

The Role of Planning in the Occupation of Palestine

By Julie M. Norman

ACTIVISTS IN PALESTINIAN solidarity networks are increasingly using international law to protest the Israeli occupation of the West Bank, Gaza and East Jerusalem. They focus largely on visible grievances, such as armed incursions, the separation barrier and military checkpoints. Often overlooked by foreign observers, however, is the critical role played by urban planning in the occupation and in the violation of human rights. Planning laws and building codes allow for the systemic appropriation of Palestinian land, eviction of families and demolition of homes.

Since I first began fieldwork in the Occupied Palestinian Territories in 2005, I have seen countless olive trees razed, wells and water tanks destroyed and homes and schools demolished, all “legitimized” by controversial planning policies. Most Palestinians are well aware of these actions. It is critical that progressive planners, international activists, policymakers and scholars understand the laws and policies used by the Israeli government to justify them.

Land Confiscation

Despite activist claims that land confiscation and settlements are violations of international law, the Israeli human rights group B’Tselem estimates that 42 percent of Palestinian land is controlled by Israeli settlements.



Photo: Joe Mehling

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How is this justified? First, prior to 1979, Israel justified land confiscation and settlement development by claiming “security reasons.” During this period, Israeli authorities argued that international law, in both Article 43 of the Hague Regulations and Articles 27 and 28 of the Fourth Geneva Convention, allows for the occupying power to take measures to ensure the safety of the public and the security of occupying forces. According to Israel, the settlements contributed to this security. Palestinians, however, successfully challenged the security pretext before the Israeli High Court in the 1979 Elon Moreh land case, which ruled that land expropriation was illegal if undertaken for civilian settlement rather than direct military purposes.

Settlement expansion did not cease with the Elon Moreh ruling. Instead, the legal justification shifted from the security rationale to asserting that private land was “state land” in accordance with Ottoman law. Israel justifies the application of Ottoman law in this case by claiming that it is the occupier maintaining the pre-existing laws of the territory, as mandated in both the Hague and Geneva Conventions. Though formulated for different purposes in a different political and economic era, Israeli authorities have drawn on this law to justify land confiscation.

The Ottoman Land Code of 1858, later incorporated into Jordanian legislation (when the West Bank was part of Jordan), was established to encourage the gradual privatization of land. This allowed for increasing revenue from property and agricultural taxes. In an effort to encourage cultivation, the law stipulated that land that was not cultivated for three consecutive years, or was not cultivated more than 50 percent, came back under the control of the Ottoman ruler



Terraced olive trees in the West Bank. Over 500,000 olive trees have been uprooted since 2001.

(or later the Jordanian state). The Land Code was later amended in 1913 by a Turkish law that stated that the state could not seize land if it was formally registered to an individual by the Lands Registrar.

Israel has strategically leveraged both Ottoman and Jordanian laws since the start of the occupation. First, in 1968, Israel issued a military order (MO 291) freezing all land registration in the West Bank, so that 70 percent of West Bank land is not officially registered. Israel then applied the original Ottoman Land Code to these lands so that non-cultivated or undercultivated land could be seized and become “state land.” Notwithstanding the fact that landowners should not have to answer to the state regarding their ac-

tivities, the application of the law in this way is particularly problematic in that occupation authorities often make it difficult or impossible for farmers to develop land, plant crops or construct sheds, stables, wells and other structures that would make cultivation possible. Indeed, the situation is a catch-22 in that Palestinians cannot register land under MO 291, yet they cannot legally cultivate land that is unregistered without facing demolition orders.

The legal rationale for land appropriation is different in East Jerusalem, which, since annexation in 1980, falls under the authority of the Jerusalem Municipality and the Israeli Ministry of the Interior. As an urban area, expropriations in East Jerusalem often involve

neighborhoods or houses rather than expanses of land, thus affecting less territory but larger populations. Approximately 6,000 acres of private Palestinian property have been expropriated for “public use” in East Jerusalem, making room for twelve “neighborhoods” considered settlements by human rights groups.

House Demolitions

Land expropriation has led to the demolition of many Palestinian-owned buildings under a cloak of legality. According to the organization known as Bimkom (Planners for Human Rights), from 2000 to 2010 at least 4,500 demolition orders were issued in the West Bank and East Jerusalem, including houses,



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schools, agricultural structures and even sheds and tents. While activists are quick to point out that property destruction is illegal under international law, the state uses what it claims are legal mechanisms and seemingly benign planning regulations in the West Bank and East Jerusalem to justify demolitions.

With the signing of the Oslo Interim Agreement in 1995, approximately 60 percent of the West Bank was designated as Area C, allowing for exclusive Israeli control, including the application of planning laws and policies. Home to approximately 150,000 Palestinians, Area C has seen increasing restrictions on Palestinian construction and development, while Israeli settlements in the same area have continued to expand. The majority of demolition orders in Area C are considered administrative demolitions, issued for building without a permit.

