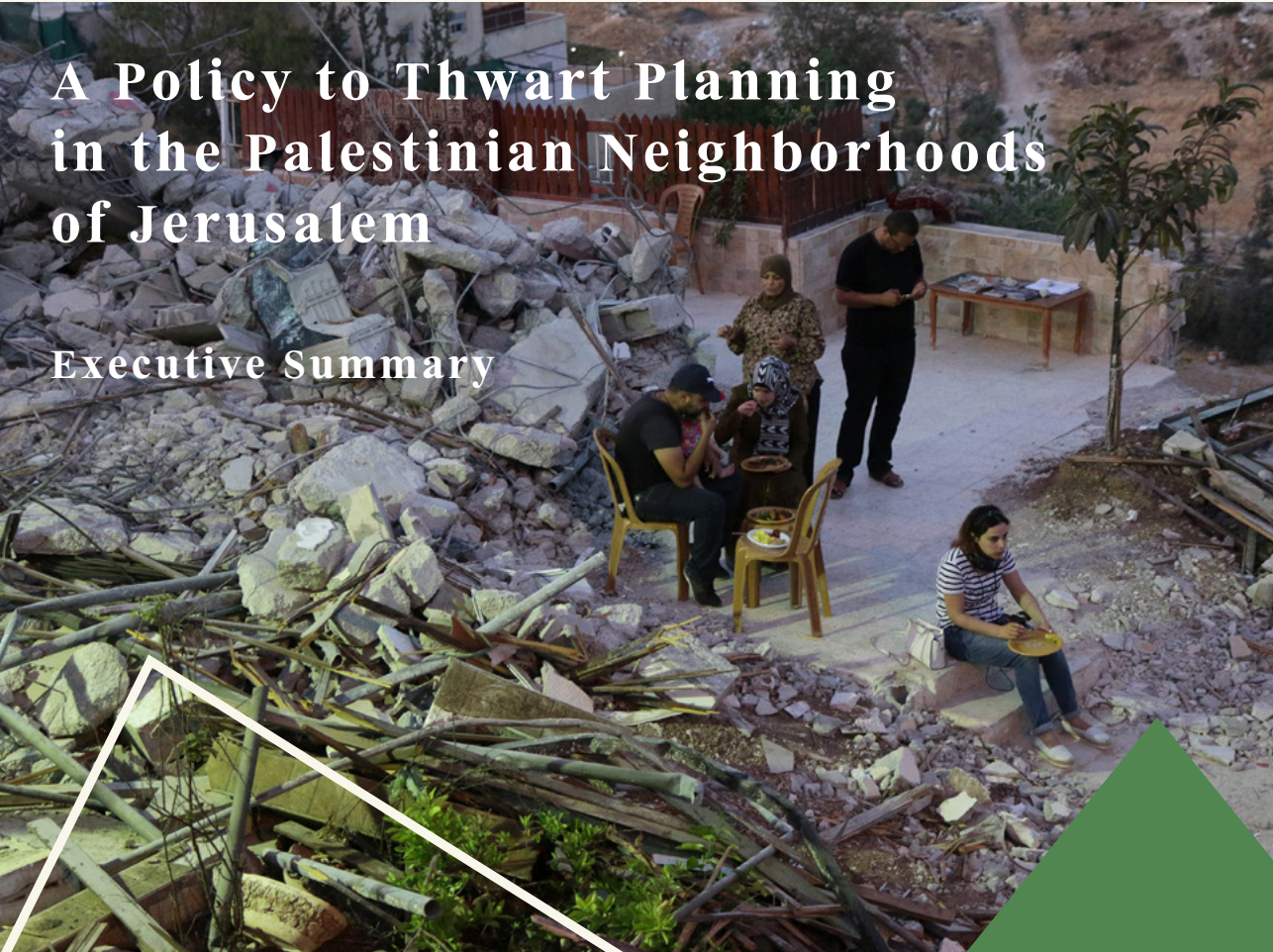


# Deliberately Planned

## A Policy to Thwart Planning in the Palestinian Neighborhoods of Jerusalem

### Executive Summary



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## A Policy to Thwart Planning in the Palestinian Neighborhoods of Jerusalem

