

Instead, acting on its own volition, the Municipality moved to integrate the water system by connecting, directly or indirectly, virtually every legal structure to piped-in water.³³⁵

A further example that discredits the supposed 'Judaization' plan was former Mayor Kollek's policy of attempting to integrate the City's Arab residents into municipal life. The Arab residents of Jerusalem were issued residency status which entitled them to participate in Municipal elections and benefit from various services including health insurance, social assistance, education services, national insurance, etc.³³⁶ Arab Jerusalemites are issued blue identity cards like those held by Israeli citizens, which entitle them to travel freely in and out of Jerusalem and all over Israel, even when there is a security alert and Palestinians residing in the West Bank and Gaza are refused entry.³³⁷ Had Israel not provided 'permanent residency' status to the City's Arabs who had declined Israeli citizenship, this would have preempted one of the major magnets that attracted, and continues to attract, Arabs to reside in Jerusalem.

Thus, despite the hue and cry, Jerusalem is not being 'Judaized' - not by construction and not by population.

V. Planning and its Discontents

A. Justifications for Non-compliance with Urban Planning Law

The Palestinian leadership offers various justifications and apologetics for their non-compliance with the urban planning mechanism as it applies to the Arab neighborhoods.³³⁸ According to Issaha Kassilieh, a former Assistant to Faisal Hussein, the reason Arabs build illegally is "natural expansion."³³⁹ He insists:

The post-1967 Jewish settlements [new Jewish neighborhoods] around Jerusalem are at the expense of the Palestinian population. We feel suffocated by the expansion of the settlements around Jerusalem, the confiscation of land, creating green areas. Little space was kept for the Palestinian population to expand. Many times it was impossible to get a permit to build a house and usually it takes three to four years.³⁴⁰ We have cases of people who waited for the past 10 years. And it is costly. [That is why] so many built without permits. The discriminatory policy of the Municipality contributed to the kind of chaotic situation we have in

³³⁵ See interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Apr. 8, 2002).

³³⁶ ANNE LATENDRESSE, *JERUSALEM: PALESTINIAN DYNAMICS OF RESISTANCE AND URBAN CHANGE, 1967-94*, pp. 4, 5-6 (1995).

³³⁷ MERON BENVENISTI, *INTIMATE ENEMIES: JEWS AND ARABS IN A SHARED LAND* 53-54 (1995).

³³⁸ Kassilieh is currently conducting research for a project called "Planning Jerusalem in Peace." Kassilieh hopes that the findings will assist the Palestinians to reorganize east Jerusalem "when it is freed after many years of Israeli control and restrictions." Kassilieh believes that re-zoning and re-planning should bring Jerusalem into harmony with other parts of Palestine. His plans for east Jerusalem relate to it as a part of the West Bank. Kassilieh's intent is for this project to be implemented in the areas in which the Palestinians population can expand. Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002). According to Nusseibeh this project should be done with the participation of the Municipality. Interview with Dr Sari Nusseibeh, President of Al Quds University and Palestinian Authority Political Commissioner for Jerusalem Affairs, in Jerusalem (Jan. 30, 2002). However, Kassilieh has political objections to cooperating with the Municipality, although he stated that, "on technical matters it may be possible to work together." Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002).

³³⁹ Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002). Piecemeal additions to legal structures in Arab neighborhoods, while technically requiring a building permit, are highly unlikely to provoke a demolition. Interview of Uri Lupolianski, Senior Deputy Mayor and Acting Mayor of Jerusalem Municipality, in Jerusalem (Jan. 31, 2002).

³⁴⁰ This clearly erroneous claim should be compared with the data contained below in Section VI. B of the text below.

Jerusalem. The City wouldn't give permits.³⁴¹ Instead it created obstacles and delays.³⁴²

Nusseibeh claims that, after the 1967 War, the Municipality was interested in expanding its authority by annexation and by demographic change, with the intent of excluding as much of the Arab population as possible. What Nusseibeh calls "settlements" [new Jewish neighborhoods] were, in his view, created to augment the Jewish demographic majority. He stated, "as a result a competition was created between Palestinians and Israelis over assertion of territory." Nusseibeh continued:

The Palestinians are building as a way to assert their presence in the City and in order to satisfy their needs. So you have this process of building illegally in different places. The net result of this has been, as you look at Jerusalem, a disaster as far as the environment and the City is concerned. If you look ahead this disaster is going to become even more tragic unless people take another look and begin seriously once again to plan.³⁴³

In the opinion of this author, Kassilieh's "natural expansion" justification and Nusseibeh's "competition" theory together explain only a fraction of the massive³⁴⁴ wave of illegal Arab building. The dominant factors are, as will be demonstrated below, the direct sponsorship of illegal construction by the Palestinian leadership, and simple criminal avarice.

