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Human Rights and Governance Cluster Report

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Abbreviations:

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| IHL | International Humanitarian Law |
| IHRL | International Human Rights Law |
| ICL | International Criminal Law |
| PA | Palestinian Authority |
| PLO | Palestine Liberation Organization |
| UN | United Nations |
| UNGA | United Nations General Assembly |
| UNSC | United Nations Security Council |

Executive Summary

Since its occupation in 1967, Israel subjected East Jerusalem to a different legal regime from that of the rest of the territory occupied in 1967 and started a process of *de facto* annexation of East Jerusalem. In July 2004, the International Court of Justice (ICJ) Advisory Opinion on the Wall confirmed the status of East Jerusalem as occupied territory. The UN General Assembly resolution in 2012, which referred to Palestine as a non-member 'state', did not change the status of the territories occupied in 1967.

While emphasizing on the status of East Jerusalem as occupied territory remains crucial for the protection of the rights of East Jerusalemites, the report emphasized that it is misleading to discuss Israel's obligations under IHL or IHRL, while ignoring the fact that Israeli presence in East Jerusalem is itself illegal under the law of occupation, since it lacks the necessary elements of a lawful occupation under international law.

The **objective** of the "Human Rights and Governance Cluster" Report (*hereafter* the report) is to provide an updated Jerusalem human rights and governance cluster report to furnish the ground for delineating concrete policies and feasible interventions to overcome the challenges and shortcomings which the sector faces.

The **scope** of this human rights and governance overview includes (1) Human rights with special focus on residency and citizenship in occupied East Jerusalem (EJ), protected persons under International Humanitarian Law (IHL), and rights of Palestinian Jerusalemites under International Human Rights Law (IHRL). (2) Governance with special focus on power relations and accountability.

Human Rights Sector

Israel did not deal with the population of East Jerusalem as protected civilians under IHL, who, as a result of occupation, should have enjoyed the rights associated with this status under IHL. This report emphasized, any reference to Israeli domestic law, in specific migration laws, and international immigration law or international human rights law as basis for offering citizenship or citizenship rights to East Jerusalemites would be misleading, as Israeli obligations are provided for under IHL.

The main problem with the 'permanent residency' is not in the privileges it offers nor the restrictions it entails, but in the fact that the 'permanent' residency is not permanent, being a legal status that is offered to foreign immigrants. Besides, residency is a fragile status where authorities enjoy relative freedom in regulating the way in which individuals can obtain it and the way in which they can be stripped of it.

Israel's policies targeting Jerusalemites contradict not only international law, in specific international human rights law, for being discriminatory in nature and in practice. They also contradict IHL as they create a situation in which the citizenship of the occupying power is imposed on the protected persons or requires the occupied persons to pledge allegiance to the occupying power. Besides, based on the Rome Statute of the International Criminal Court to which Palestine recently acceded, forced displacement is also a war crime in particular when it is carried out as part of a plan or policy, or as part of a wide-scale attack. Accordingly, the forcible displacement of Palestinian Jerusalemites is unlawful and can amount to war crimes. Israel also has Human Rights obligations under international customary and treaty based on

international law when it comes to all populations under its jurisdiction or direct control, including Jerusalemites. Israeli laws, policies, and practices are in flagrant contradiction with IHRL, such as Palestinians' rights to found a family, and their freedom of movement.

The main challenges which the Palestinians in East Jerusalem (EJ) face are connected to forcing Israel, as the occupant, to comply with international law and treat them as protected persons. This challenge, which so far proved to be not attainable, should remain at the top of the Palestinian political agenda.

As a last resort in the time being, Jerusalemites have three different possibilities to fight for their rights:

1. Using the Israeli law through lawyers who are eligible to plead in front of the Israeli courts in order to defend their rights, which is usually being used by Jerusalemites;
2. Using advocacy and international support for the Palestinian case, which is used by organizations through going to international organizations such as the Human Rights Council in Geneva; and
3. Resorting to the International Criminal Court, which could be a venue to render Israelis accountable for war crimes such as forced displacement.
4. However, each one of these methods has its own positive and negative aspects. So, this complicated reality creates the following challenges:
 - Creating a policy consensus on how the Palestinian human rights activists are going to use the above-mentioned available possibilities, based on feasibility and effectiveness to protect the EJ population's human rights, without any prejudice to their national political rights;
 - Unifying the work of all credible human rights organization in the mobilization of the right set of human rights capacities and specialties in adequate numbers to respond to East Jerusalemites' common and individual needs;
 - Acquiring the capability and expertise which enables Jerusalemites to use international criminal law to file cases which are considered war crimes, such as revoking residency, which is considered as a type of forced displacement;
 - Mobilizing adequate and sustainable financial support to cover the cost of the operation of the human rights protection endeavour;
 - Filling in the information, knowledge, and professional documentation gaps on Israeli violations, which can provide human rights specialists and advocacy organizations with precise data, documents, research, and information;
 - Scaling up the EJ population's resilience though awareness of their rights as well as increasing solidarity and active engagement in fighting to protect these rights;
 - Scaling up cooperation and partnership with credible anti-occupation Israeli NGOs, personalities, and media to unveil Israeli discrimination and human rights violations in EJ and the rest of the oPt.;
 - Mobilizing the international community, including advocacy and lobbying, so as UN resolutions and international law are implemented to the Palestinians of East Jerusalem.

Institutions and Good Governance

Israel continues its policies towards the city aiming at intensifying settlement activities, which constitute a threat towards the territorial integrity of the city and the two-state solution.

Israel also continues to close Palestinian institutions in East Jerusalem, often using temporary orders which are renewed for years. Another way of targeting Palestinian leadership was through residency revocation of Jerusalemite Palestinians taking part in Palestinian legislative elections. Moreover, in March 2018 the Israeli Parliament passed a new law which “allows the Minister of Interior to revoke the residency rights of any Palestinians in Jerusalem on grounds of “breach of loyalty” to Israel”, which opens the door for Israel to revoke residency of numerous Palestinians in this context.

In the absence or quasi absence of official and unified leadership in East Jerusalem, various Palestinian institutions are virtually left on their own. This governance structure is partially to blame for the current social difficulties with which East Jerusalemites are confronted on daily basis. Another result of the existing governance structure is the population shift. It is important to emphasize that the population shift is not a natural one. It is the result of Israeli policies aiming at realizing what the Israelis refer to as a “demographic balance”, meaning an unbalanced formula in favor of Israeli Jews.

The **main challenges** facing the governance of East Jerusalem and Jerusalemites are the following:

1. The lack of a unified, participatory, capable, and well-respected focal point tasked with fostering the resilience and steadfastness of Jerusalemites and enhancing their willingness to fight for their political, economic, social, and human rights.
2. The fragmentation and exclusion of EJ from the oPt governance structure. It requires deliberate efforts to institutionalize collaboration and the reintegration of East Jerusalem institutions with the relevant PLO, PNA, private sector membership organizations, NGOs, professional associations, trade unions, and other organizations. The main objective is to help enhance the institutional setup and services delivery of EJ organizations and foster their capabilities in responding to EJ population needs and combating hostile Israeli policies.
3. The restoration of the Palestinian institutional presence in East Jerusalem by reopening Palestinian institutions is a priority, such as the Orient House and the Arab Chamber of Commerce. A very important initiative in this domain was the initiation of the Civic Coalition for Palestinians Rights in Jerusalem, which aims at creating a new body to represent Jerusalemites. Despite the role that the Civic Coalition plays in representing Jerusalemites, it is still not enough and cannot do the whole mission of representing Jerusalemites.
4. Civil society organizations including Palestinian and Israeli organizations cannot face alone all the Israeli laws and decisions which affect Jerusalemites as their options are limited, usually to the use of Israeli courts. This solution is not effective because the real problems which Jerusalemites face are not legal problems;
5. Israeli organizations which support Jerusalemites face real challenges nowadays such as being threatened and being accused of state treachery as they support Palestinians instead of supporting Israelis and the State of Israel. Moreover, they face another sort of pressure which is the Israeli restrictions over their sources of funding and their budgets;
6. There is need to assure the vibrancy and sustainability of the civil society of East Jerusalem, especially among women and youth, who should be supported by local public and private funding as well as by the international community. Working together and networking among civil society organizations is a must and should be encouraged.

Abstract

The Objective of this report is to provide an updated Jerusalem human rights and governance cluster sector report, to furnish the ground for delineating concrete policies and feasible sector program and project interventions to face sector challenges and shortcomings.

The scope of this human rights and governance overview focused: First, Human Rights, with special focus on residency and citizenship in occupied East Jerusalem, protected persons under International Humanitarian Law, and rights of Palestinian Jerusalemites under IHRL. Second, governance, with special focus on power relations and accountability. The report then presents the priority challenges and interventions, including, legal support and services; credible information and research; mobilization and advocacy; and the new possibilities by International Criminal Law.

1. Objectives, Methodology and Scope of Work*

The **objective** of this report is to provide an updated Jerusalem human rights and governance cluster report to furnish the ground for delineating concrete policies and feasible interventions to overcome the challenges and shortcomings which the sector faces.

The **scope** of this human rights and governance overview includes:

- Human rights with special focus on residency and citizenship in occupied East Jerusalem (EJ), protected persons under International Humanitarian Law (IHL), and rights of Palestinian Jerusalemites under International Human Rights Law (IHRL).
- Governance with special focus on power relations and accountability.

Sector related final status/transition issues pertaining to each subsector are also highlighted in their broad sense. These issues are envisaged in the spirit of two sovereign states – Palestine and Israel – living next to each other in peace and security. A transition period from occupation to independence will be defined and will go into effect if an agreement is reached between Palestine and Israel with end of the occupation. Once an agreement is reached, a set of mechanisms need to be delineated for coordination purposes and for serving the functions of the pertinent sectors during and after the transition period. Further elaboration is needed if and when the final status of Jerusalem is agreed upon, whether Jerusalem will be an open city, semi-open city, closed city, or any other arrangement vis-à-vis West Jerusalem. Future agreed arrangements for EJ will influence how transition matters will be approached per sector and subsector.