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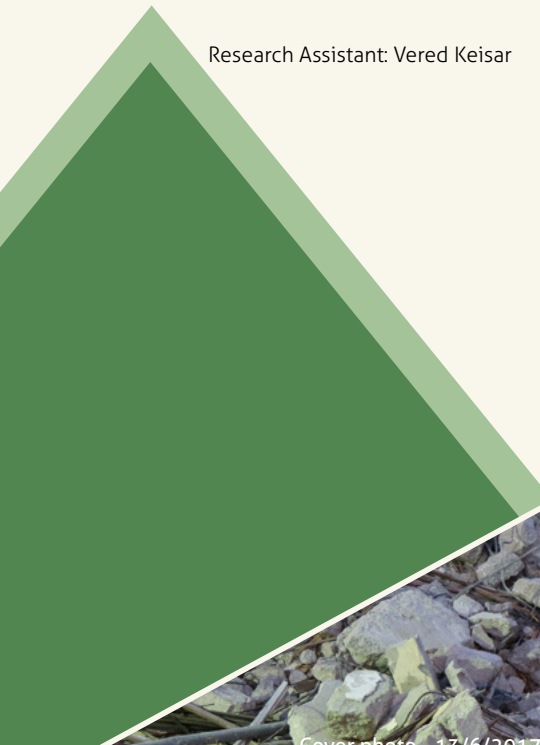
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Cover photo - 13/6/2017, Iftar on ruins, Sur Baher, Jerusalem, photo: Activestills

# Executive Summary

“Of course the authorities demolish their homes, because they build illegally.” This is how most Israelis respond when they hear about the demolition of homes, whether it happens in a Bedouin village in the Negev, in Qalansuwa in central Israel, or in East Jerusalem. This report examines three plans in East Jerusalem that reflect the efforts made by Palestinian residents to eventually build legally and eliminate the threat of demolition. Our examination of the obstacle course faced by these plans shows that the Israeli authorities do everything within their power to delay the process and ultimately thwart any detailed plan of significant scale, effectively preventing lawful construction by Palestinians. In most cases, a Palestinian family that tries to build a home in East Jerusalem is required to run from one office to the next, spend hundreds of thousands of shekels of its own money on planning, and then expend even more to submit an application for a building permit. After confronting all of these barriers, the family may or may not be granted permission to build a home. Families must deal with this process while coping with the daily threat of home demolition and paying heavy fines while under threat. Like anyone else, they would prefer to build legally but are prohibited due to the suppression of their planning rights.

Recently, there has been a sharp increase in the number of home demolitions in East Jerusalem, as in Arab communities within the Green Line and in the Occupied Territories. It is important to emphasize in this context that construction takes place without permits as a direct consequence of plans that do not enable approval of permits on a scale appropriate to community needs. Plans prepared for the Palestinian neighborhoods of East Jerusalem attest to politically motivated discrimination in line with the state’s overriding policy objective of maintaining the demographic balance in the city.

Ir Amim and Bimkom have been working actively for years to encourage fairer and more equitable conditions for the two national groups - Israeli and Palestinian - living in Jerusalem. Ir Amim is active in Jerusalem in the context of the Israeli-Palestinian conflict; seeking, in the absence of and toward a political resolution, to ensure that the city is managed as the home of the two peoples who live in it. Bimkom – Planners for Planning Rights seeks to promote the rights of the Palestinian residents of East Jerusalem with the goal of ensuring their ability to live safely, in permitted homes, and to enjoy adequate roads, parks and other public amenities. The two organizations developed this report out of an awareness that urban planning is a key contributor to the wide gaps between Palestinian and Israeli neighborhoods. In their extreme form, these gaps manifest in unpermitted construction and home demolitions.

This report examines current obstacles to the advancement of plans that would provide an adequate infrastructure for granting of building permits, through a close look at three medium to large plans prepared for Palestinian communities in East Jerusalem. Since 1967, Israel has expropriated more than 38 percent of the area of East Jerusalem for the construction of neighborhoods/settlements<sup>1</sup> for Israelis. The outline plans for the Palestinian neighborhoods approved by Israel in the 1980s and 1990s included extensive open areas in which construction is prohibited. Today, 37 percent of the residents of Jerusalem are Palestinians, but only 15 percent of the area of East Jerusalem (and 8.5 percent of the total area of

1 Although the Israeli neighborhoods constructed in East Jerusalem are situated beyond the Green Line, the Israeli public sees them as part of Israeli Jerusalem. The international and Palestinian communities do not recognize Israel's annexation, but views East Jerusalem as occupied territory and considers the Israeli neighborhoods in this area to be illegal settlements in accordance with international law (hereinafter: neighborhoods/settlements).

the city) is zoned for their residential use. What is more, the building percentages permitted in these areas are particularly low.

