Planning illegality: The roots of unauthorised housing in Arab East Jerusalem

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ABSTRACT

This paper investigates the role of Israeli residential policies in the Israeli–Palestinian conflict over East Jerusalem. The focus is specifically on municipal housing policies for Arab neighbourhoods; the thesis is that Arab residential illegality is primarily a direct consequence of Israeli urban policies, and is a tool for achieving the (political) aim of the containment of Arab demographic growth and of Arab urban expansion.

The text is divided into four sections. The first section underlines the spatial dimension of the Israeli–Palestinian conflict over Jerusalem and its connection with the demographic question; the second section describes in detail the phenomenon of illegal housing in Arab neighbourhoods and the demolition policies which are enforced by the Israeli authorities; the third section investigates the roots of illegal housing, explaining its close connection to some specific municipal urban policies; the fourth section includes some considerations about the role of space and planning in Jerusalem.

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Attaining political ends through urban policies

Public opinion generally focuses its attention on the Israeli–Palestinian conflict whenever something impressive occurs, usually of a military nature. Nevertheless, in Israel–Palestine – and particularly in Jerusalem – a low-intensity war is constantly underway. For the most part, it is characterised by slow and consequential events of a spatial nature: the conflict becomes, within the Holy City, "a war of *cement* and *stone*" (Misselwitz & Rieniets, 2006, p. 26). The territory acquires a double function: it is at the same time both the stake and the tool of the conflict.

The territory is the stake, because whoever physically controls the city, controls its destiny. As is well known, Israel occupied East Jerusalem in 1967 and declared the whole city to be the eternal and inseparable capital of the Jewish state. In spite of international requests, Israel refuses to surrender the eastern part of the city to the Palestinians, who claim East Jerusalem as their own capital; the international community has never recognised the East Jerusalem annexation and calls for Jerusalem to be shared between the Israeli and Palestinian populations (see Fig. 1). Jerusalem's status is contested: the city is not *de jure* an Israeli city[1]; for this reason, since

1967, Israel has carried out the settlement of Jewish neighbourhoods[2] within the eastern part of the city.

The aim is to create 'urban facts', which would make any further separation of the city quite impossible and make the whole city *de facto* an Israeli city. As Romann and Weingrod argue

> "The new Israeli building projects in East Jerusalem were begun almost immediately following the 1967 war. This program had as its major objective establishing a Jewish physical presence within the former Arab section of the city; the Israeli authorities wished to 'create facts' so that newly united Jerusalem could not be divided into two cities." (Romann & Weingrod, 1991, p. 33)

At the same time, the territory is also the tool of the conflict. One of the main targets pursued through territorial policies is that of Arab demographic control. The space, in fact, deeply affects the demography: "[there exists an] inseparable connection . . . between population's development . . . and political strategy over a territory which has a modest extension and is densely populated" (Della Pergola, 2007, p. 17).

Powerful Arab demographic growth represents one of the main troubles for Israelis dealing with the (unilaterally) 're-unified'

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[1] This is true, of course, according to international law (for a summary of the international resolutions about Jerusalem by the General Assembly of the United Nations, UN Security Council and UNESCO, see Palestinian Central Bureau of Statistics, 2011, pp. 49–60); obviously, according to Israeli law, the whole of Jerusalem is an Israeli city (and the Israeli capital).