Kassilieh was coy in his assertion, "I don't think that the [Palestinian] Authority has any involvement when it comes to illegal building." In the opinion of this author, Kassilieh's assertion is not credible. It flies in the face of hard evidence that Kassilieh's former boss, Hussein, was the initiator and/or conduit for much illegal building.³⁴⁵ Although never stated, Kassilieh implied that Hussein believed that building illegally was justified.³⁴⁶ Kassilieh described the late Faisal Hussein as having pursued "a steadfast approach" at a time when Israel was [allegedly] implementing "a policy of pushing Palestinians outside of Jerusalem." Hussein was of the opinion that "any price should be paid to confront Israel." Echoing Hussein's approach, Kassilieh stated, "many times you go all the way to maintain your existence, you do everything to maintain your identity." This explains the documents in the hands of, and others viewed by this author, that prove Hussein's central role in illegal building.³⁴⁷ It is particularly interesting, therefore, to note the stated position of Hussein's successor on this critical issue.

Questioned regarding the Palestinian Authority's role in illegal building, Nusseibeh was asked, "[w]hy does the Palestinian Authority offer to pay fines or legal fees of people who build illegally?" He responded that he is not aware that the fines are paid by the Palestinian Authority.³⁴⁸ In his interview Nusseibeh stated forthrightly:

³⁴¹ This clearly erroneous claim should be compared with the data contained below in Appendix VI. B and G of this Study.

³⁴² Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002).

³⁴³ Interview with Dr. Sari Nusseibeh, President of Al Quds University and Palestinian Authority Political Commissioner for Jerusalem Affairs, in Jerusalem (Jan. 30, 2002).

³⁴⁴ See Section V. C and D of the text above.

³⁴⁵ Appendix 8C, D, and E.

³⁴⁶ Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002).

³⁴⁷ See, e.g., Appendix 8D.

³⁴⁸ Interview with Dr. Sari Nusseibeh, President of Al Quds University and Palestinian Authority Political Commissioner for Jerusalem Affairs, in Jerusalem (Jan. 30, 2002).

Nobody in their right mind is in favor of illegal building. What is needed is to look at the needs of the Palestinians and to address those needs so we will not have to deal with situations either of building things illegally or destroying them. In this the Municipality should consider in its plans the re-zoning in order to allow for first of all the immediate needs of [Arab] Jerusalemites which comes to about 20,000 units. Reparcelation [and] re-zoning, perhaps, in some of the areas. It is necessary to take preemptive measures in order to solve this growing problem³⁴⁹ (emphasis added).

B. The City Has Authorized Plans to Meet the Housing Needs of the Arab Population Until the Year 2020 that Exceed the Demands of Both Faisal Hussein and Sari Nusseibeh

Neither Nusseibeh nor Hussein can be accused of selling short the housing needs of the Arabs of Jerusalem. Yet the up-to-date facts indicate that the needs that they forecast can be more than met, without any need to build illegally, within the existing urban plans of the City. Nusseibeh's calculation of the needs of the Arab Jerusalemites, "about 20,000 units," deserves careful consideration alongside the similar estimate of his predecessor, Hussein.

In the mid-1990s, Hussein put out a 23-page booklet encouraging diaspora Palestinian and other private investors to "preposition themselves at an early stage...to profit."³⁵⁰ The brochure outlines a wide range of investment opportunities, including residences, office buildings, and hotels. Projecting some 15 years into the future, Hussein wrote that by the year 2010 the Arab population would need about 26,200 new residential units, including those required for returnees (Palestinian refugees) and tourists.³⁵¹ Since the current *Intifada* started neither returnees nor tourists are arriving in significant numbers, but as Hussein did not furnish any numerical breakdown, it is impossible to recalculate his global figure of 26,200.³⁵² Nor did Hussein make any allowance for the unoccupied apartments in the Arab neighborhoods.³⁵³ Yet even accepting Hussein's full figure, the Municipality has already approved plans that, intending to meet the projected Arab needs for the next 18 years, authorize in excess of 33,000 units. Tellingly, this *significantly exceeds* the demands of both Hussein and Nusseibeh.³⁵⁴