The planning system in Jerusalem has effectively been recruited in service to the Israeli imperative of maintaining a demographic majority in the city. Demographic considerations – above all the desire to increase the Israeli population while reducing the number of Palestinians in the city – constitute the main criterion for planning in Jerusalem. Since 1967, no single outline plan has been prepared for East and West Jerusalem as a whole. The Jerusalem Local Outline Plan 2000, approved for deposit in 2009 but never actually deposited for objections, was meant to change this reality. Its approval process was frozen precisely because of the potential for community development it offered in some of the Palestinian neighborhoods.

Since the beginning of 2009, under Prime Minister Benjamin Netanyahu and Jerusalem Mayor Nir Barkat, detailed outline plans allowing for approximately 10,000 housing units have been approved for the Israeli neighborhoods/settlements in East Jerusalem. By contrast, only minor detailed plans in the range of hundreds of housing units have been approved in the Palestinian neighborhoods. No broader outline plans have been approved for these neighborhoods. In addition to the planning authorities' failure to approve detailed plans in the Palestinian neighborhoods, in recent years they have granted only eight percent of building permits for housing units in Jerusalem to the Palestinian neighborhoods. Adding to the pressure, demolitions have recently begun to spike. In 2016, the Israeli authorities demolished 123 housing units in East Jerusalem. Inadequate planning also prevents the construction of schools and development of public areas and employment and commercial zones.

The planning crisis, the lack of housing, and the burden of demolition orders have led many residents of East Jerusalem to lose faith in the prospect of the Jerusalem Municipality (herein, “Municipality”) planning their neighborhoods; consequently, they must resort to internal community organizing to initiate their own detailed plans for approval by the planning authorities. Those who have chosen to take this course of action, and have been willing to cope with the attendant community challenges, have encountered a series of bureaucratic obstacles – most prominently, having to confront Israeli planning policy motivated by demographic objectives. The Municipality argues that the master plans it has initiated in East Jerusalem in recent years constitute a response to the severe lack of housing. The truth is that the plans it has initiated lack statutory status and have no bearing on the planning crisis in East Jerusalem. In fact, the emphasis on master plans actually delays the preparation of detailed outline plans – the only class of plans that enables issuance of building permits.

The three plans examined in this report represent different examples of planning in terms of the plan type, the identities of plan promoters, and the status of pre-existing plans. The details of the manner in which these plans were promoted and ultimately foiled exemplify the fate of many other substantial plans prepared over the last decade for areas within the Palestinian neighborhoods.

**This report examines the following medium to large scale plans:**

- 1 **Outline Plan 12500 for the Khalat al-'Ein neighborhood in a-Tur**, a detailed plan initiated by local residents. The plan includes areas that have not previously been planned, but most of which were zoned for development in the Jerusalem 2000 Local Outline Plan.

- 2 **Master Plan for Beit Safafa**, initiated by the Municipality, applying to an entire neighborhood for which previous planning (also by the Municipality) was inadequate.
- 3 **Detailed Plan 10133 for the Qisan neighborhood in Sur Baher**, also initiated by residents, applies to areas that are already included in a general development plan but have never undergone detailed planning.

## **1. Outline Plan 12500 for Khalat al-'Ein in a-Tur**

In 2005, neighborhood residents initiated Plan 12500 for Khalat al-'Ein in a-Tur. After realizing that the Municipality had no serious intentions of planning the neighborhood, they assumed responsibility for planning at their own expense. In November 2008, the residents submitted their plan to the Municipality. It designated extensive areas zoned for public buildings in response to a-Tur's lack of any other land reserves. Most of the area included in the plan for Khalat al-'Ein was marked for development in the Jerusalem 2000 Local Outline Plan.

### **Obstacles to Promotion of the Plan**

During the plan's promotion, residents encountered numerous obstacles, including hefty costs and bureaucratic complications. They invested more than NIS 800,000 of their own money to cover planning costs and managed to reach agreement on the allocation of private land for public use. Over the years, the Municipality changed its instructions to the residents regarding the borders of the plan, and in many cases reneged on established agreements. At the beginning of 2011, the residents presented the plan to the mayor, who welcomed it without reservations. In the middle of that year, the Municipality proceeded to override the residents' plan by joining with the Israel Nature and Parks Authority in submitting a plan for the "Mount Scopus Slopes" National Park for approval.



by the District Planning and Building Committee. This plan included the entire vacant area between a-Tur and al-'Isawiyyah, absorbing all the remaining land reserves for both neighborhoods, including most of the undeveloped area in Khalat al-'Ein.