Since most states and municipalities require permits for construction, these demolition orders might seem to be a legitimate response to illegal building, however, upon closer investigation, it is clear that it is nearly impossible for Palestinians living in Area C to obtain permits. The confiscation of land surrounding Palestinian villages as “state land” means that building cannot legally expand beyond the central village boundaries. Moreover, building permits are rarely granted for building on recognized village land because the planning codes for those areas are still based on the Mandatory Regional Outline Plans developed by the British in the 1940s, which no longer can

accommodate current needs. In other cases, permits are not granted because Palestinians cannot prove ownership of their land. This fact actually prevents some Palestinians from applying for permits since they risk losing their land if they cannot then prove ownership. Finally, other permits are denied if the proposed structure is in a closed military zone (as in the Jordan Valley), near actual or planned roads or within a declared nature reserve or archaeological area.

Because of these policies, over 94 percent of permit applications in Area C were denied between 2000 and 2007, forcing Palestinians to build without permits, and thus making these structures liable for demolition. Permits are required not only for erecting new structures, but also for planting fruit trees and vegetables, installing wells or water pumps and repairing infrastructure, thus making orchards, water cisterns and other property liable for destruction as well. In the few cases where plans have been made for building in Area C, they have been developed solely by the Israeli Civil Administration without local consultation. This results in highly restricted plans limited to village centers that have no room for expansion and fail to consider the agricultural needs of the village. This was facilitated by a military order abolishing local and district planning committees. The centralization of planning not only removes local participation from the planning process, it also makes it nearly impossible to challenge or appeal planning decisions.

The legal rationale for home demolitions is different in East Jerusalem, but as in the West Bank, the issue of planning, and the justifications for home demolitions, are linked to land expropriation. In East Jerusalem, 35 percent of the Palestinian land annexed in 1980 by Israel has been used for the development of Jewish Israeli neighborhoods (considered settlements under international law), and an additional 30 percent has been declared “green zones,” where building is not allowed. In the remaining areas, Palestinians are forced to build illegally either because permits are rarely granted due to the inability to prove ownership, or more commonly, due to a lack of proper surveys. According to B’Tselem, most existing Palestinian neighborhoods are not included in municipal plans, and construction is allowed in only 11 percent of East Jerusalem. Thus, although Palestinian neighborhoods are densely populated, any attempts to acquire permits to expand are generally denied, once again forcing Palestinians to build illegally.

In some cases, building permits are denied when the applicant cannot guarantee adequate parking, road access, electricity, water, sewage or other infrastructure. Yet the same municipal authorities limit the development of such infrastructure in Palestinian neighborhoods by not providing

LEFT

A home demolition in the Palestinian neighborhood of At-Tur in East Jerusalem.

RIGHT

An Israeli settlement in the Palestinian neighborhood of Wadi Hilweh in East Jerusalem.



Photo: Julie Norman

services or not allowing permits for their construction. As noted by the Israeli Committee Against House Demolitions (ICAHD), Palestinian residents in Jerusalem receive just 8 percent of municipal spending but contribute approximately 40 percent of the city's tax revenue. The lack of infrastructure in Palestinian areas is then cited as a rationale to deny building applications, forcing residents to build illegally.

Conclusion

Israel has used planning policy to exert control over the occupied Palestinian territories through strategic interpretations of international law, while also creating “facts on the ground.” Israel selectively applies Ottoman, British and Jordanian planning laws in the West Bank. It is easy to overlook grievances over zoning regulations and municipal codes when in a protracted conflict situation, but these seemingly banal legal requirements ultimately sustain the occupation policies that most directly affect the daily lives of Palestinians. Planners and those concerned with basic human rights need to study and understand how planning regulations can play such a critical role in denying people their right to their property, home, and livelihood. **P2**



Photo: Julie Norman

The Separation Barrier in the East Jerusalem neighborhood of Abu Dis.

Additional Resources

Bollens, Scott A. *On Narrow Ground: Urban Policy and Ethnic Conflict in Jerusalem and Belfast* (Albany: SUNY, 2000).

Hareuveni, Eyal. *By Hook and by Crook: Israeli Settlement Policy in the West Bank* (Jerusalem: B'Tselem, 2010).

Ir Amim. *Absentees Against Their Will: Property Expropriation in East Jerusalem under the Absentee Property Law* (Jerusalem: Ir Amim, July 2010).

Ophir, Adi, Michal Givoni and Sari Hanafi, *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (Brooklyn, NY: Zone Books, 2009).

Shalev, Nir and Alon Cohen-Lifshitz, *The Prohibited Zone: Israeli Planning Policy in the Palestinian Villages in Area C* (Jerusalem: Bimkom, 2008).

Weizman, Eyal. *Hollow Land: Israel's Architecture of Occupation* (London: Verso, 2007).

Links

Applied Research Institute – Jerusalem (ARIJ)
www.arij.org

Planners for Planning Rights (Bimkom)
<http://eng.bimkom.org>

The Israeli Information Center for Human Rights in the Occupied Territories (B'Tselem)
www.btselem.org

Ir Amim: www.ir-amim.org.il/eng

Israeli Committee Against Home Demolitions (ICAHD): www.icahd.org