C. Extensive Palestinian Authority Subsidies for Widespread Illegal Building

Despite Nusseibeh's forthright condemnation of illegal building, overwhelming evidence, including internal documents, proves that the Palestinian Authority is intimately involved in subsidizing illegal construction. The following illustrative statements and sources demonstrate this:

³⁴⁹ Interview with Dr. Sari Nusseibeh, President of Al Quds University and Palestinian Authority Political Commissioner for Jerusalem Affairs, in Jerusalem (Jan. 30, 2002).

³⁵⁰ FAISAL HUSSEINI, *EAST JERUSALEM: GLORY OF THE PAST, PROMISE OF THE FUTURE*, n.d., p. 1.

³⁵¹ FAISAL HUSSEINI, *EAST JERUSALEM: GLORY OF THE PAST, PROMISE OF THE FUTURE*, n.d., p. 15.

³⁵² In any event, Hussein's figure was without any data or sources to support it. FAISAL HUSSEINI, *EAST JERUSALEM: GLORY OF THE PAST, PROMISE OF THE FUTURE*, n.d., p. 15.

³⁵³ FAISAL HUSSEINI, *EAST JERUSALEM: GLORY OF THE PAST, PROMISE OF THE FUTURE*, n.d.

³⁵⁴ See Appendix 7B. Moreover, this figure of 33,600 does not include the following:

- the housing units that will be built in the Shoafat refugee camp;
- the housing units that will be built in the part of the part of the Kalandia refugee camp that is within the city limits;
- pinpoint plans that have been proposed and that will likely result in some additional legal living units being built; and
- the additional 2,400 authorized units recently authorized for the Beit Hanina/Shofat area.

Interview with Uri Bar Shishat, Director of Policy Planning Department of City Engineer of Jerusalem Municipality, in Jerusalem (June 4, 2002).

- In November 1995, at a congress held in Amman, Zaharia El-Ahia, the Palestinian Authority's Minister of Housing, and a member of the European Union's Supreme Committee for Palestinian Housing, stated that the Palestinian Authority had used the sums it had received from Saudi Arabia, including \$30 million U.S., to build 10,000 apartments in Jerusalem and to make additions to existing buildings. Funds were dispersed to persons without, as well as with, building permits.³⁵⁵
- In April 1996, Hussein made three recommendations regarding Jerusalem to the 21st meeting of the Palestinian National Congress (PNC) held in Gaza. The PNC approved Hussein's objectives to raise funds from Arab and Islamic sources and private individuals to be used in Jerusalem; to protect the Old City from becoming totally Jewish³⁵⁶ by mobilizing the full potential to develop and build; and to support building projects, whether public or private, including the soliciting of financial support from pro-Palestinian Authority countries.³⁵⁷
- In May 1996, Sheikh Hassan Tahboob, the Palestinian Authority's Minister of the Waqf (Islamic Religious Endowment) and Religious Affairs, signed an agreement with the World Bank for Islamic Development by which the latter contributed \$1,144,000 for carrying out additions and renovations to 850 buildings in the Old City. These additions and renovations were performed without obtaining building permits.
- In October 1996, Hussein appealed to rulers and foreign ministers of states that do not have diplomatic relations with Israel, including Abu Dabi, Qatar and Saudi Arabia, to raise money to construct 10,000 living units in Jerusalem. He received pledges for tens of millions of U.S. dollars.³⁵⁸
- In an interview Hussein gave to the Egyptian magazine *El-Aharam Al-Arabi* in June 1997, he stated, "[t]he Palestinian program is to create a Palestinian belt around the Israeli belt [of post-1967 new Jerusalem neighborhoods]." He continued, "[t]he most important Palestinian challenge is building, even without permits."³⁵⁹
- CNN has publicized the theme of Jerusalem being the site of a "demographic war" between Palestinians and Israelis.³⁶⁰ For this program CNN interviewed Khalid Tufakji, a Palestinian demographer who worked out of the Orient House (then the PLO's political headquarters in Jerusalem).³⁶¹ Tufakji stated, "[w]e can build inside Jerusalem, legal, illegal - rebuild a house, whatever we can do. Maybe we lose ten houses, but in the end we build 40 more houses in East Jerusalem."³⁶²

³⁵⁵ Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Apr. 8, 2002).