In addition to the usual demographically motivated objections to the development of Palestinian neighborhoods, the plan for the national park was influenced by the geographical location of a-Tur and al-'Isawiyyah. The continued expansion of the two neighborhoods toward one other presented a challenge to the Israeli policy of precluding a continuum of Palestinian residential areas. Moreover, the area between al-'Isawiyyah and a-Tur borders on the valuable "E-1" corridor, a strategically significant strip of land that connects Jerusalem and the West Bank settlement of Ma'ale Adumim.

With the respective assistance of Ir Amim and Bimkom, the residents of a-Tur and al-'Isawiyyah filed objections to the national park plan; and after rejection of their objections, appealed to the Appeals Committee of the National Planning Council. In September 2014, the Appeals Committee accepted the appeal, noting that while it is appropriate to establish a national park in part of the designated area, the park's precise dimensions must be determined in line with the development needs of the two neighborhoods. Despite this decision, the Jerusalem Municipality has not, to the best of our knowledge, prepared a proper needs assessment, certainly not of the required scope. To the contrary, at the beginning of 2016, the Municipality appointed a professional team to prepare a new master plan for the neighborhood, determining the borders of the plan in advance, without reference to professional planning considerations or to the neighborhood's development needs. In parallel, it issued gardening orders for most of the area - in effect, attempting to bypass the Appeals Committee's decision.

Ten years after they embarked on their planning journey, and after paying hundreds of thousands of shekels from their own pockets, the residents are still unacceptably close to where they started, left to determine how to proceed in the face of the authorities' misconduct.

## **2. Master Plan for Beit Safafa**

The Master Plan for Beit Safafa is a plan initiated by the Jerusalem Municipality, which hired the firm of planner Motti Kaplan. Planning for Beit Safafa was first conducted by the Municipality in the 1980s and 1990s, initially in the form of a general outline plan and later via several detailed plans. In the early plans, building rights were significantly limited. Subsequent plans showed some improvement, but they applied to only a small section of the neighborhood and were inadequate to provide a meaningful solution to the housing shortage in the area. Following planning of the Israeli neighborhoods/settlements of Gilo and Givat Hamatos adjacent to Beit Safafa (and, in part, on land confiscated from the neighborhood), Beit Safafa has been virtually left without land reserves.

### **Obstacles to Promotion of the Plan**

The planning team hired by the Municipality began preparing the new plan in 2011, with instructions not to change existing land designations. Given the numerous bureaucratic challenges involved in planning privately owned areas, building percentages were coordinated with the Municipality's planning division; but despite this coordination, the mayor subsequently ordered a reduction in the planning percentages. Difficulties also emerged due to the prerequisite of securing broad agreement among multiple landowners with competing interests. The Municipality barred the planning team from discussions on the

launch of construction of “Begin South”, a six-lane highway that now bisects the heart of Beit Safafa, primarily in service to the residents of the Gush Etzion settlement bloc outside the city and the Israeli neighborhoods/settlements on the southern perimeter of East Jerusalem. It also refused to allow the planning team to address the confluence of major traffic arteries crossing Beit Safafa. After extensive delays, the plan was submitted to the Local Committee in the summer of 2015. To date, it has not been discussed by the District Planning and Building Committee.

### **3. Detailed Outline Plan 10133 for the Qisan Neighborhood of Sur Baher**

Neighborhood Outline Plan 2302A, validated in 1999, designated the Qisan neighborhood in the southeast of Sur Baher as an area for future planning, half of which would be residentially zoned. After years of the Municipality’s failure to promote planning, residents attempting to secure formal status for their homes and develop their land opted to take matters into their own hands. Work on Outline Plan 10133 for the Qisan neighborhood began in 2003, promoted by local residents who organized a Committee for the Development of Sur Baher and payed to hire an architect and town planner at their own expense.

#### **Failures in Promotion of the Plan**

The plan met the threshold conditions in 2006 and reached the District Planning and Building Committee for deposit of objections in 2007. Despite prior coordination, the District Committee demanded numerous changes to the plan, the most significant of which was reduction of the plan’s area so as not to deviate from the boundaries established in the new outline plan for Jerusalem.

In practical terms, amending the borders meant that the protracted negotiations between the landowners conducted from 2003 through 2007, together with the planner and in coordination with the planning authorities, had to be reinitiated.