A comprehensive monitoring and evaluation system needs to be created and applied to track progress in EJ per interventions in various sectors. This mandate will be best carried out by an overarching entity with access to information by all sector supporters and through the use of measureable quantitative and qualitative indicators which measure progress and

* This section, common to the three clusters of the joint research project, builds on what was prepared by Dr. Varsen Aghabekian, the senior researcher for the Social Sector cluster, as agreed upon with the research coordinator, Dr. Samir Abdallah. Amendments were done to adapt to the specificity of the human rights and governance cluster. Special thanks to Dr. Varsen Aghabekian for preparing this sector and accepting that it is used in this report too. Thanks to Lana Khader, research assistant, for supporting the researcher in the literature review, interviews, and preparation of the focus group. Aside from review and comments by MAS, the pre-final sector review draft was reviewed and feedback/comments were provided by Tamara Essayad, as well as by Fouad Hallak and Mira Alaraj, advisors at the Palestinian Negotiations Support project. Modifications were made accordingly.

achievements, clarify consistency between activities, outputs, outcomes, and goals, and ensure legitimacy and accountability to all stakeholders by demonstrating progress or lack of such.

2. Overall Human Rights and Governance Environment Situation

Jerusalem is central to the peace process between Palestinians and Israelis. Without Israeli withdrawal from all territory occupied in June 1967, and at the first place from East Jerusalem, the two-state solution is in jeopardy.¹

The recent US President's decision to move the US Embassy to Jerusalem was considered as a real threat to the peace process and to the whole notion of the two-state solution. It does not, however, change the long-standing position of international law nor will it change the consensus among the international community over the status of East Jerusalem as an 'occupied territory'. Equally dangerous is Israeli insistence on the use of 'disputed territory' instead of 'occupied territory', which has recently been endorsed by the newly appointed US Ambassador to Israel, David Friedman.² Such a step is dangerous in that it will contribute to gradually stripping East Jerusalem from the basis for its protection under IHL and IHRL, becoming simply a matter of territorial disputes between two states subject to negotiations and a final settlement agreement.

According to the 1947 UN Partition Plan, Jerusalem should be 'corpus separatum'.³ In June 1967, Israel completed its occupation of East Jerusalem by the use of force "when the Israeli Parliament amended the Laws of the State of Israel and used it to extend Israeli jurisdiction over the newly declared municipal borders."⁴ The occupation of East Jerusalem was followed by the use of law and legality to extend Israeli jurisdiction over the newly occupied territory.

Since its occupation, East Jerusalem has been subjected by the Israeli occupying authorities to a different legal regime from that of the rest of the territory occupied in 1967. In 1980, "Israel took further steps to reaffirm its annexation of East Jerusalem when the Parliament passed the "Basic Law" on Jerusalem, stating unequivocally that "Jerusalem, complete and united, is the capital of Israel".⁵ In 1993 entry to East Jerusalem was put under a strict individual permit regime. The construction of the Annexation Wall since 2002 has further entrenched this permit regime under which entries to East Jerusalem are no longer referred to as checkpoints but as (معتبر), which is more like a border crossing than a checkpoint – as if the Wall is demarcating the border of the State of Israel.

UNSC Resolution 242 of 1967 declared the "inadmissibility of the acquisition of territory by war" and called upon the Israeli occupying forces to withdraw from the territories that it occupied in 1967, including East Jerusalem.⁶

¹ "Jerusalem is arguably one of the major flashpoints of the conflict between Israelis and Palestinians. It has been said that once the Jerusalem issue is solved, there will be no conflict. It might be true." (Al-Maqdese for Society Development (MSD) NA, 42).

² See for example: <https://www.jpost.com/American-Politics/State-Dept-drops-occupied-reference-to-Palestinian-territories-in-report-551365>.

³ "The [United Nation] Special Committee [on Palestine] called for a provisional international administration of (a demilitarized) Jerusalem, as a Corpus Separatum (Latin for Separate Body), in order to guarantee a religious peace and both respect and free access to the Holy sites. The "United Nations Trusteeship Council" was suggested as the administrative body, with the task, among other things, of drafting a statute for the city and appoints a city Governor, who would have been neither Arab or Jew, nor a citizen of the Palestine States, nor a resident of the city of Jerusalem. Furthermore, executive local bodies should have supported the local administration, elected by a universal male suffrage (women could not vote). This issue has always been a major flashpoint of the Israeli-Palestinian conflict; neither the Jewish Agency nor the Arab states accepted the international administration of Jerusalem." (citations omitted) (Al-Maqdese for Society Development (MSD) NA, 5).

⁴ (Tabar 2010, 11).

⁵ Ibid, (citations omitted).

⁶ Ibid, 11-12.

Since then Israel has started a process of *de facto* annexation of East Jerusalem – which has later on been also entrenched through Israeli laws and basic laws – while intensifying its separation of East Jerusalem from the rest of Occupied Palestine. Those attempts to change East Jerusalem’s status as occupied territory have been repeatedly condemned.⁷ The international community “maintains that the annexation is in blatant violation of international law.”⁸

UNSC resolutions 476 and 478 of 1980 were adopted following the Israeli Parliament’s ratification of the “Basic Law” on Jerusalem. In resolution 478, UNSC determined that “all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent “basic law” on Jerusalem, are null and void.”⁹

Despite all attempts by the Israeli government, East Jerusalem remains part of the Palestinian territory occupied in 1967. In July 2004, the International Court of Justice (ICJ) Advisory Opinion on the Wall confirmed the status of East Jerusalem as occupied territory when it stated, “[t]he territories situated between the Green Line [...] and the former eastern boundary of Palestine under the Mandate were occupied by Israel in 1967 during the armed conflict between Israel and Jordan. Under customary international law, these were therefore occupied territories in which Israel had the status of occupying Power. Subsequent events in these territories [...] have done nothing to alter this situation. All these territories (including East Jerusalem) remain occupied territories and Israel has continued to have the status of occupying Power.”¹⁰ The ICJ further “confirmed the applicability of international humanitarian and human rights law to the OPT, including East Jerusalem, thereby invalidating Israel’s assertion that it is not bound by these norms of international law with respect to its actions in the West Bank and Gaza.”¹¹ This includes the applicability of the Fourth Geneva Convention.

The UN General Assembly resolution in 2012, which referred to Palestine as a non-member ‘state’, did not change the status of the territories occupied in 1967. What this resolution made possible for Palestine, under occupation, is to be able to access other international organizations and ratify international treaties as a state – taking responsibilities under international treaty law concerning individuals under the Palestinian Authority’s (or the state’s) jurisdiction. This did not affect the fact that Israel remains responsible for the enjoyment of basic human rights under international treaty law by Palestinians in East Jerusalem since they remain under Israel’s jurisdiction. Instating of Israeli obligations towards civilians in East Jerusalem in accordance with IHL and IHRL is based on its status as occupying power. This does not mean nor entail that Israel has sovereign status over East Jerusalem as Israel claims.

It is often the case that one discusses Israel’s obligations under provisions of IHL or IHRL, ignoring the fact that the Israeli presence in East Jerusalem and in the rest of the occupied Palestinian territory (oPt) is itself illegal under the law of occupation since it lacks the necessary elements of a lawful occupation under international law. For occupation to be

⁷ Ibid, 34.

⁸ Ibid, 11.

⁹ Ibid, 11-12 (footnotes omitted).

¹⁰ Ibid, 34, citing: (International Court of Justice, Advisory Opinion on the Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory, 9 July 2004, para 78).

¹¹ Ibid, 35, citing: International Court of Justice, Advisory Opinion on the Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory, 9 July 2004, par. 106-113 and 134.

lawful, it must be temporary, and it must administer the territory in the interest of the protected persons, protect their human rights, and – most importantly – without undermining people’s right to self-determination.¹²

On July 19th, 2018, the Israeli Knesset adopted a new Basic Law, the Jewish Nation-State Basic Law “that constitutionally enshrines the identity of the State of Israel as the nation-state of the Jewish people.”¹³ This Basic Law applies to occupied East Jerusalem as well. The Basic Law “guarantees the ethnic-religious character of Israel as exclusively Jewish and entrenches the privileges enjoyed by Jewish citizens, while simultaneously anchoring discrimination against Palestinian citizens and legitimizing exclusion, racism, and systemic inequality.”¹⁴ This Basic Law will enhance existing discriminatory measures against East Jerusalemites.

¹² (Lynk 2018). “The right to self-determination is the fundamental principle of international human rights law, as reflected in its status as common Article 1 to both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right is rooted in the UN Charter and is recognised as a peremptory international legal norm, from which no derogation is permitted. With respect to the situation in the [Occupied Palestinian Territory], in its Advisory Opinion on the Wall, the ICJ expressly states that Israel has violated the erga omnes obligation “to respect the right of the Palestinian people to self-determination.”(Tabar 2010, 41).

¹³ (Adalah 2018).

¹⁴ Ibid.

1. Human Rights Sector

1.1 Sector Profile

Following the 1967 War, Israel illegally annexed East Jerusalem – first *de facto* and then by using Israeli domestic law to entrench the annexation in a *de jure* fashion.¹⁵ Israel did not deal with the population of East Jerusalem as protected civilians under IHL, who, as a result of occupation, should have enjoyed the rights associated with this status under IHL. Accordingly, any reference to Israeli domestic law, in specific migration laws, and international immigration law or international human rights law as basis for offering citizenship or citizenship rights to East Jerusalemites would be misleading, as Israeli obligations are provided for under IHL.

1.1.1 Residency/Citizenship in occupied East Jerusalem

Instead, Israel deals with the Palestinians of East Jerusalem as ‘permanent residents’ and imposes on them an Israeli-issued identity card while rendering them stateless. Israel used the census as a basis for imposing on the 66,0000 Palestinian residents of East Jerusalem the “Jerusalem permanent residency ID cards (Blue ID cards)”, distinguishing them from the Palestinians of the West Bank, who have been forced to carry Green ID cards.¹⁶ Those who were not counted during the census can only apply for family unification and not through a process in which displaced Jerusalemites can access permanent residency by providing evidence of their previous legal status.