[2] In this paper, I use the term 'Jewish neighbourhoods' with reference to all Jewish residential areas in the Jerusalem municipal boundary (regardless of their location in West or East Jerusalem). It is important to specify that, according to the Palestinian view and to international resolutions, Jewish residential areas in East Jerusalem (as well as in the West Bank) are illegal settlements (or colonies) (see UN-OCHA, 2007); nevertheless, generally speaking from an urban point of view, they remain *de facto* Jewish neighbourhoods (even if on occupied land).
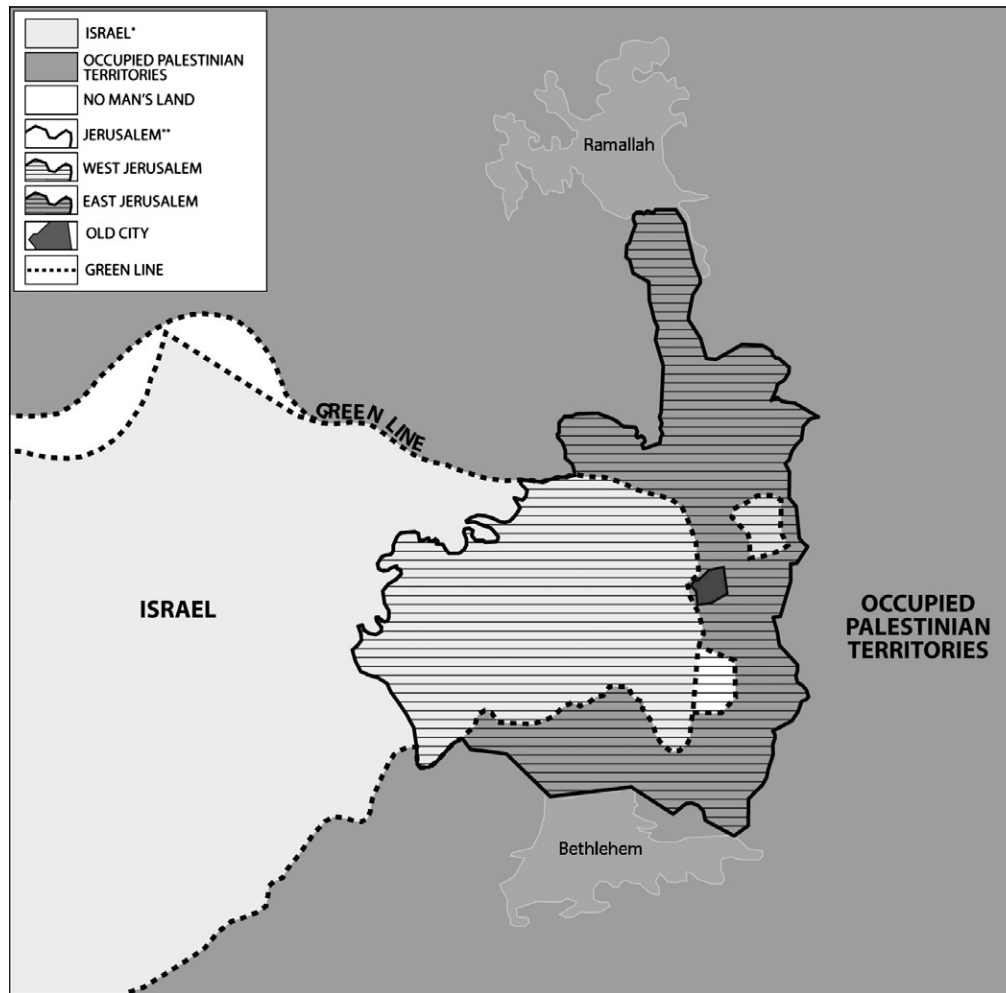
Fig. 1. Jerusalem municipality division. Source: author's elaboration based on Jerusalem Municipality (2004) and PASSIA (2009). *Pre-1967 borders. **Jerusalem municipality borders, unilaterally declared by Israel.

Jerusalem. The authorities' purpose has always been to preserve a strong Jewish demographic superiority over the city (B'Tselem, 1995) or, to be more precise, to preserve the 70:30 Jewish, Arab balance, respectively. The real demographic trends, instead, have led in another direction: in 1967, the entire city of Jerusalem, having just been unified by Israel, held about 266,300 inhabitants, 74.2% of them Jewish[3] and 25.8% of them Arabs. In 2008, the city's population reached 763,700 inhabitants, 64.8% of whom were Jewish and 35.2% of whom were Arab (Choshen & Korach, 2010).[4] According to the projections for Jerusalem in the year 2020, the city's total population might grow to 958,000 inhabitants, of which 61.2% would be Jewish and 38.8% Arab (Della Pergola, 2001). Since 1967, the percentage of the Jewish population has decreased: in absolute terms, the numerical gap between Jews and Arabs has increased (from about 129,000 in 1967 to 226,400 in 2008), but – more importantly and, most of all, what is more shocking in terms of the Israeli collective imaginary – in relative terms the gap has decreased (see Table 1). This result is the combined consequence of fertility rates (which are greater among Arabs than among Jews) and migration processes (since the mid-1980s, Jerusalem has been losing its Jewish population to both adjacent localities or settlements in Palestinian territories, and international immigration has had only a partially compensatory effect on this depopulation; see Berthomière, 2002; Berthomière, 2003; Choshen & Korach, 2010; Della Pergola, 1999; Della Pergola, 2001).

Therefore, demography is one of the main troubles experienced by the Israeli authorities. In this respect, territorial policies – and mainly housing policies – represent a device which is used to pursue the aim of 'demographic balance'. As city engineer Elinoar Barzacchi said: "There is a government decision to maintain the proportion between Arab and Jewish population in the city at 28% Arab and 72% Jews. The only way to cope with this ratio is through the housing potential" (cit. in Weizman, 2007, p. 48).

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[3] The Statistical Yearbooks of Jerusalem 2009/2010 (Choshen & Korach, 2010) deals with 'Jews & Others'. Within this group there are also non-Arab Christians and other minor subgroups, but Jews represent almost the whole category. Thus, within the paper, the 'Jews & Others' category will be described simply by 'Jews'.

[4] It is worth mentioning that according to the Palestinian Central Bureau of Statistics (2011) the figures are different: for instance, Palestinians living in East Jerusalem (J1 area in Jerusalem Governorate) in 2008 were 228,800 (and not 268,600, as stated by Choshen and Korach (2010)).

Table 1
Population of Jerusalem, per population subgroup (%). *Source*: Choshen and Korach (2007).