³⁵⁶ Given the fact that the Jewish population living within the walls of the Old City constitutes only about 10 percent of the total, Hussein's fears appear to lack any basis in fact. Tovah Lazaroff, *Report: Muslim Strength up in Old City*, JERUSALEM POST, July 15, 2002, p. 2.

³⁵⁷ Letter from Ehud Olmert, Mayor of Jerusalem Municipality, to Shimon Peres, Foreign Minister June 12, 2001.

³⁵⁸ Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Dec. 6, 2001). Recently Saudi Arabia pledged to build 600 houses for Palestinians in various "Palestinian cities" as a token of support for the *Intifada*. Staff writer, *Saudi Arabia to Build 600 Houses for Palestinians*, ARAB NEWS, Sept. 30, 2002, available at Internet Website (visited Sept. 30, 2002) <http://palestinechronicle.com/article.php?story=20020930170256186>; News in Brief, *Saudis Build Housing Units for the Palestinians*, JERUSALEM TIMES, Oct. 4, 2002, p. 2.

³⁵⁹ Interview of Faisal Hussein, Member of the PLO Executive Committee in Charge of the Jerusalem Portfolio, in *El-Aharam Al-Arabi* (Egyptian magazine), June 24, 2001.

³⁶⁰ Martin Savidge & Walter Rodgers, *Jerusalem Faces Demographic War*, CNN Worldview 18:00 pm ET, Sept. 9, 1998, transcript no. 98091902V18.

³⁶¹ Likoed Nederland, Press Release: *20 Palestinian Institutions Continue to Operate Illegally in Jerusalem*, Communicated by the Office of the Prime Minister of Israel, Sept. 9, 1998, p. 5.

³⁶² Martin Savidge & Walter Rodgers, interview of Khalid Tufakji, Palestinian Demographer, in *Jerusalem Faces Demographic War*, CNN WORLDVIEW 18:00 PM EST, Sept. 9, 1998, transcript no. 98091902V18.

- During the period from April 4 to June 29, 2000, the Orient House processed 38 requests for housing assistance by Arab residents of Jerusalem. Some of the requests involved structures under threat of demolition. These were forwarded to Advocate Jawad Boulos who frequently represented such clients in court. Others involved a request for financial assistance in renovating or expanding apartments that were under the threat of demolition. Still others asked the Palestinian Authority for financial assistance because they were building on the edge of a Jewish neighborhood, thereby blocking any expansion. In all, these 38 documents indicate that the Palestinian Authority routinely came to the assistance of Arab residents of Jerusalem, who had built illegally.³⁶³
- In an article, which appeared in the Palestinian Authority's newspaper *El Hiya El Jdida*, Jamil Othman Nasser, the Palestinian Authority's Governor of the Jerusalem District, calls for the establishment of a "development council." The intended purpose for this body is to aid Palestinians without being governed by any Israeli law or action that places limitations on building activity. Further, the Governor himself favored giving financial assistance to Jerusalem Arabs who do not have building permits or whose houses were demolished.³⁶⁴
- Ziad Abu Ziad, the Palestinian Authority's Minister of Jerusalem Affairs, wrote a letter dated April 28, 2000, to Yasser Arafat containing a request for the Palestinian Authority to fund neighborhood infrastructure in Ras Hamis. This Arab area contains massive illegal building that adjoins the Jewish neighborhood of Pisgat Zeev. Minister Abu Ziad supports his request by noting that of the more than 80 illegal units thus far built only eight have been demolished by the Municipality. He further points out that the City will not pay for the infrastructure in this area because it encroaches on the Jewish settlement [neighborhood] of Pisgat Zeev. Abu Ziad justifies his solicitation by noting that the residents of Ras Hamis are continuing to build [illegally] in the direction of the Israeli neighborhood of Pisgat Zeev, to keep it from expanding.³⁶⁵
- On September 11, 2000, Jamil Othman Nasser, the Palestinian Authority's Governor of the Jerusalem District, wrote to Yasser Arafat on the official stationery of the Palestinian Authority's Ministry of Interior. The letter states "any Arab who builds in Jerusalem has accomplished a national act of the highest order." It further states that the firm stand of the [Arab] residents protects the Arabization of Jerusalem and protects their land from invasion by [Jewish] settlements. Nasser requests Arafat to follow up on paying the fines assessed against those who build illegally. Arafat's own handwritten notation appears on the side of the typed letter, instructing that the request should be forwarded to Sami Ramlawi, the Director of the Palestinian Authority's Ministry of Finance, for attention.³⁶⁶
- On March 21, 2001, a letter from Jamil Othman Nasser to Sami Ramlawi addressed the fine of 75,000 NIS assessed against Assan Machmad Shaban, an Arab Jerusalemite, for building without a license. Nasser states that, according to Arafat's instructions