There are three aspects of the permanent residency of East Jerusalemites which are often misconstrued:

1. **East Jerusalemites Compared to Israeli Citizens.** This comparison is not only incorrect, but it actually denies Palestinians from East Jerusalem their identity and legal rights. As *permanent residents*, coupled with discriminatory Israeli laws, Palestinians from East Jerusalem “have more limited rights than those enjoyed by an Israeli citizen.”¹⁷
2. **Institutional Restrictions and Discrimination.** On the other hand, East Jerusalemites suffer from governmental restrictions and discrimination, not only in comparison to citizens of the State of Israel but sometimes also to foreigners as their status is in principle similar to that of ‘foreign immigrants’ as per Israeli definitions. Thus, their status is completely subject to Israeli discretion.¹⁸ As rightly pointed out by The Civic Coalition for Palestinians Rights in Jerusalem, “East Jerusalem Palestinian parents do not automatically, as a matter of “legal right,” pass on their Jerusalem residency status to their children.”¹⁹
3. **East Jerusalemites Compared to the Remaining West Bank.** Finally, some prefer to compare what East Jerusalemites enjoy to the status of the other Palestinians under occupation. Such permanent residency in fact enables the Palestinians of East Jerusalem to travel freely throughout Israel and the occupied Palestinian territory without the need

¹⁵ “After 1967, the Israeli authorities initiated a population registry for Palestinians in East Jerusalem. Under the provisions of the Entry to Israel law of 1952 those “living within the municipal boundaries”, as subsequently expanded, were classified as permanent residents of the State, not Israeli citizens” (UN Committee on the Exercise of the Inalienable Right of the Palestinian People, 1997).

¹⁶ (Tabar 2010, 13).

¹⁷ (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.13).

¹⁸ “Despite the *de facto* annexation of East Jerusalem by Israel in 1967, Palestinian Jerusalemites are not citizens of the state of Israel. Rather, their legal status became that of “permanent resident”. This effectively gave them the same rights, in their own city, as we granted to foreign immigrants through Israel” (The Civic Coalition for Palestinians rights in Jerusalem n.d., 2).

¹⁹ (The Civic Coalition for Palestinians Rights in Jerusalem 2013, 6).

for a permit. It also entitles them to work in Israel, receive social security benefits (to which they make compulsory contributions), make use of Israel's international airport, and vote in municipal elections (even if an overwhelming majority boycott such elections).²⁰ The status of permanent residency in a sense offers access to some rights.²¹

However, the main problem with the 'permanent residency' is not in the privileges it offers nor the restrictions it entails, but in the fact that the 'permanent' residency is not permanent, being a legal status that is offered to foreign immigrants. The Palestinians of East Jerusalem are not foreigners, nor do they have a citizenship in a foreign country, nor are they immigrants; they are the indigenous population of the city. Even if they do enjoy a citizenship in another state (or in case they have travel documents from the Jordanian Authority), they are protected civilians under IHL and not foreign immigrants subject to the discretionary measures of Israel.

Besides, residency is a fragile status where authorities enjoy relative freedom in regulating the way in which individuals can obtain it and the way in which they can be stripped of it. In this subsection, emphasis is made to the 'Center of Life' policy as a system that enables Israel to revoke the permanent residency of thousands of Jerusalemites. This revocation means their disappearance from the official Israeli register for East Jerusalemites, a phenomenon to which some have referred as 'legalized cleansing'²² or 'silent deportation'.

The Center of Life policy was introduced in December 1995 by the Ministry of Interior with respect to the residency rights of Palestinian Jerusalemites.²³ Unlike citizenship, the new policy considers permanent residency, unlike citizenship, a matter of daily reality, "so that when that reality changes, the license to this status is no longer valid."^{24 25}

²⁰ (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.10-14).

"[S]ince Israel's illegal annexation of East Jerusalem in the wake of the 1967 war, most Palestinian Jerusalemites are "permanent residents" under Israeli law, permitted to exercise a limited set of rights: they may live and work in Israel, travel to and from the West Bank, collect some social benefits, and vote in municipal elections." (Jefferis, The "Center of Life" Policy: Institutionalizing Statelessness in East Jerusalem 2012).

²¹ As rightly pointed out by Jefferis: "Permanent residents' limited rights are disparaged in comparison to the substantial rights enjoyed by Israeli citizens. Permanent residents may not travel freely across Israeli borders (excluding in and out of the West Bank); instead, they must obtain permission from the Ministry of Interior via an entry/exit visa; approval or denial is subject to the discretion of the Minister. Children born to Israeli nationals acquire Israeli citizenship immediately – whether born in Israel or not; permanent residents pass their status to their children only under very limited circumstances which are also within the complete discretion of the Minister of Interior. Non-citizens who marry Israeli nationals may obtain citizenship through naturalization, even where they do not meet the express conditions of naturalization; a temporary provision to the Nationality law enacted in 2003 (and reaffirmed regularly since by the Israeli Supreme Court) prohibits Palestinians from the occupied territories who marry an East Jerusalem permanent resident the right to live with their spouses in Jerusalem. And where revocation of Israeli citizenship acquired by birth is nearly impossible, excluding voluntary renunciation by the individual (and even then, citizenship renunciation requires the approval of the Minister of Interior), and citizenship acquired by naturalization is nearly as difficult to revoke, the risks of a permanent resident losing his or her residency rights are enormous and subject to the absolute discretion of the Minister of Interior. In short, Palestinian East Jerusalemites' permanent residency affords the right to... some rights." (footnotes omitted) (Jefferis, The "Center of Life" Policy: Institutionalizing Statelessness in East Jerusalem 2012).

²² Ibid.

²³ "Essentially, the "center of life" policy requires Palestinian permanent residents to consistently prove that they hold continuous residence in East Jerusalem by providing extensive documentary evidence including rental agreements, home ownership documents, tax receipts, school registration and receipts of medical treatment in Jerusalem. If Palestinian Jerusalemites cannot provide proof of this status to the Israeli authorities, they risk losing their residency rights." (Tabar 2010, 14).

²⁴ (B'Tselem 2011(2013), 2).

²⁵ "Consequently, all East Jerusalem Palestinians who had not lived in the city for seven years or more lost their right to live there. The fact that some of them had returned over the years, and that the Ministry had regularly extended the permits of those living abroad and had provided them with other services, became meaningless. The Ministry began demanding that people supply evidence that Jerusalem is a "center of life" to them, setting a high standard of proof that required the submission of many documents, including such items as home ownership papers or a rent contract, various bills (water, electricity, municipal taxes), salary slips, proof of receiving medical care in the city, certification of children's school registration. Palestinians failing to prove that they had lived in Jerusalem over the past seven consecutive years were forced to leave their homes, their families and their jobs. They were denied the right to live and work in Jerusalem as well as in the rest of Israel. Furthermore, they and their families were deprived of their social benefits. Their children's status was also revoked, excepting cases in which the second parent had valid residency status." (footnotes omitted) (B'Tselem 2011(2013), 2).

To call such measures a ‘policy’ is in fact the recognition of those steps not as a sporadic governmental practice but as part of a well framed governmental plan which is applied at the central government level as well as at the municipality level. It is strictly connected to the so-called ‘demographic threat’ and to the stated objective of maintaining the Jewishness of the city,²⁶ or to keep the Palestinian population of East Jerusalem below a certain percentage of the total population of the city.^{27 28}

Interestingly, the ‘Center of Life’ was not a government invention in 1995, but was the result of an earlier decision of the Israeli High Court going back to 1988 (18 HCJ 282/88, ‘Awad v. Minister of Interior, 5 June 1988, par. 1.)²⁹, which applied also in another case in 1995 (HCJ 7023/94, Shiqaqi v. Minister of Interior, 6 June 1995), where emphasis was made by the Court on permanent residents’ rights subject to equality among those who are lawfully present in Israel such as tourists but not citizens. In that sense, the court rejected the quasi citizenship argument advanced by ‘Awad and recognized the application of the Entry into Israel Law and Regulations.³⁰ Those rulings affirmed the government’s revocation of residency and the possibility of automatic expiry of residency, opening the door for the executive power to misuse the High Court new policy.³¹

In 1995, the Israeli Minister of Interior “stretched and manipulated the Court’s Center of Life principle to revoke residency rights of thousands of East Jerusalemites – many of whom have never left Jerusalem.”³² The new Ministry of Interior’s regulation requires from “Palestinian residents to prove they had continuously lived and worked in Jerusalem during the preceding seven years.”³³ In other words, the burden of proof is on the Palestinian residents themselves: if a Palestinian cannot prove that he or she has lived and continues to live in Jerusalem, he or she risks having his or her residency status revoked and his or her requests for family reunification and child registration rejected.³⁴ It shall be noted that the standard for that policy is so rigorous that it is often difficult for people who have never in reality left Jerusalem to meet it.³⁵

²⁶ “Of particular concern herein are [practices] surrounding the construction of the Wall which appear intended not only to consolidate Israeli control of East Jerusalem, but also to contribute to a process of forcible displacement by denying residency status to those Palestinian Jerusalemites living on the eastern side of the Wall, thus preventing them and their families from entering the city and consolidating a Jewish *demographic majority*.” (Emphasis mine) (Tabar 2010, 7).

²⁷ “The policy of revocation of residency rights is linked to Israel’s *demographic policy*, as stated in official planning documents such as the Jerusalem Master Plan 2000 ratified by the Jerusalem Municipality in 2007, which aims at preventing the Palestinian population in East Jerusalem from exceeding 40% of the Municipality’s total population.” (Emphasis mine) (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.12).

²⁸ “Population transfer, or ethnic cleansing, has been defined by the United Nations 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.” For Israel, which defines itself as the state of the Jewish people, population transfer is a necessary element of colonization, because only a substantial Jewish presence or majority in the colonized land can ensure permanent Israeli domination”. (Citation omitted) (The Civic Coalition for Palestinians Rights in Jerusalem 2013).