	1967	1970	1983	1990	2000	2010	2020
Jews	74.2	73.9	71.8	72.1	68.3	64.6	61.2
Arabs	25.8	26.1	28.2	27.9	31.7	35.4	38.8

In this paper, the theme of housing policies will be discussed in connection with the specific phenomenon of illegal housing[5] within the Arab neighbourhoods of East Jerusalem. The thesis is that the enormous amount of unauthorised Arab residences is primarily a direct consequence of Israeli urban policies. Therefore, it is possible to interpret it as an integral part of the more general Israeli strategy, which aims to secure demographic and territorial control of East Jerusalem. However, this 'planned illegality' is only one of the spatial tolls adopted by Israeli authorities in the Israeli–Palestinian conflict over Jerusalem. Different urban planning policies (not only about housing, but also about archaeology, green areas, transportation, public spaces) are directly or indirectly devoted to strengthening the Israeli physical control on the whole city. Their political aim is precise: to end on the ground, in favour of Israel, a conflict that has been very difficult to solve in the international political arena. So, over the years, while there were no substantial advancements in the agreement between Israeli and Palestinians about the status of Jerusalem, the spatial configuration of the city has changed constantly and univocally. The Israeli military conquest phase (1948–1967) was followed by the 'urban consolidation phase',[6] indispensable to making the military conquest irreversible. Nowadays, this stage is still in progress, but almost completed. The aim of making Jerusalem "an organic and inseparable part of the State of Israel, as it is an inseparable part of the history of Israel, of the faith of Israel" (as in the words of David Ben Gurion, 1949 speech at the Knesset) is nearly achieved: when visiting Jerusalem today, the perception is to be in an Israeli city, with a few 'Arabs islands' on the inside. As Yiftachel (2006) states, this purpose has been achieved by both *judaizing* (i.e. encouraging Jewish settlements, in particular in the eastern part of the city) and *de-arabizing* (i.e. containing Arab demographic growth, and, sometimes, also banning Arabs Jerusalemites from the city) Jerusalem; establishing a system of unequal citizenship which finds its own expression in many spheres of Israeli public life; and, producing a system of "creeping apartheid" (Yiftachel, 2006, p. 125). Thousands of Arabs Jerusalemites are (not only politically and symbolically, but also socially, physically and economically) direct victims of these processes. The words of Ehud Olmer (ex Mayor of Jerusalem and ex Prime Minister) clarify in a radical way what has been the vision embedded in the whole process: "Jerusalem was, never ceased to be, continued to be, and will forever remain the undivided capital of only the state of Israel and the Jewish people" (Ehud Olmert, 1994, cit. in Bollens, 2000, p. 99).[7]

Housing illegality: facts and figures

The housing policies enforced by the Jerusalem municipality vary according to the ethnic group to which they apply.

In relation to the Jewish population, a steady attempt has been made to widen and overdraw the housing supply, in an effort to prevent Jewish emigration from the city and to support immigration (especially from abroad).[8] As it is asserted within the recent Jerusalem Master Plan 2000:

> "In order to maintain a Jewish majority in the city, negative migration from the city should be reduced and residents should be drawn from other areas in the country. For this purpose, sufficient housing should be offered... It is necessary to build residential structures at reasonable prices so that the city can compete with housing costs in the suburbs." (Jerusalem Municipality, 2004, chap. 7, p. 7)

In relation to the Arab population, in contrast, the situation is quite different. Israeli urban policies during recent decades, regardless of their principle declarations, have always tried to hamper Arab residential expansion (see, for example, the case of the Jerusalem Master Plan 2000: Bimkom, 2009; Jabareen, 2009). The result has been that, due to significant population growth, the construction of illegal houses has been the only workable way for the Arab population to go on living in Jerusalem.

The estimates regarding the number of illegal constructions within the Arab neighbourhoods of East Jerusalem vary. According to data contained in the Jerusalem Master Plan 2000, in the Arab areas of the city, there are more than 15,000 unauthorised residential units (among the total of about 53,200 Arab housing units). Every year, 900 residential units are built without permission and illegal buildings amount to 28.2% of the total number of buildings, accommodating about 60,000 people (Jerusalem Municipality, 2004, chap. 4). According to United Nation Office for the Coordination of Humanitarian Affairs, in the occupied Palestinian territory, in 2006, there were 36,508 Arab residential units, and about 15,000 of them were illegal (41% of the total number – in 2008, this figure reached 45.7%, hosting about 102,000 Arab Jerusalemites); at least 1100 units per year are built without a permit (UN OCHA oPt, 2009). According to Margalit (2006, p. 27), "the prevailing assessment at Town Hall is that some 40% of the total buildings in East Jerusalem were constructed without a permit.... The Ministry of the Interior gave its opinion in 2000 that the number was as much as 20,000".

The proportion of illegal houses within the Arab neighbourhoods of Jerusalem is truly impressive. This situation appears even more striking if we take into account the fact that a significant portion of the Arab legal houses precedes the Israeli occupation of East Jerusalem in 1967. After Israel took control of the whole city in 1967, in fact, the number of building permits issued by the municipality has been very low: between 1967 and 2001, in spite of a growth in the Arab population of almost 150,000 persons, the Jerusalem municipality issued only 3100 building permits (Marom, 2006).