Following this setback, more than 20 meetings were held between the planning team and planning bodies in the Jerusalem Municipality. In the winter of 2011, municipal representatives sought to delay the plan yet again following the Municipality's decision to prepare a new master plan for Sur Baher. Shortly thereafter, the District Committee shelved the residents' plan due to the long gap in time since discussion of the plan. At a June 2013 meeting, the District Planning Committee's chairperson insisted that "nothing has happened since 2007," and recommended shelving the plan. After unsuccessful attempts to appeal to the committee, the residents withdrew the plan and terminated its promotion despite the substantial amount of time and money they had invested in the process.

## **Conclusion: Political, Planning, and Bureaucratic Obstacles**

Despite the differences between the case studies presented in this report, a pattern of actions intended to impede – indeed, prevent – meaningful planning of the Palestinian neighborhoods clearly emerges. The difficulties and obstacles described in this report span the political, planning, and bureaucratic spheres. It is important to emphasize that this distinction is mostly a theoretical one; in practice, planning and bureaucratic obstacles serve the overriding political agenda:

## **A. Political Obstacles**

- 1 Planning in the shadow of demographic objectives
- 2 Municipal planning subordinated to the establishment of the settlement blocs in “Greater Jerusalem”

## **B. Planning Obstacles**

- 3 Restrictive planning limiting the scope of development in Palestinian neighborhoods
- 4 De facto delays in construction under the pretext of general planning
- 5 Unsuitability of the Israeli planning system for complex planning on privately owned land
- 6 Onus of planning entire expansion areas (“polygons”), particularly difficult in the context of privately owned land as it requires multiple private land owners to reach consensus on planning

## **C. Bureaucratic Obstacles**

- 7 Delays and frequent changes to plan borders (“blue lines”)
- 8 Coordination of planning without municipal assistance
- 9 Expensive and onerous demands and requisite technical inspections

## **Recommendations**

Fifty years of discriminatory planning and home demolitions have brought the Palestinian neighborhoods in East Jerusalem to the verge of chaos. Given the current political reality, Israel bears full responsibility for ensuring the welfare of the Palestinian residents of East Jerusalem and their environment. The poverty, neglect, and exclusion endemic to the Palestinian neighborhoods of East Jerusalem testify to the failure of the “united city,” exacerbate hostility and mistrust between residents and the authorities, and fuel tensions in the city.

So long as the current political reality endures, Israel bears the obligation to set aside its demographic and territorial approach to planning and recognize its responsibility to serve the Palestinian community. The transformation from a protracted policy of preventing and thwarting adequate planning to one of encouraging implementable and sustainable planning must be systemic, extending to all branches of the planning system and to all relevant decision makers. This process can only be successful with the full inclusion of Palestinian representatives identified by their communities, and in a manner responsive to residents' unique needs.

Ir Amim and Bimkom recommend the following concrete steps:

1. Demonstration of tangible progress in development and construction as a foundation for building trust between residents and authorities
2. Freezing home demolitions pending the approval of detailed outline plans responsive to residents' needs
3. Planning that is responsive to the spatial requirements of a living and developing community
4. Preparation of public framework outline plans by the Municipality in coordination with residents
5. Support for detailed planning by residents and landowners
6. A fast, flexible, and budgeted track for promotion of detailed plans by residents
7. Flexibility in planning of the expansion areas according to realistic possibilities on the ground
8. Allocation of substantial resources earmarked for planning and implementation

9. Establishment of a civil planning mechanism in cooperation with the Palestinian community of East Jerusalem
10. Making planning processes accessible in Arabic
11. Training dedicated municipal officials and planners for the Palestinian neighborhoods

It is our strong hope that this report will enable a renewed understanding of discriminatory planning mechanisms and encourage prompt action to implement the necessary changes.



The mission of Ir Amim is to render Jerusalem a more equitable and sustainable city for the Israelis and Palestinians who call it home and to help secure a negotiated resolution on the city through sustained monitoring, analysis, public and legal advocacy, public education and outreach to re-orient the public discourse on Jerusalem. Ir Amim aspires to a sustainable political future for Jerusalem as the future capital of two sovereign states—achievable only through a negotiated Israeli-Palestinian peace process.

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Bimkom – Planners for Planning Rights is an Israeli NGO that was established in 1999 by planners and architects sharing a vision of strengthening the connection between planning and human rights. Drawing on values of equality, good governance, and community participation, Bimkom assists communities that are disadvantaged by economic, social, or civil circumstances, in exercising their planning rights, and strives to advance planning policies and practices that are more just and responsive to the needs of local communities.

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