²⁹ “Justice Aharon Barak, the heralded justice of constitutional equality and anti-discrimination, articulated the principle “center of life” for the first time in the 1988 case ‘Awad v. Prime Minister. The phrase was applied again in the 1995 case Shiqaqi v. Minister of Interior, and thereafter, the Minister of interior has stretched and manipulated the principle to revoke the residency rights of thousands of East Jerusalemites – many of whom have never left Jerusalem.” (Jefferis, The “Center of Life” Policy: Institutionalizing Statelessness in East Jerusalem 2012).

³⁰ “The Mubarak Awad Case tightened residency restrictions. The court ruled that Israeli authorities have the power to revoke residency status if the resident has settled in another country, even when the resident’s time abroad has not exceeded seven years. This ruling established the foundation for the ‘center of life policy’ –one of the key threats to residency rights or Palestinian Jerusalemites” (The Civic Coalition for Palestinians rights in Jerusalem n.d.).

³¹ (Jefferis, The “Center of Life” Policy: Institutionalizing Statelessness in East Jerusalem 2012).

³² Ibid.

³³ (Guego 2006, p.26).

³⁴ (Jefferis, The “Center of Life” Policy: Institutionalizing Statelessness in East Jerusalem 2012) Citation omitted. (Guego 2006, 26-27).

³⁵ Ibid.

There are various approaches to considering the contradiction of the ‘Center of Life’ policy with international law:

1. It is possible to reject the notion of absolute sovereign authority over citizenship and entry laws as it contradicts IHRL. In the case of Jerusalemites, these measures lead these who in reality are not foreign subjects seeking residency but native populations, who were in that territory before the establishment of the State of Israel.³⁶ In other words, one “must recognize the inherent distinction between the issuance of permanent residency to immigrants and the issuance of permanent residency to individuals born in the territory, as had been their forebears for many generations before them. The only alternative is the continued institutionalization of statelessness and forced displacement of Palestinian East Jerusalemites – a matter over which the entire international community should be acutely concerned.”³⁷
2. International law prohibits pursuing discriminatory national policies that violate fundamental individual rights as well as the arbitrary deprivation of rights. The Center of Life policy is accordingly in contradiction with international law from this perspective as well.³⁸
3. Under the due process obligations of a state, there is no such opportunity for review or appeal, making this policy in contradiction with Israel’s obligations under IHRL and treaties.³⁹

1.1.2 Protected Persons under IHL

Israel’s policies targeting Jerusalemites contradict not only international law, in specific international human rights law, for being discriminatory in nature and in practice. They also contradict IHL as they create a situation in which the citizenship of the occupying power is imposed on the protected persons or requires the occupied persons to pledge allegiance to the occupying power.⁴⁰

Here, too, the use of ‘permanent residency’ status instead of ‘protected civilians’ makes the difference. Under immigration laws, there are few limitations under international law for access to citizenship and the regulation of migration matters, the most important of which is the prohibition of discrimination although offering citizenship to foreigners continues to be looked at in IHRL as a domestic matter that each state regulates as it determines.

However, under IHL, imposing the citizenship of the occupying power to the protected persons of the occupied territory is an international crime, as much as it is a crime to transfer the occupying power’s civilian population into the occupied territory. This distinction explains the confusion that one has when it comes to how to deal with the access of East Jerusalemites to Israeli citizenship. The issue, again, is not in terms of justice or equality, but in terms of occupation and international crimes in times of occupation.

³⁶ (Jefferis, The “Center of Life” Policy: Institutionalizing Statelessness in East Jerusalem 2012)

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ “It should be recalled that the policy of revoking residency rights of Palestinians is a violation of international law. Often as an insurance policy against possible revocation of residency rights, over 1,000 East-Jerusalemites per year apply for Israeli citizenship. While around half of the applications for citizenship were accepted between 2003 and 2013, these figures have dropped dramatically since 2014. Between 2014 and September 2016, of 4,152 East Jerusalemites who applied for citizenship, only 84 were approved and 161 were rejected. The rest of the applications are pending - formally, still being processed.” (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.11).

Israel is indeed bound by The Hague Regulations of 1907, which establish that “the Occupying Power must endeavour to respect the existing laws of the occupied territory and that while occupying authorities may administer the land, they are ultimately prohibited from claiming sovereignty over it.”⁴¹

The Fourth Geneva Convention of 1949 is also applicable to Israel, which, according to the authoritative Commentary, sets two fundamental propositions concerning the belligerent occupation: 1) the occupation is a *de facto* and temporary situation and 2) the Occupying Power is prohibited from claiming sovereignty over any of the occupied territory under its control.⁴²

The ‘Center of Life’ principle became a state policy following the Oslo Accords of 1995, despite an agreement not to change the status quo until an agreement is reached concerning the final status issues, including Jerusalem. It is possible to speculate – as some did – that this reflects Israel’s intention to create facts on the ground in anticipation of any negotiations in the future.

Israeli settlement activities in the occupied territory including East Jerusalem required the expropriation of private Palestinian land,⁴³ which builds on the fact that an “orderly registration of land ownership” is simply absent.⁴⁴

This dispossession of private property contradicts IHL because it cannot be justified by necessary military operations and because it serves racially discriminatory policies.

Israel applies other policies rendering the choice of Palestinians to stay in Jerusalem – even if still authorized by the state of Israel – impossible for many other reasons. Such measures include: house planning and permits that discriminate against Palestinians; an increased number of house demolitions in East Jerusalem targeting Palestinian residents; imposing high taxes and municipality fees; eviction of Palestinians from their homes in the Old City in favor of settler organizations; the acceleration of the ‘recovery’ of property in East Jerusalem that belonged to Jewish inhabitants before 1948; advancing settlement plans and approving new buildings in older ones; and the increase in settler populations in the city.⁴⁵ The result of all of the above policies is what many authors refer to as a ‘quiet transfer’ or a ‘*de facto* deportation’ of the population.^{46 47} This policy results in ‘collective displacement’ in violation of international law.^{48 49}

Since Israel is a ‘dualist country’, the enforceability of a treaty-based rule by domestic courts follows only its inclusion in a statute issued by the parliament (Knesset), unless it is

⁴¹ (Tabar 2010, 35).

⁴² Ibid.

⁴³ (EU HOMS Report on Jerusalem 2016 (Unpublished report), 58).

⁴⁴ According to Israeli State Comptroller’s annual report cited in Ibid, para 78).

⁴⁵ Ibid.

⁴⁶ (Jefferis, The “Center of Life” Policy: Institutionalizing Statelessness in East Jerusalem 2012) (Guego 2006) (Houk 2011, 94).

⁴⁷ “While I do not speculate on the reasons for the sudden implementation of the [“center of life”] policy here, it is significant that the “quiet deportation” of Palestinians from Jerusalem escalated just after the Israeli-Palestinian agreements that made Jerusalem a subject for “final status” negotiations.” (footnotes omitted) (Jefferis, The “Center of Life” Policy: Institutionalizing Statelessness in East Jerusalem 2012).

⁴⁸ (Al-Maqdese for Society Development (MSD) 2016, 12) (Tabar 2010, 35).

⁴⁹ “The policy of ID withdrawal in East Jerusalem is considered a scheme to achieve collective displacement which violates all international laws and norms and is implemented as part of the policy of forced displacement. The Israeli occupation authorities have been implementing the policy of ID withdrawal for many years now by exiling Jerusalemites who face and confront Israeli violations, violence and discriminatory policies in the city; they are usually exiled to the West Bank and Gaza Strip. Moreover, by withdrawing their blue IDs, Jerusalemites become not allowed to stay in Jerusalem and have to be sent away to the West Bank; thus changing the demography of the city and increasing settlers’ presence.” (Al-Maqdese for Society Development (MSD) 2016, 12).

considered customary international law, which is the case of the prohibition of forcible transfers. “Forcible deportation or transfer of protected persons is expressly prohibited in Article 49(1) of the Fourth Geneva Convention, and is recognised as a principle of customary international law.”⁵⁰

Based on the Rome Statute of the International Criminal Court to which Palestine recently acceded, forced displacement is also a war crime “in particular when it is carried out as part of a plan or policy, or as part of a wide-scale attack.”⁵¹ Accordingly, the forcible displacement of Palestinian Jerusalemites is unlawful and can amount to war crimes.⁵²

1.1.3 Rights of Palestinian Jerusalemites under IHRL

Despite the Israeli denial of violations against East Jerusalemites in their reports to international human rights committees, Israel has Human Rights obligations under international customary and treaty based on international law when it comes to all populations under its jurisdiction or direct control, including Jerusalemites.

Israeli laws, policies, and practices are in flagrant contradiction with IHRL. In the following section, we will give examples for the sake of argument, not aiming at offering an exhaustive narrative of the various possible human rights violations.

Israel violates Palestinians’ **rights to found a family**, in particular in cases in which the spouse of a Jerusalem ID-holder is not a permanent resident (a West Bank or a Gaza ID holder, for example). In such cases, the non-Jerusalemite’s spouse must apply for a Jerusalemite ID through family reunification, a long and expensive bureaucratic process, during which “children of the couple and non-resident spouses are vulnerable as they can at any time be refused permission to live as a family in East Jerusalem.”^{53 54}

Access to ID through family reunification is not a right that can be claimed by Palestinians but is administered by Israeli authorities as a privilege that can be offered at state and government will. As a matter of fact, “Israel’s Interior Minister is permitted significant discretion when deciding on family unification applications for Palestinian residents of East Jerusalem.”⁵⁵ This means that family unification, being considered as a privilege and not a right, can be denied at the discretion of the government of the occupying power and its administration.⁵⁶

⁵⁰ (Tabar 2010, 37).

⁵¹ Ibid.