During the 4-year period 2000–2004 alone, approximately 5300 residential units were constructed in Arab East Jerusalem, compared with only 481 building permits actually issued (Margalit, 2006). In some cases, a single building permit can be connected to more than one residential unit, which points to the significant discrepancy between new houses and the number of permits issued. For instance, in 2003, 1435 new constructions were built in Arab neighbourhoods, while 59 permits had been issued; in 2004, 1233 houses were built, compared to 49 permits issued in that year. During the last decade, more than 90% of new Arab buildings have been built illegally (Margalit, 2006).

In this situation, the only response from the Israeli administration has been of a repressive nature (mainly the demolition of

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[5] In this paper, I use the terms 'legal' and 'illegal' with reference to the Israeli point of view; therefore, with 'illegal housing' I refer to houses built in violation of some Israeli laws (e.g. zoning plans, building rules...) that are enforced in the whole of Jerusalem (also in the east part of the city). From the Palestinian point of view (according to international law), East Jerusalem continues to form part of the occupied Palestinian territories. As a consequence, Israeli laws enforced here are deemed to be illegitimate, so house building need not obey these laws – Palestinians claim that, according to international laws, Israeli policies in East Jerusalem are illegal (for instance housing demolitions; see PASSIA, 2009).

[6] The first act (practical and symbolical) of this 'urban consolidation phase' may be recognised in the destruction of the Magharibä Quarter (June, 1967), located in the south-eastern part of the Old City, to create the plaza in front of the Wailing Wall (see Weizman, 2007).

[7] The words of Golda Meir are very elucidative too: "Arab sovereignty in Jerusalem just cannot be. This city will not be divided – not half and half, not 60–40, not 75–25, nothing" (Times, 1973).

[8] From 2002 to 2007, almost 2500 persons per year moved to Jerusalem from abroad, mainly from the areas of the ex-Soviet Union. In 2008, this share dropped to 2100 (Choshen & Korach, 2010, pp. 18–19).

illegal buildings).[9] Since 1967, about 2000 Arab houses have been demolished. In the last decade, the demolition rate has increased significantly: from 2000 to 2008, approximately 670 buildings were destroyed (with a peak of 152 in 2004) (UN OCHA oPt, 2009). To the demolitions carried out directly by the authorities, one must add the demolitions carried out by the residents themselves, as a result of negotiations with local institutions (these negotiations entails the drastic reduction of fines for infractions). Although there are no official data, the number of these demolitions carried out by the residents themselves is similar to the number carried out by the Israeli authorities (Margalit, 2007). At any rate, this has led to the destruction of a minimal amount of unauthorised buildings (about 5–10% of the total). It is self-evident that demolition does not actually resolve the problem and is not a real deterrent (regardless of any moral judgement about the housing demolition).

It is very interesting to notice that the phenomenon of illegal building is not only connected with Arab neighbourhoods, but also with Jewish neighbourhoods. A significant number of the infractions takes place in these latter areas:

"According to municipal figures, between 1996 and 2000, the recorded number of building violations in the Jewish neighbourhoods was 4.5 times greater than in the Palestinian neighbourhoods of East Jerusalem: 17,382 violations in West Jerusalem compared to 3846 in East Jerusalem... Nonetheless, the number of administrative demolition orders issued concerning buildings in the Palestinian neighbourhoods was four times higher than those issued in the western part of the city: 348 administrative demolition orders for buildings in East Jerusalem ... compared to 86 such orders for buildings in West Jerusalem. Overall, between 1996 and 2001, 82% of the recorded building violations were located in the western part of the city, while 80% of the administrative demolition orders concerned construction violations in the eastern part of the city." (Marom, 2004, p. 4)

While the Municipality emphasises unauthorised buildings in a way that suggests that the problem concerns only Arab neighbourhoods (see, for instance, Jerusalem Municipality, 2004, chap. 4), the quantitative data demonstrate that housing illegality is a structural phenomenon of Jerusalem, and that it is widespread within both Arab and Israeli neighbourhoods.

Furthermore, it is interesting to notice how the demolition of illegal buildings only affects Arab neighbourhoods. Advancing step-by-step from the recording of a violation, to the beginning of the procedures for this violation, to the issuing of the order for demolition, until the actual destruction of the illegal house, there is a complete change in the subject's ethnicity: the closer we get to the demolition, the more likely it is that the recipient will be an Arab resident. For instance, in 2004, 80% of infractions took place within the western part of the city and 20% in the eastern part, while these percentages are reversed when we examine the demolition orders (19% to the detriment of Jews, 81% to the detriment of Arabs) – and this difference is even greater when dealing with actual demolitions (10% versus 90%) (see Table 2).

As David Kroyanker, a prominent Jerusalem planner, stated about the phenomenon of residential illegality in Jewish neighbourhoods:

"One senses that municipal enforcement simply doesn't extend there...Everyone knows that unauthorized [sic] buildings aren't demolished in the Jewish sector, and so anyone committing a building offence gets a NIS300 fine after three years, and

Table 2

Police actions connected to the municipal building regulations in 2004. *Source:* author's elaboration based on Margalit (2007).

