminatory allocation of budgetary resources has resulted in substantial inequalities between East and West Jerusalem. For example, almost 90% of the sewage pipes, roads, and sidewalks are found in West Jerusalem, leaving multiple Palestinian neighborhoods in East Jerusalem without sewage systems and paved roads. The discrepancies are pervasive. For example, West Jerusalem has 34 swimming pools, East Jerusalem has three; West Jerusalem has 26 libraries, East Jerusalem has two; West Jerusalem has 531 sports facilities, East Jerusalem has 33. These inequalities also transcend into health care and education. East Jerusalem receives only 23% of the total allocated budget for medical services in Jerusalem. In respect to education, a severe shortage of 1,500 classrooms has

resulted in approximately 9000 Palestinian children in East Jerusalem who do not attend school.

Arguably the most significant “reality on the ground” in which the media coverage of this “new plan” entirely failed to reveal is the principles of international law that declare unequivocally, the acquisition of territory through military conquest as inadmissible. Consequently, together with the West Bank and Gaza Strip, East Jerusalem is under belligerent occupation, rendering Israel as the Occupying Power, and bound by the provisions of international human rights and humanitarian law.

International humanitarian law explicitly prohibits “any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to public authorities” except where such destruction is rendered “absolutely necessary by military operations.” Taking into account the “reality on the ground” there exists no conceivable military necessity for house demolitions in occupied East Jerusalem and therefore such practices constitute a serious violation of international humanitarian law. Furthermore, the “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully” is a war crime that amounts to a grave breach of the Fourth Geneva Convention, and entails individual criminal liability for those who planned, ordered and executed such policies.

Israeli settlements within East Jerusalem are also explicitly and unconditionally prohibited under international humanitarian law. Article 49 of the Fourth Geneva Convention declares “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies” and therefore renders all Israeli settlements in occupied East Jerusalem as unlawful.

Israel’s policy of house demolitions in East Jerusalem also violates some of the most fundamental guarantees enshrined under international human rights law. Most notably these include, Article 25(1) of the Universal Declaration of Human Rights, which states, “everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services.” Similarly, Article 11(1) of the International Covenant on Economic, Social and Cultural Rights declares that: “States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” Under the existing planning regime, it is evident that these rights are secured for the Jewish population at the direct expense of the Palestinian population in East Jerusalem.

At this time, it is unmistakably clear that this “new housing policy” is no more than political rhetoric, void of any meaningful content, that effectively distorts the prevailing “reality on the ground” of the Palestinian residents in order to perpetuate this “reality” and achieve the Israeli demographic and geographic objectives in East Jerusalem. The development and implementation of any new planning policy must be based on the legal foundation that East Jerusalem is occupied territory and take into consideration the numerous obligations placed upon Israel, as the Occupying Power, to ensure the basic needs of the occupied population. In stark contrast to such obligations, not only does the discriminatory planning regime in East Jerusalem directly undermine the individual rights of the Palestinian residents, but also, the collective right of the Palestinian people for self-determination. Furthermore, it is unmistakably clear that a continuation of the existing planning regime in occupied East Jerusalem is effectively foreclosing any possibility for the emergence of a viable Palestinian State with East Jerusalem as its capital.

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