⁵² As rightly pointed out by Tabar: “In light of the above, unlawful forcible displacement extends to Palestinian Jerusalemites who are compelled to leave their homes because of the unbearable living conditions created by the annexationist policies of Israel, the Occupying Power. Measures including but not limited to: the construction of the Annexation Wall; home demolitions; movement constraints between East Jerusalem and the rest of the West Bank; and severe restrictions on family unification, building permits and zoning applications have resulted in the displacement of Palestinian Jerusalemites. The hardships are a result of politically-motivated policies that create a coercive situation, taking away any genuine choice from the protected population. As such, the displacement of Palestinian Jerusalemites is involuntary and therefore in violation of international law. Of particular concern is the overall atmosphere within which the forcible transfer is occurring, and the numbers of protected persons being affected.” Ibid, 38.

⁵³ (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.13).

⁵⁴ “The Citizenship and Entry Law has compelled many couples either to separate or, if they choose to live together in Jerusalem illegally, in constant fear that the West Bank spouse might be deported.” Ibid.

⁵⁵ (Tabar 2010, 15) (Footnotes omitted).

⁵⁶ “Beginning in September 2000, family unification applications for West Bank ID holders were unofficially suspended. Since July 2003, the Israeli Parliament has regularly extended the “Nationality and Entry into Israel Law (Temporary Order)”, prohibiting Israelis and permanent residents who marry residents of the [Occupied Palestinian Territory (OPT)] from living in Israel with their spouses. Furthermore, children born in the OPT to a Palestinian couple consisting of a West Bank resident and an East Jerusalem resident are not permitted to live in Israel or occupied East Jerusalem.” Ibid, (Footnotes omitted).

While in the past some families managed, despite the above limitations, to live together without risking deportation, prison or penalties (for non-Jerusalemite ID holders) or losing their residency status (for Jerusalemite ID holders), following the construction of the Annexation Wall this is becoming almost an impossible mission.⁵⁷

The permit regime coupled with the Annexation Wall constitutes a serious violation of the **freedom of movement**.^{58 59} Israel amended its Criminal Code, which stated that: “[A] parent of a minor who has been convicted and imprisoned for a security offence will be denied all National Insurance payments for that child, including child allowance and subsistence payments such as maintenance and income support, during the child's imprisonment. Moreover, the amendment establishes an arbitrary distinction between convicted minors: those convicted of security offences and those convicted of criminal offences.”⁶⁰

The Israeli occupation of 1967 and its policies on Jerusalem have led to deepening and accelerating negative trends in the city: “the political, economic and social exclusion of Palestinians in Jerusalem.”^{61 62}

1.2 SWOT Analysis

Following is a SWOT analysis as reflected in the literature and the feedback elicited from interviews and focus group participants. The analysis is illustrated under three sub-titles: 1) SWOT summary table; 2) Main Challenges that face the sub-sector; 3) Short and Medium Term Interventions.

1.2.1 SWOT Summary

| Strengths | Weaknesses |
|--|--|
| <ul style="list-style-type: none"> • EJ is central to the peace process which is central to the two-state solution. • The rich and deeply rooted Palestinian cultural heritage which confronts the Israeli narratives on Jerusalem. • The symbolic value of Jerusalem for monotheistic religions and the importance of the status quo. • Various UN resolutions in support of international law and the rejection of all Israeli plans and action, including the illegal annexation of East Jerusalem. • ICJ Advisory Opinion on the Wall confirmed the | <ul style="list-style-type: none"> • Lack of unified leadership in steering the protection of human rights in the city. • Lack of financial support to legal advocacy and human rights awareness. • Weak HR institutions and inadequate funding. • Lack of political will to impose international law on Israel in ICC to make it accountable for its daily violations of HR. • Thousands of East Jerusalemites leaving the city and the erosion of the Christian community. • Isolation of the Palestinian population from ordinary |

⁵⁷ “The Wall is also having a negative effect on the family, social and cultural life of Palestinian residents of Jerusalem. Before its construction, many couples and families consisting of mixed Blue and Green ID holders had managed to find ways to live together despite the permit requirements imposed by the Israeli authorities in 1991. The movement of West Bank Green ID holders is now increasingly restricted, as many will not risk crossing over the Wall to access East Jerusalem. These physical restrictions have resulted in an impossible situation for many mixed-residency Palestinian families. (Tabar 2010, 19).

⁵⁸ (EU HOMS Report on Jerusalem 2016 (Unpublished report), par. 104).

⁵⁹ “Article 12(1) of the ICCPR guarantees all individuals freedom of movement and the right to freely choose their residence within a State. States are permitted to restrict this right only if such restrictions are legal and necessary to “protect national security, public order, public health and morals or the rights and freedoms of others.” However, States must ensure that restrictions on this right are not implemented in a disproportionate or unnecessary manner. Israel regularly takes measures to restrict the movement of Palestinian residents for reasons that are proclaimed to address national security concerns. However, the ICCPR clearly states that even in situations of national emergencies, restrictions on rights must not be related to discrimination based on “race, colour, sex, language, religion or social origin.” (Tabar 2010, 40) (Footnotes omitted).

⁶⁰ (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.13).

⁶¹ Ibid, par.4-5.

⁶² “For many Palestinians, the restrictions on their freedom of movement between occupied East Jerusalem and the West Bank have substantially undermined their ability to access workplaces, schools and hospitals. In addition, the continuing policy of denying family unification applications between Blue and Green ID holders constitutes a serious and systematic violation of Israel’s duty to protect the integrity of Palestinian families.” (Tabar 2010, 41)

| | |
|--|---|
| <p>status of Jerusalem as part and parcel of the Occupied Palestinian Territory.</p> <ul style="list-style-type: none"> • Some (few) Israeli Courts' decisions provide remedies for injustices on Jerusalemites and/or in East Jerusalem. • East Jerusalemites enjoy relatively better health services and social security access than the rest of Palestinians. • The resilience of the Palestinians of East Jerusalem. | <p>political, economic, and social life</p> |
| <p>Opportunities</p> | <p>Threats</p> |
| <ul style="list-style-type: none"> • The State of Palestine's status as a non-member state in the UN opened the opportunity to access international tribunals and other international instruments to prosecute Israeli officials and institutions for their criminal actions towards Jerusalemites and beyond. • The victims of Israeli policies and orders (such as eviction orders) continue to receive support from donors and the international community. • Few examples of existing reports (academic or official) and few Israeli institutions which are critical of the Israeli policies in East Jerusalem. • The role of social media in exposing Israeli settlers' violence and the Israeli security apparatus' use of excessive force against civilian Jerusalemites. • Increase in religious tourism following the restoration of the Holy Sepulchre, which exposes the Israeli violations to international public opinion. | <ul style="list-style-type: none"> • Weak international intervention and pressure to stop the Israelization of the city and the applying of discriminatory policies against the Palestinian Jerusalemites. This includes inter alia: <ul style="list-style-type: none"> ○ Discriminatory policies clearly aiming at maintaining demography balance in the city in favor of its Jewish population. ○ Use of punitive measures, such as demolishing of homes. ○ The trap of the municipal zones east of the Wall, and the risk of losing residency status. ○ Israeli arbitrary tax policies and plans to impose taxes on churches, threatening services and existence. ○ Refusal of applications for family unification. ○ Denial of basic services. ○ Excessive use of force against civilians which amounts to collective punishments. ○ Attacks against holy places, especially the Al Aqsa Mosque Compound/Haram Al-Sharif. • Recognition by the US of Jerusalem as the Capital of Israel and the move of the US Embassy to Jerusalem will escalate Israeli violations and its drive towards Israelization of the city. • Laws, policies, and regulations are in place to make it harder for the Palestinians of East Jerusalem with permanent residency to maintain their status. • Use of legal techniques to strip Palestinians of their status. • The breach of loyalty as basis for revocation of residency. |

1.2.2 Main Challenges

The main challenge which the Palestinians in EJ face is forcing Israel, as the occupant, to comply with international law and treat them as protected persons. This challenge, which so far proved to be not attainable, should remain at the top of the Palestinian political agenda. As a last resort in the time being, Jerusalemites have three different possibilities to fight for their rights:

1. Using the Israeli law through lawyers who are eligible to plead in front of the Israeli courts in order to defend their rights, which is usually being used by Jerusalemites;
2. Using advocacy and international support for the Palestinian case, which is used by organizations through going to international organizations such as the Human Rights Council in Geneva; and

3. Resorting to the International Criminal Court, which could be a venue to render Israelis accountable for war crimes such as forced displacement.

However, each one of these methods has its own positive and negative aspects. So, this complicated reality creates the following challenges for the subsector:

- Creating a policy consensus on how the Palestinian human rights activists are going to use the above-mentioned available possibilities, based on feasibility and effectiveness to protect the EJ population's human rights, without any prejudice to their national political rights;
- Unifying the work of all credible human rights organization in the mobilization of the right set of human rights capacities and specialties in adequate numbers to respond to East Jerusalemites' common and individual needs;
- Acquiring the capability and expertise which enables Jerusalemites to use international criminal law to file cases which are considered war crimes, such as revoking residency, which is considered as a type of forced displacement;⁶³
- Mobilizing adequate and sustainable financial support to cover the cost of the operation of the human rights protection endeavour;
- Filling in the information, knowledge, and professional documentation gaps on Israeli violations, which can provide human rights specialists and advocacy organizations with precise data, documents, research, and information;
- Scaling up the EJ population's resilience though awareness of their rights as well as increasing solidarity and active engagement in fighting to protect these rights;
- Scaling up cooperation and partnership with credible anti-occupation Israeli NGOs, personalities, and media to unveil Israeli discrimination and human rights violations in EJ and the rest of the oPt.;
- Mobilizing the international community, including advocacy and lobbying, so as UN resolutions and international law are implemented to the Palestinians of East Jerusalem.

⁶³ (Nusseibeh 2018).