	West Jerusalem		East Jerusalem	
	Relative number	% of total	Relative number	% of total
Infractions	5.583	80.1	1.386	19.9
Established procedures	980	55.7	780	44.3
Administrative demolition orders	50	18.8	216	81.2
Demolitions	13	10.2	114	89.8

goes on to his next unauthorized [sic] project." (cit. in Margalit, 2007, p. 6)

In Jewish neighbourhoods, there is an *ad libitum* impunity with regard to housing illegality, while in Arab neighbourhoods the threat of illegal houses being demolished is ever-present (and very often enforced).

The causes of the phenomenon

The official documents of the Jerusalem Municipality often declare that unauthorised building within Arab neighbourhoods is connected to both economic and political factors, and to residents' disregard for the laws concerning planning and building (see, for instance, Jerusalem Municipality, 2004, chap. 4). Sometimes this is actually the case, but generally speaking it is nevertheless possible to affirm that unauthorised building is mainly the result of urban policies enforced by the Jerusalem Municipality itself. It is possible to identify two main types of cause: the first one is connected to the shortage of areas where the Arabs of Jerusalem can legally build a house; the second is connected to the difficulty of obtaining a building permit for an Arab Jerusalemite.

The shortage of Arab residential building areas

The wide diffusion of unauthorised residential buildings is mainly connected to the shortage of legal building areas within the Arab neighbourhoods of East Jerusalem. There are four principal components which cause this shortage: (i) a lack of residential zones; (ii) the low floor-area ratio within residential areas; (iii) a lack of public facilities; and (iv) a lack of detailed plans.

(i) *Shortage of area zoned for Arab residential construction.* Since 1967, the Israeli government has been expropriating lands, amounting to almost 35% of the East Jerusalem area (about 24.5 km²), primarily in order to build Jewish residential neighbourhoods (B'Tselem, 1995). A total of 90,000 Jewish houses have been built here, and in 2008 about 195,000 Jews lived in these areas (more than 38.9% of the Jewish Jerusalemites) (UN OCHA oPt, 2009)[10] (see Fig. 2). The expropriated land was mainly owned by Arabs: "while it is difficult to calculate a precise figure, most of the expropriated land was undoubtedly privately owned by Palestinians, and only a small proportion was state land, *waqf* land, or land owned by Jews prior to 1948" (B'Tselem, 2002, p. 47). As if this was not enough, according to the Jerusalem Master Plan 2000, an estimated 51,000 new buildings are to be created for the Jewish population in East Jerusalem (for example, 7808 units at

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[9] During the past decade, in addition to the demolitions, other punitive measures have been carried out: among them an increase in pecuniary sanctions, incarceration (from 3 to 6 months) for the owners of unauthorised buildings and the confiscation of construction equipment belonging to companies which build illegal houses.

[10] These areas were expropriated by the Finance Minister according to the 1943 Land Ordinance (Acquisition for Public Purpose) for reasons of 'public necessity'. Nevertheless, their usage worked exclusively in the favour of the Jewish population (see B'Tselem, 1995).
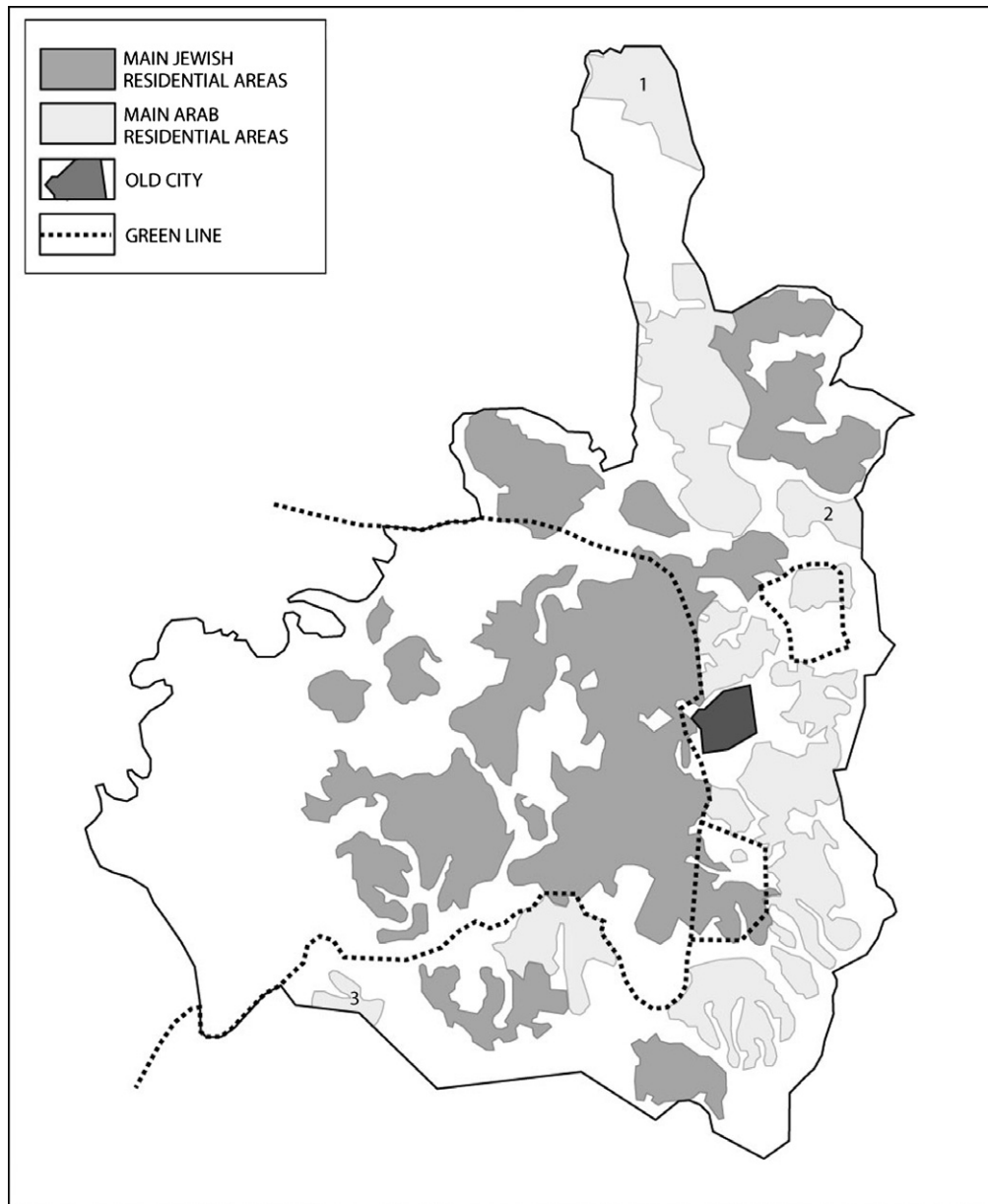
Fig. 2. Jerusalem main residential areas, by population subgroup. Source: author's elaboration based on Jerusalem Municipality (2004) and UN-OCHA (2007). (1) Kofor Akab; (2) Shu'afat refugee camp; (3) Walage (Arab neighbourhoods cut off from Jerusalem because of the Wall).

Gilo and 8105 at Har Homa) (Jerusalem Municipality, 2004, chap. 4, p. 37). Only a very small amount of the remaining soil is intended for Arab residential building: a significant portion (almost 30% of East Jerusalem, that is to say 21.3 km²) has never been planned at all since 1967. Of the planned area, only 9.2 km² (13% of East Jerusalem)[11] is intended for residential purposes;[12] a great deal of this area has already been built, meaning that new Arab residential expansions are actually impossible. The Jerusalem Master Plan includes some new

areas which have been assigned for the expansion of Arab neighbourhoods (for a total of 14,462 houses): nevertheless, these areas (together with the possibility of the densification of 18,142 units, which is expected within the plan itself) are not sufficient to meet the building needs of the Arab population – according to Nasr-Makhoul (2006), in 2020, the Arab housing lack will reach 100,000 residential units. Moreover, there is a strong risk that these plans for Arab areas will, for several reasons, only ever exist on paper (see Chiodelli, in press).

Furthermore, three Arab neighbourhoods of East Jerusalem (Kofor Akab, the refugee camp of Shu'afat, Walage) are, or will be, physically cut off from Jerusalem because of the Wall; this has a significant impact on the demographic balance: almost 12,000 Arabs Jerusalemites in Kofor Akab, 22,000 in Shua'fat refugee camp, 1800 in Walage will be excluded from the city (Brooks, 2007) (see Fig. 2). At the

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[11] According to B'Tselem (2006), the planned area is 7% of East Jerusalem.

[12] A great part of the planned residential area in East Jerusalem is designed as a green area and open space (where buildings are not allowed). According to many authors (see among others Weizman, 2007), this is another tactic to hamper Arab residential expansion. As Paz-Fuchs A (2006) state: "the current situation in East Jerusalem shows us that ... national parks...can be cynically exploited as a means to...advance spatial domination" (p. 226).

same time, through the Wall, some Israeli colonies in the West Bank will be annexed to Jerusalem, among them Ma'le Adumin (31,700 inhabitants) and Giv'at Ze'ev (10,800 inhabitants) (see B'Tselem, 2006; Bimkom, 2006; UN OCHA, 2007).