1.2.3 Short and Medium-Term Priority Interventions

| Intervention | Justification | Output | Outcome | Estimated Cost in Euro | Proposed Implementer |
|--|---|---|--|------------------------|---|
| Support for human rights organizations in their human rights protection of victims by providing the necessary core funding | Need to provide an alternative to the lack of comprehensive system for the protection of human rights | 4 human rights organizations in full capacity to provide services and support to human rights victims | Human rights organizations improved services to human rights victims | 16,000,000 | All credible EJ human rights organizations All credible Human rights organizations involved in advocacy and protection of human rights in EJ. A list of such organizations is provided in Annex 3 |
| Support for initiatives aiming at providing legal defense and legal aid in front of Israeli courts and administration | Cost of the service; lack of alternative official support; language obstacle. | 16 legal clinics or private lawyers supported to provide free legal service | Free legal service for victims in front of Israeli courts | 8,000,000 | <ul style="list-style-type: none"> • Various legal clinics • Individual lawyers providing pro bono services • Various human rights organizations providing legal aid and legal services • Al-Meethaq for Human Rights • HaMoked: Center for the Defense of the Individual • Society of St. Yves Catholic Center for Human Rights |
| Support for projects that aim at documenting violations of East Jerusalemites' rights. | High cost of the process; lack of a comprehensive system of protection of rights | 16 projects supported which document violations of HR in East Jerusalem | Enhanced documentation capacities | 8,000,000 | <ul style="list-style-type: none"> • Al-Maqdese for Society Development • B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories • The Civic Coalition for Palestinians Rights in Jerusalem • Defense for Children International (DCI/PS) • Al- Haq • Palestinian Center for Human Rights (PCHR) • Addameer Prisoners' Support and Human Rights Association • The Independent Commission for Human Rights (ICHR) • Society of St. Yves Catholic Center for Human Rights |
| Support for research based on IHL and IHRL | Weak capacities; lack of resources | 16 research institutes and centers supported | Enhanced research capacities on IHL and IHRL | 8,000,000 | <ul style="list-style-type: none"> • Various research institutions and centers including universities or independent ones • The various human rights organizations mentioned above which have a research |

| Intervention | Justification | Output | Outcome | Estimated Cost in Euro | Proposed Implementer |
|---|--|---|--|------------------------|--|
| | | | | | agenda such as Al-Haq, Addameer, Society of St. Yves, etc. |
| Training on preparing shadow reports for international human rights committees and other bodies | Lack of expertise and resources | Building capacities of 5 human rights organization | Capacities in writing shadow reports enhanced | 5,000,000 | <ul style="list-style-type: none"> • Al-Haq • ICHR • UN Commissioner of Human Rights Office |
| Preparation of files and supporting analysis and documentations in support of the investigation by the ICC prosecutor | Recent access of Palestine to the ICC; lack of expertise | 8 human rights organizations supported | Enhanced capacities in documentation and ICC investigation | 8,000,000 | <ul style="list-style-type: none"> • Various human rights organizations • Various research centers and institutes |
| Supporting the translation of legal materials and legal memos and helping in completing government forms | Language barrier | 6 organizations supported | Capacities enhanced and services delivered in translating materials | 3,000,000 | <ul style="list-style-type: none"> • Various research centers and institutes • Various legal clinics • Individual lawyers |
| Supporting the coverage of lawyers' fees in front of courts or administration such as for health insurance and residency institutions | High costs | Covering costs of lawyers for 80 victims – 100 USD each | | 80,000 | <ul style="list-style-type: none"> • Individual lawyers • Human rights organizations • Legal clinics |
| Supporting awareness campaigns targeting victims | Lack of an alternative comprehensive awareness plan | | | 3,000,000 | <ul style="list-style-type: none"> • Various human rights organizations • Various legal clinics • Various research institutes and centers |
| Support for the building of law libraries and access to legal research resources including those that work on digitalization of legal texts and court decisions | Lack of such alternative resources | 8 law libraries supported | Legal libraries' capacities and access to legal information enhanced | 8,000,000 | <ul style="list-style-type: none"> • Various research centers and institutes • Various existing libraries • Various universities |
| Supporting initiatives aiming at lobbying at the local and international level | Existing harsh and repressive environment; lack of official support; lack of resources | 6 initiatives supported | Initiatives supported and lobbying capacities enhanced | 3,000,000 | <ul style="list-style-type: none"> • Various human rights and civil society organizations such as: • The Civic Coalition for Palestinians Rights in Jerusalem • Defense for Children International • HaMoked: Center for the Defense of the Individual • Addameer |
| | | | Total | 72,080,000 | |

1.3 Indicators and Approach for Monitoring and Evaluation*

Implementation and results indicators are used at shorter and longer level spans respectively. The measures used to measure indicators are of various types, ranging from informal, less structured methods to formal and more structured ones. Informal measures include conversation with concerned individuals, community interviews, field visits, reviews of official records, key source interviews, focus group interviews, and direct observation. Formal measures include surveys, whether one-time surveys or panel surveys, censuses, and field experiments.

Several inputs, activities, and outputs can be used to monitor the implementation, and several outcomes and impacts can be used to monitor the results. They include the various interventions in the human rights sections outlined above, including but not limited to:

- Number of human rights organizations offering legal aid and counseling;
- Number of victims who receive assistance in courts;
- Number of victims who receive support in administrative cases with regards to housing and health insurance;
- Availability of sound systems of documentation of human rights violations;
- Amount of research published on human rights issues;
- Number of trainees on shadow reports;
- Number of awareness campaigns;
- Number of law libraries and access to legal resources.

1.4 Risks and Risk Mitigation

| Risk | Probability | Impact | Mitigation |
|---|-------------|--------|--|
| Continuous Israeli use of law and legal instruments to strip Palestinians of their rights | High | Strong | Continuous monitoring of Israeli actions. Continuous campaigns aiming at showing such measures to the world. Continuous lobbying efforts in support of East Jerusalemites. Shifting paradigms including but not limited to the use of colonial settlement and apartheid as entry points to rendering Israel accountable. |
| The increase in Israeli pressure targeting human rights organizations and human rights activists in East Jerusalem | High | Medium | Continuous support for human rights organizations by international community. Increasing core funding. Clear separation between BDS and other initiatives. |
| The increase in discriminatory measures by the municipality and other administrative bodies aiming at population shift in favor of Israeli Jews in the city | High | Strong | Support of Palestinian resilience. Support of families in their fight against house demolitions, lack of permits and adequate planning, etc. |
| Lack of core funding for human rights organizations, legal clinics, etc. | Medium | Medium | Further core funding. |
| Lack of coordination between human rights organizations | Medium | Medium | Forum for discussion and coordination of human rights organizations. |
| Lack of coordinated national policy towards certain key legal matters which Israel implements in East Jerusalem | Medium | Medium | Ensuring the (Palestinian) national agenda has ways to legally approach Israeli imposed measures in East Jerusalem. |

* Most of this section is common to the three reports. Special thanks to Varsen Aghabekian for preparing this sector and accepting that it is used in this report too.

1.5 Sector Related Final Status/Transition Issues

While the list is not exhaustive, the following issues need to be considered in case a final status agreement is reached between Israel and Palestine, where East Jerusalem serves as the capital of the State of Palestine:

- Integration of human rights organizations and civil society organizations within the Palestinian official legal system and rights regime in the State of Palestine; this includes the registration of unregistered organizations, including international civil society organizations. Some of those working in international civil society organizations are foreigners who need to be legalized within the legal framework of the state of Palestine. What will happen to those non-Palestinian Israelis who are working on such organizations? Do they need to acquire a visa of stay to be able to work in EJ under fully-fledged Palestinian state?
- What about those (Jewish) Israeli citizens who have acquired private property entitlements in EJ as a result of various Israeli discriminatory policies throughout the decades since occupation in 1967? Will their property be protected under Palestinian law?
- Extending the current regime in place for passports to Palestinians of EJ and regulating movement of the population to and from Palestine. Reviewing who is entitled to what and how is a priority. Issuing a Palestinian passport for EJ and its impact on temporary Jordanian passports Palestinians of EJ have. What is the impact on their rights within Jordan. For those Palestinians of East Jerusalem who have also a national Jordanian number; what about their Jordanian nationality? Can they keep dual nationality, Palestinian and Jordanian?
- What about the non-Palestinian population of EJ? What status would they enjoy within the state of Palestine? Will they enjoy fully-fledged Palestinian citizenship? How about religious and ethnic minorities which are not Palestinians but who share with other fellow Palestinians the pre-Israeli occupation history and the current legal status of residents?
- Taking control of municipality and municipality services. Making sure to have accountable local government in place. Integrating EJ in local government elections. What are the borders of the Jerusalem municipality under a Palestinian state? What about those many Palestinians who are living abroad, or that are living outside Jerusalem? What about those who, because of discriminatory laws and policies, including the center of life policy, have lost their residency status in EJ before Palestinian taking control of EJ? What about those stateless persons who will be residing in EJ by the time the Palestinian state takes control of EJ? What about house planning? Forests and parks?
- Private property of lands surrounding the wall, which were confiscated during the process of building the separation wall need to be reestablished. Similarly, connecting the population with their source of income should be a priority. How possible cases of conflicts that may arise over private property are to be dealt with? In cases where Palestinian judges will have to decide the conflict, there should be a special consideration to the fact that many of the documentations may be in Hebrew.
- The fact that East Jerusalem was subjected to Israeli laws means that an effort and training is needed so as to make sure a transition towards full application of Palestinian law on EJ is in place without hindering people's rights.
- Since EJ will be under a fully-fledged Palestinian state, reporting to human rights committees should be now inclusive to EJ. Training could be needed, as much policies and laws that enable Palestine to honor its international obligations towards EJ based on IHRL.