(ii) *Low floor area ratio.* Generally speaking, the floor area ratio is a technical index, assigned in the planning documents that define how much it is possible to build on a certain plot.[13] The higher the floor area ratio, the larger is the building surface which can be realised. It is no accident that in Arab residential areas, the floor-area ratio is usually very low. The municipality justifies this fact with its intention to preserve the rural and historical nature of Arab neighbourhoods (Weizman, 2007).[14] Thus, within the western part of the city (the properly Israeli part of the city, which is completely inhabited by Jews) these floor-area ratios vary from 0.75 to 1.20 (on average), while in the Arab neighbourhoods they usually range from 0.35 to 0.70. The floor-area ratios are not only significantly higher in West Jerusalem than in East Jerusalem, but also in the Jewish neighbourhoods of East Jerusalem compared to the nearby Arab neighbourhoods of East Jerusalem. For instance: the Jewish settlement of Ma'aleh Zeitim has a floor-area ratio of 1.15, while Ras El-Amud – the Arab neighbourhood which Ma'aleh Zeitim is situated in – has a floor-area ratio of 0.5; the Jewish neighbourhood of Nof Zion has a floor-area ratio of 1.15, while the adjoining Arab areas of Jabel Mukaber have a floor-area ratio of 0.25 (this means that in Nof Zion it is possible to build 4.6 more times the housing floor area per unit of land than is allowed to be built in Jabel Mukaber).[15]

(iii) *Lack of public facilities.* According to the Israeli Planning and Land Building Law (1965), it is not possible to obtain building permits in areas which are characterised by a shortage of infrastructures, even if they are intended for residential purposes according to municipal planning. However, this infrastructure shortage is characteristic of many Arab neighbourhoods, and the blame lies completely with the Israeli authorities. The Jerusalem Master Plan too recognises that "the unsatisfactory engineering infrastructure in the east part of the city requires allocation of resources on a huge scale" (Jerusalem Municipality, 2004, chap. 4, p. 29). Nevertheless, public funds allocated to the facilities in Arab neighbourhoods have always been insufficient (and it is very unlikely that this situation will change in the future): "although Palestinian Jerusalemites constitute 33% of the city's total population, the amount of the municipal budget invested in East Jerusalem ranges from 8.5% to 11.75%" (Margalit, 2006, p. 111).

(iv) *Lack of detailed plans.* Within residential areas, the construction of new houses requires the approval by the Municipality of a detailed plan; in these plans the Municipality estimates the allocation of land for public use according to a process of re-plotting. This process, however, can be extremely lengthy (at Beit Hanina and Shuafat, this process started 20 years ago and it is still underway; see Marom, 2004), for example because of bureaucracy, planning questions or problems connected to the system for the registration of Arab lands in East Jerusalem (see below). The consequence is that 20% of the residential areas in East Jerusalem are frozen and

waiting for the approval of these detailed plans (Margalit, 2007). Once again, in this case, the blame lies mainly with the Jerusalem Municipality.

Difficulty of obtaining a building permit

As we have stated above, in addition to the lack of areas, which are actually available for construction, illegal housing are also connected to a second reason, i.e. the difficulty of obtaining a building permit for an Arab Jerusalemite. In this case, there are two main impediments:

(i) *The high cost of a building permit.* In order to obtain a building permit, it is necessary to pay several types of taxes, both *una tantum* fees and fees connected to the dimensions of the house. Arabs and Jews pay the same fees; the main difference between the two ethnic groups is related to the great socioeconomic gap between them: as many as 60% of Arab families live below the poverty line, compared to 20% of Jewish families (Choshen & Korach, 2010). Moreover, the Jerusalem Municipality does not provide poor Arab families with public housing aid (e.g. public housing), and so they have to find a house on the (expansive) private market.[16] The Municipality does, however, provide poor Jewish families with public housing (especially in the East part of the city).[17]

(ii) *Problems connected to the registration system for land.* The Jerusalem Municipality has established that the area on which the house is expected to be built must be registered with the Israeli land office (the so called *Tabu*). However, this requirement is very problematic for Arab owners: the ownership system in East Jerusalem is based on Arab traditional and customary rules which are not recognised by Israel (*mulk, waqf, miri, mawat, musha'a*), or on registrations at the Jordanian Table of Right (preceding the annexation in 1967) that the *Tabu* is unwilling to recognise. The difficulty of satisfying all of the conditions established by the Israeli land office discourages many Arab owners from asking for a building permit; the danger for them is that, if the registration procedure at the *Tabu* is unsuccessful and their ownership of the land is not recognised by the Israelis, the land can be confiscated by the government on the basis of the Absentee Property Law (B'Tselem, 2002).[18]

The impossibility of the Arab population leaving Jerusalem

In order to understand this situation in its entirety, it is necessary to take into account the fact that Arab Jerusalemites have no other option than to live in Jerusalem. There are not only important political and religious reasons that tie Arabs Jerusalemites to their own city, but there are even more pressing practical reasons which prevent them from going away. As they are not Israeli citizens, but only residents of Jerusalem, they cannot move to the Israeli

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[13] Technically, the floor area ratio multiplied by the area of the plot defines the amount of the total covered area on all floors of all buildings on a certain plot that is possible to build.

[14] See the case of Sur Bahir in Meishar and Shapira (2006).

[15] The growth of the volumes estimated by the Jerusalem Master Plan 2000 within Arab neighbourhoods, despite increasing the building possibilities, will not put an end to the inequality of the treatment that Arabs receive (see Jerusalem Municipality, 2004, chap. 6).

[16] In 2008–2009, the average price of a 3.5–4 room apartment (owner occupied) in Jerusalem was NIS (New Israeli Shekels) 1,410,600 (with a nominal increase of 14% in the period 2008–2009) (Choshen & Korach, 2010, p. 51). For the price trends in the property market in Jerusalem, see the Statistical Yearbook of Jerusalem 2009/2010, Table X/6.

[17] "Public building was responsible for 31% of the new dwellings in Jerusalem during 1993–2001...Public construction of housing in Jerusalem is led by national policy, and the majority of public housing is built in the eastern, Arabic, part of the city, and is dedicated exclusively for the Jewish population – indicating that eastern Jerusalem should also be seen as part of the Israeli state" (Alfasi & Fenster, 2005, pp. 358–359).

[18] For more information about the land system in Israel and its own role within the Israeli-Palestinian conflict, see Yiftachel (2006, pp. 131–156). As he states: "the land system has indeed assumed a major role in the production of ethnic space" (Yiftachel, 2006, p. 133).

suburbs surrounding Jerusalem (or other places in Israel) where house prices are lower (as thousands of Jewish Jerusalemites did during recent decades). They cannot even move to live within the villages of the West Bank around Jerusalem: by leaving the city, an Arab Jerusalemite loses his or her Israeli residence, and, as a result, the opportunity of taking advantage of both the healthcare and public social services of the city, as well as the possibility of entering Israel in order to work (see B'Tselem & Hamoked, 1997; B'Tselem, 1998).[19] Since 1967, almost 50,000 Arab Jerusalemites have lost their residence in Jerusalem as a result of moving to live in the West Bank (Weizman, 2007). Thus, many Arab Jerusalemites have continued to be officially residents of the city while actually living in other places (i.e. in the villages of the West Bank nearby Jerusalem): this is not only illegal, but also the commute from the West Bank to Jerusalem is becoming more and more difficult (often impossible), because of the construction of the Wall and the strict controls at the checkpoints. Therefore, in order not to lose their status as Jerusalem residents, Arab Jerusalemites have to go on living within the Holy City, despite the crowding and the high prices of houses.[20]

Fighting by planning

Cities have often been simultaneously the theatre and the object of military and social conflicts (although with different characteristics according to the period and context). Jerusalem has not escaped this fact; nevertheless, the war which is taking place here is quite unique. The conflict over Jerusalem is not the 'urbicide', nor the 'place annihilation' that Graham (2004), for example, talks about– and which instead characterises Gaza and the West Bank.[21] In Jerusalem, a war of position is underway, in which the process of the transformation of the battlefield (the urban space) is slow and almost imperceptible. This process does not destroy nor demolish the whole city, but silently and incrementally modifies it. The purpose is to 'conquer' the city step by step. As I have previously stated, the reason for this is that anyone who can physically dominate Jerusalem can decide the destiny of the city (Cheshin, Hutman, & Melamed, 1999). The aim is twofold: to occupy the territory and to modify, for own advantage, the ethnic composition of the city. Each of the two parties is fighting with everything that they have at their disposal. In this sense, the Israeli administration undoubtedly has planning at its disposal.

As this paper has argued, among the Israeli strategies for ruling the city, which are being pursued through planning, there is also the one of housing illegality. Unlike the interpretation, which is usually given by the Israeli administration of this phenomenon, the blame for illegal housing does not lie solely on Arab economic and nationalist factors. The causes of illegality are primarily connected to the municipal urban policies for Arab neighbourhoods. It matters little if this was the intentional or unintentional result of these policies; what is really important is that illegality within Arab areas is the direct consequence of Israeli planning in Jerusalem.[22] As Yiftachel and Yacobi (2003, p. 689) state: "urban illegality emerges as an ethnocratic planning approach; it allows the urban elites to represent urban government as equal, civil, and democratic, while at the same time denying

some urban residents basic rights and services in the locations into which they were forced".[23]

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[19] About the difference between Jerusalem and the surrounding West Bank localities in terms of public services, see Palestinian Census Bureau of Statistics (2011).

[20] The average density of Arab houses is 1.9 persons per room (12 sq. meters per person). The average density of Jewish houses is 1.0 (24 sq. meters per person) (Choshen & Korach, 2010, p. 50).

[21] In these areas, Hanafi (2006) talks of 'spaciocide'.

[22] Quoting Yiftachel (1998) and Flyvbjerg (1996), it can be said that they represent the 'dark side' of planning in Jerusalem.

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[23] This use of planning techniques to pursue political goals should not be read as a 'distortion'. The connection of planning with politics is constitutive of the nature of planning, because space is essentially both political and strategic. "[It exists] a circularity between politics and plan in which planning is advanced not only as an activity that is political, because it entrusts decisions to political rationale and judgement, but, in a more profound sense, as an activity that has above all a political end: a (re)designing of citizenship that welds strategies of social and spatial control into a single process....planning decisions contribute to the (re)definition of form of citizenship" (Mazza, 2009, p. 125).

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