- Transfer of population register and the follow up of cases of ID and residency revocations;
- A transitional justice process aiming at compensating those who were subject to human rights violations, including but not limited, to house demolitions;
- Agreement will need to be reached with regards to the current status which Jerusalemites may have, including but not limited to minimum salary, pension rights, and health insurance, which apply differently to East Jerusalemites from other Palestinians in occupied Palestine.
- The Palestinian ministry of education needs to provide counter narratives to combat the previous imposition of one-sided Israeli narrative of the state apparatus on EJ.
- Putting in place a migration policy aiming at attracting Palestinians of East Jerusalem to return to Jerusalem and make opportunities for financial and social stability in the city.
- Putting in place a strategy for attracting religious tourism in the city where it aims, inter alia, to maintain the city as an open city for all believers.
- Dealing with buildings that are lacking necessary authorizations and revising the municipal plans of the city to deal with long decades of arbitrary deprivation of Palestinians of their rights.
- Working on bilateral diplomatic relations with countries that recognized Jerusalem as capital of Israel and have their embassies therein.

2. Institutions and Good Governance

2.1 Sector Profile

The importance of East Jerusalem for the three monotheistic religions, its status as *Corpus Separatum* according to the UN General Assembly Resolution No. 181 in 1947, its illegal annexation by Israel through a Basic Law, and its status as an occupied territory since 1967 make any discussion about governance in East Jerusalem at best uneasy and at worse very complex. Israel continues its policies towards the city aiming at intensifying settlement activities which constitute a threat towards the territorial integrity of the city and the two-state solution.⁶⁴

The annexation of the city started *de facto* in 1967 and intensified as a result of the Basic Law adopted in 1980, which considers the so-called Unified Jerusalem as the Capital of Israel. In a latest attempt, Israel is intensifying its grip on the city and the Israelization of Jerusalem through what some call the “Annexation bill.”⁶⁵

The Holy Sites for Christian communities are under the status quo, which has been in place since the Ottoman Empire and has remained largely intact despite changes of regimes that took control of the city since then. The Israeli authorities, through the municipality, tried to impose taxes on religious sites and properties of Christian communities, threatening their survival and affecting their very existence.⁶⁶ As for Al Aqsa Mosque Compound/Haram Al-Sharif, the role and the place of the Hashemite Kingdom is confirmed last but not least in the Wadi Araba Agreement,^{67 68} a role that is accepted and confirmed in an agreement between the Palestinian President Mahmoud Abbas and the King of Jordan.⁶⁹

Despite those agreements and the role of Jordan, Israel continues its policies surrounding Al Aqsa Mosque Compound/Haram Al-Sharif.⁷⁰ These policies were at the source of increasing tension and a rise in the level of acts of violence and resistance.⁷¹ East Jerusalemites suffer at the same time from Israeli policies targeting them and their very existence in the city. The result of such policies is also reflected in the lack of a unified Palestinian leadership and the fragmentation of Palestinian communities.

Israel in fact continues to close Palestinian institutions in East Jerusalem, often using temporary orders which are renewed for years. This is the case with the Orient house and the Arab Chamber of Commerce, for example, resulting in what is referred to as an institutional and leadership vacuum in East Jerusalem.⁷²

⁶⁴ “The constitution of settlements and new settlement units between city center and the Palestinian neighborhoods of Shufat and Beit Hanina (for example, the planned units in Ramat Shlomo) is a real threat to the territorial contiguity between East Jerusalem and the Palestinian hinterland.” (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.58).

⁶⁵ https://www.civiccoalition-jerusalem.org/uploads/9/3/6/8/93682182/annexation_bill_devised_for_the_redrawing_of_the_municipal_map_aimed_at_reducing_number_of_palestinians_in_jerusalem.pdf.

⁶⁶ (EU HOMS Report on Jerusalem 2016 (Unpublished report), 94).

⁶⁷ *Ibid.*

⁶⁸ Article 9 of the Wadi Araba Peace Agreement (1994) between Israel and Jordan, which restates that “Israel respects the present special role of the Hashemite Kingdom of Jordan in Muslim holy shrines in Jerusalem”. Emphasis omitted. *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*, par.8.

⁷¹ *Ibid.*

⁷² “On 31 March 2013, King Abdallah II of Jordan and President Abbas signed an agreement reaffirming the role of the King of Jordan as Custodian of the Islamic holy sites in Jerusalem and his responsibility for safeguarding and preserving them.” *Ibid.*, par.52.

Crackdowns on Palestinian institutions in East Jerusalem have intensified since 2000 and have never come to an end since then.⁷³ Another way of targeting Palestinian leadership was through residency revocation of Jerusalemite Palestinians taking part in Palestinian legislative elections.⁷⁴ Moreover, in March 2018 the Israeli Parliament passed a new law which “allows the Minister of Interior to revoke the residency rights of any Palestinians in Jerusalem on grounds of “breach of loyalty” to Israel”⁷⁵, which opens the door for Israel to revoke residency of numerous Palestinians in this context.⁷⁶ This is not the only discriminatory law in place. Adalah (“Justice” in Arabic, an independent human rights organization and legal center) has identified over 65 Israeli laws in its “Discriminatory Laws Database (DLD)” which discriminate directly or indirectly against Palestinians on the basis of their national belonging.⁷⁷

While the closure of those institutions serves Israeli occupation purposes, this has arguably contributed also to the weakening of a collective sense of identity and to the lacking of a unified leadership among Palestinians which can lead the community during times of tensions, and who can play a role, including a restraining role, when necessary, making the situation in Jerusalem unpredictable.⁷⁸

In the absence or quasi absence of official and unified leadership in East Jerusalem, various Palestinian institutions are virtually left on their own. The various education providers in East Jerusalem, for example, lack the much needed coordination,⁷⁹ making them prey of Israeli policies aiming at imposing Israeli curricula, which of course completely exclude the Palestinian narrative. However, civil society, local community leaders, including parents’ councils, school principals, and business representatives, continue to play an important role in their neighborhoods.⁸⁰

This governance structure is partially to blame for the current social difficulties with which East Jerusalemites are confronted on daily basis.⁸¹ It also contributes to the isolation of the Palestinian population from ordinary political, economic, and social life, leading to more

⁷³ “Particularly since 2000, Israeli authorities have exercised a consistent crack-down on organised Palestinian political life in East-Jerusalem, while banning any connection to the Palestinian leadership. During violent episodes in East Jerusalem, the absence of Palestinian institutions in Jerusalem has made it particularly difficult for the Palestinian political leadership to exercise an effective restraining role.” Ibid, par.53.

⁷⁴ “In May 2006, as “the Israeli Minister of interior announced his decision to revoke the permanent residency status of four Palestinian Jerusalemites: Mohammed Abu-Tier, Ahmad Attoun, Mohammed Totah, and Khaled Abu Arafah (all members of the Change and Reform List). The Minister claimed that their election to the Palestinian legislative council (PLC) was proof of their loyalty to a ‘foreign parliament’ and, consequently, disloyalty to Israel.” (The Civic Coalition for Palestinians rights in Jerusalem n.d., 3).

⁷⁵ (Al Jazeera 2018).

⁷⁶ (Nusaibah 2018).

⁷⁷ <https://www.adalah.org/en/content/view/7771>

⁷⁸ (EU HOMS Report on Jerusalem 2016 (Unpublished report), par.53).

The upsurge in [violent protests] in October 2015 that continued into the first half of 2016 was partially triggered by renewed Palestinian fears that Israel was seeking to change the Status Quo at the Haram al- Sharif[.] However, it also came against a backdrop of deep frustration amongst Palestinians over the effects of the occupation, and a lack of hope that a negotiated solution can bring it to an end. Most notable has been the spontaneous nature of much of the violence, primarily involving young Palestinian men and women, and acting without the apparent direction of political factions or militant groups. This element makes the violence in Jerusalem more difficult to predict, and harder for political leaders from both sides to quell, also *considering the lack of Palestinian institutional presence in East Jerusalem...*” (Italics are mine) Ibid, par.86.

“In addition the leadership vacuum has continued to seriously affect all spheres of life of Palestinians in East Jerusalem (political, economic, social and cultural) contributing to a growing fragmentation of society at all levels, the isolation of local Palestinian communities and a weakening of collective sense of identity.” Ibid, par.53.

⁷⁹ Ibid, par. 26.

⁸⁰ Ibid, par.53.

“As a result, absent an institutional Palestinian leadership, civil society in Jerusalem has played a vital role, as have local community leaders in the different neighbourhoods. Organisations like parents’ councils and school principals, business representatives have served as important interlocutors with Israeli forces in times of tension.” Ibid, par.53.

⁸¹ As a result of the Israeli policies, the lack of a unified representative leadership, and the fragmentation of Palestinian communities, Palestinians in East Jerusalem are confronted with various social difficulties such as “drug abuse, division and displacement of families, domestic violence, loss of cultural identity, and high levels of stress and depression.” Ibid, par.5.

Palestinian alienation and marginalization and the increasing loss of hope for the possibility of positive change and a sense of loss of security.⁸²

Another result of the existing governance structure is the population shift. It is important to emphasize that the population shift is not a natural one. It is the result of Israeli policies aiming at realizing what the Israelis refer to as a “demographic balance”, meaning an unbalanced formula in favor of Israeli Jews.

This balance affects the internal balance within the Palestinian community and the religious multiplicity in the city, resulting in a shrinking number of Christians.⁸³ The reason why this issue is relevant is that it shows that the current situation in East Jerusalem affects negatively all Palestinians, including Christian Palestinians. It also emphasizes the impact this may have on the religious plurality of the city.

2.2 SWOT Analysis of the Governance Sub-Sector

2.2.1 SWOT Summary Table:

| Strengths | Weaknesses |
|---|---|
| <ul style="list-style-type: none"> • Status of East Jerusalem as Corpus Separatum in the partition plan and numerous Security Council and General Assembly resolutions • Positive role of the Jordanian authorities as guardians of the Muslim holy sites • Confirmation of the status of Al Aqsa Mosque Compound/Harm Al-Sharif in the Wadi Araba Agreement with Jordan • Status quo for Christian holy places | <ul style="list-style-type: none"> • Palestinians representative institutions are closed creating institutional and leadership vacuum in East Jerusalem. • Lack of implanting rule of law by Palestinian leadership on East Jerusalemites • Lack of a unified political leadership • The situation in Jerusalem is unpredictable, and the eruption of violence is also unpredictable • Lack of coordination among various education providers in East Jerusalem • High poverty rate, social fragmentation, and increasing social difficulties (drug abuse, division and displacement of families, domestic violence, etc.) |
| Opportunities | Threats |
| <ul style="list-style-type: none"> • Recognition of Palestine as a non-member state at the UN and access to International Treaties • Overwhelming international rejection of the US move of the US Embassy to East Jerusalem and international refusal to recognize Jerusalem as the capital of Israel • Possibilities for international protection of civilians in East Jerusalem • Increase in international solidarity with the Palestinian struggle, widening of the BDS, and tightening of the isolation of Israel | <ul style="list-style-type: none"> • Scaling up on restrictions of political freedoms, especially against the organized political life in East Jerusalem • Increased raids on Al Aqsa Mosque Compound/Harm Al Sharif, provocations by Israeli extremists, and tension • Escalation of Israeli violations, such as home demolitions, denial of building permits, ID revocation, settlers violence, arbitrary taxation, etc. • Continued internal political division may lead to further weakening of community’s resilience and willingness to combat Israeli policies aiming at pushing Jerusalemites out of the city • Israeli crackdown on any initiatives or presence of official Palestinian representatives in East Jerusalem |

⁸² Ibid, par.3.

⁸³ Christians are now less than 2% of the 1 million total population of the Jerusalem area (2/3 are Jews and 1/3 are Muslims). Ibid, par. 101.

2.2.2 Main Challenges

1. The main challenge facing the governance of East Jerusalem and Jerusalemites is the lack of a unified, participatory, capable, and well-respected focal point tasked with fostering the resilience and steadfastness of Jerusalemites and enhancing their willingness to fight for their political, economic, social, and human rights.
2. The second main challenge is the fragmentation and exclusion of EJ from the oPt governance structure. It requires deliberate efforts to institutionalize collaboration and the reintegration of East Jerusalem institutions with the relevant PLO, PNA, private sector membership organizations, NGOs, professional associations, trade unions, and other organizations. The main objective is to help enhance the institutional setup and services delivery of EJ organizations and foster their capabilities in responding to EJ population needs and combating hostile Israeli policies.
3. The restoration of the Palestinian institutional presence in East Jerusalem by reopening Palestinian institutions is a priority, such as the Orient House and the Arab Chamber of Commerce.⁸⁴ A very important initiative in this domain was the initiation of the Civic Coalition for Palestinians Rights in Jerusalem, which aims at creating a new body to represent Jerusalemites. Despite the role that the Civic Coalition plays in representing Jerusalemites, it is still not enough and cannot do the whole mission of representing Jerusalemites.
4. Civil society organizations including Palestinian and Israeli organizations cannot face alone all the Israeli laws and decisions which affect Jerusalemites as their options are limited, usually to the use of Israeli courts. This solution is not effective because the real problems which Jerusalemites face are not legal problems.⁸⁵
5. Israeli organizations which support Jerusalemites face real challenges nowadays such as being threatened and being accused of state treachery as they support Palestinians instead of supporting Israelis and the State of Israel. Moreover, they face another sort of pressure which is the Israeli restrictions over their sources of funding and their budgets.⁸⁶
6. There is need to assure the vibrancy and sustainability of the civil society of East Jerusalem, especially among women and youth, who should be supported by local public and private funding as well as by the international community. Working together and networking among civil society organizations is a must and should be encouraged.⁸⁷

⁸⁴ Ibid, par. 28.

⁸⁵ (Odeh 2018).

⁸⁶ Ibid.

⁸⁷ (EU HOMS Report on Jerusalem 2016 (Unpublished report), par. 28).

2.2.3 Short- and Medium-Term Interventions

| Intervention | Justification | Outputs | Outcomes | Estimated Cost in Euro | Proposed implementer |
|---|--|---|---|------------------------|---|
| Supporting the restoration of Palestinian institutional presence | Lack of alternative institutional presence | 5 representative institutions supported | Enhanced institutional representation of the Palestinians of East Jerusalem | 5,000,000 | <ul style="list-style-type: none"> • Arab Chamber of Commerce • Orient House |
| Supporting initiatives that aim at facilitating coordination among various representative bodies and individuals in East Jerusalem | Lack of resources; lack of alternatives | 6 coordination initiatives or forums supported | Enhanced coordination among various representative bodies and individuals | 3,000,000 | <ul style="list-style-type: none"> • Various institutions working in East Jerusalem, such as: • The Civic Coalition for Palestinians Rights in Jerusalem • Individual initiatives aiming at providing coordination among Palestinian representative institutions and individuals |
| Helping Palestinian institutions in their legal battle so as to be able to operate in East Jerusalem | Official Israeli ban; lack of national or own funds | 10 Palestinians representative institutions supported | Enhanced capabilities of institutions to win legal battles | 5,000,000 | <ul style="list-style-type: none"> • Legal clinics • Individual lawyers • Human rights organizations |
| Initiatives that help empowering East Jerusalemites and making their voice heard | Lack of official representation | 10 initiatives and forums supported | Enhanced representation of East Jerusalemites | 5,000,000 | <ul style="list-style-type: none"> • Various civil society organizations |
| Supporting initiatives aiming at increasing the political participation of East Jerusalemites in Palestinian politics and their connection with the rest of the OPT | Fragmentation of Palestinians and of their representatives | 10 initiatives and forums supported | Enhanced unified representation of the Palestinians of East Jerusalem | 5,000,000 | <ul style="list-style-type: none"> • Various civil society organizations |
| | | | Total | 23,000,000 | |

2.3 Indicators and Approach for Monitoring and Evaluation

Several inputs, activities, and outputs can be used to monitor the implementation, and several outcomes and impacts can be used to monitor the results.

To monitor the implementation and the results, various indicators can be used:

- Number of won legal battles against Israeli ban of Palestinian institutions;
- Number of Palestinian institutions operating in East Jerusalem;
- Number of coordinated initiatives aiming at ensuring the representation of East Jerusalemites;
- PLO, PNA, and other governmental initiatives to foster outreach to EJ organizations;
- Private sector representative organizations initiatives to foster outreach to EJ constituency;
- NGOs initiatives to foster outreach to EJ counterparts.

2.4 Risks and Risk Mitigation

| Risk | Probability | Impact | Mitigation |
|---|-------------|--------|--|
| Continuous Israeli ban on various Palestinian official or semiofficial institutions | High | Medium | Continuous support for Palestinian institutions. Continuous legal, political, and diplomatic pressure on Israel to reopen those institutions. |
| Israel increasingly targeting forums of representation of the Palestinians of East Jerusalem | Medium | Medium | Continuous pressure on Israel not to target those initiatives or forums. |
| Lack of comprehensive Palestinian national agenda for East Jerusalem | Medium | Strong | Support for Palestinian plans for East Jerusalem. |
| Limited Palestinian budget dedicated to East Jerusalem ⁸⁸ | Medium | Medium | Support for Palestinian budget aimed at supporting East Jerusalem. |
| Limited coordination among various Palestinian representative institutions and individuals | Medium | Medium | Support for initiatives that focus on representation of the Palestinians of East Jerusalem. |
| Lack of coordination among official Palestinian representatives and civil society organizations | Medium | Medium | Support coordination efforts. |

2.5 Sector Related Final Status/Transition Issues

Following are a few examples of issues that need to be considered in case of a final status agreement is reached between Israel and Palestine, where East Jerusalem serves as the capital of the State of Palestine:

- The review of the licensing issue of various civil society organizations working in East Jerusalem;
- Taking full control of the holy places so as to make sure it remains open to all people of faith, to have access to their holy sites, as per internationally protected freedom of religion. Full coordination with the Jordanian authorities is needed as they are the

⁸⁸ As outlined by the participants in the focus groups.

custodians of the holy sites. An agreement with Jordan is necessary over the role of Jordan in the holy sites in case of Palestinian full control of EJ.

- Coordinating efforts with custodians of Christian holy sites so as to maintain the status quo and maintain religious freedoms while coordinating with Christian leaderships. Dealing with religious authorities' properties that were transferred to Israelis unlawfully.
- The integration of the various institutions of East Jerusalem into the formal state institutions and systems.
- Dealing with the fragmented leadership of Palestinians in EJ and finding forums for their unification and their inclusion in the decision making that is related to their future. Inclusive policies towards local leaders is necessary.
- Reviewing internal communities' balances and the role of religious leadership.
- Reviewing governing structure of NGOs, professional associations, trade unions and others. Making sure they have the necessary margin of freedom while included within the unified system of the state.
- Restoration of official Palestinian presence in the city, including the institutions and facilities that were closed for a while by the Israelis.

Annexes

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Annex 2: List of Participants in the Focus Groups

| | |
|-----------------|--|
| Ibrahim Shaaban | Faculty of law – Al-Quds University |
| Moen Odeh | Lawyer |
| Munir Nusaibah | Community Action Center |
| Bdour Hussein | Jerusalem Legal Aid and Human Rights Center |
| Zakariyah Odeh | The Civic Coalition for Palestinians Rights in Jerusalem |
| Aisha Ahmad | The Independent Commission for Human Rights (ICHR) |
| Mohammad Hadyeh | Alternative Dispute Resolutions and Studies (ACT) |
| Liana Bader | Al Haq |
| Ziad Hammoury | Jerusalem Center for Social & Economic Rights (JCSER) |
| Rasha Abbas | Addameer Prisoners’ Support and Human Rights Association |
| Naser Isa Hidmi | Jerusalem Committee Against Judaization-HIMMA |

Annex 3: List of Human Rights NGOs

- Al-Haq “ Law in the Service of Man”
- Addameer Prisoners Support and Human Rights Association
- Women’s Centre for Legal Aid and Counselling (WCLAC)
- The Jerusalem Legal Aid and Human Rights Center (JLAC)
- Community Action Center, Al-Quds University (AQU)
- The Independent Commission for Human Rights (ICHR)
- Defense for Children International (DCI)
- Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ)Society of St. Yves Catholic Center for Human Rights