³⁶³ Confidential intelligence sources furnished access to these documents.

³⁶⁴ Issah El-Shrabati, *Point to the Caution of the Donning Country's in Carrying out Projects in Conquered Jerusalem*, EL HIYA EL JDIDA (Arabic newspaper), July 16, 2000. The Governor acknowledges that Palestinian criminal gangs and Mafia, affiliated with the Palestinian Authority, are operating in Jerusalem. The article states that these criminals are taking over real estate belonging to Arabs that live abroad. *Ibid.*

³⁶⁵ Letter from Ziad Abu Ziad, Palestinian Authority Minister for Jerusalem, to Yasser Arafat (Apr. 28, 2000) (on file with Office of the Chairman, file no. 279/2)(Arabic).

³⁶⁶ Letter from Mhahfat El Quds Jamil Othman Nasser, Palestinian Authority Governor of Jerusalem District to Yasser Arafat (Sept. 11, 2000) (on file with Office of the Chairman, file no. 1382/200)(Arabic).

for these cases, Ramlawi should instruct the Palestinian Authority's Ministry of Finance to pay the fine.³⁶⁷

- On May 12, 2001, at a meeting of Arab construction engineers held at Orient House, Hussein instructed them to go ahead with projects in disregard of the legal requirements for permits and licenses.³⁶⁸
- According to a recent article in the Israeli daily newspaper *Ha'tsofeh*, a senior Israeli security official told their reporter about the ongoing struggle of the Palestinians to strengthen their hold on Jerusalem real estate. He pointed to the example of the National Palace Hotel being put up for auction when its Arab owners couldn't pay their debts to the Discount Bank. The hotel's owners, fearful that Jews might purchase it, requested Arafat's intervention. Arafat then delegated this matter to the Palestinian Authority's official in Charge of the Jerusalem File, Ziad Abu Ziad. Abu Ziad successfully solicited Palestinian financial institutions to raise the purchase price. The article further states that the Palestinians are acting to solidify their claim to sovereignty in Jerusalem by building and establishing public institutions. To this end, Iran allocated \$300 million U.S. to fund Palestinian projects in Jerusalem.³⁶⁹ According to the report, Saudi Arabia is also among the sources of funding for the wave of illegal construction.³⁷⁰
- At a conference that took place on January 7, 2002, at the Jerusalem Center for Women, Hatem Abed El-Khader Eid, a member of the Palestinian Legislative Council representing the Jerusalem district, proudly announced that, during the last four years, Palestinians have erected 6,000 homes without building permits, out of which only 198 were demolished.³⁷¹ Eid's statement regarding the massive illegal building campaign, and his mention of the figure 6,000 illegal structures, was also picked up in the weekly newspaper *Jerusalem*. Eid declared, "we in the Palestinian Authority are willing to build ten homes for every house demolished by Israel."³⁷²

Intelligence sources furnished some of the above examples of large-scale, illegal construction funded by the Palestinian Authority. Others, however, are readily available to anyone following the media or who cultivates contacts in the Municipality. Many different clues documenting the Palestinian Authority's role in illegal building are available to anyone who inquires. For example, Zuhair Hamdan, the well-known head of a family in Sur Baher, stated that the Palestinian Authority encourages illegal building by paying the fines on behalf of the illegal builders.³⁷³ This corroborates what appeared in Palestinian Authority correspondence shown to this author by intelligence sources. Additionally, it is well known that Palestinian Authority officials have purchased illegally built homes for personal use.³⁷⁴

³⁶⁷ Letter from Mhahfat El Quds Jamil Othman Nasser, Palestinian Authority Governor of Jerusalem District to Sami Ramlawi, Director of the Palestinian Authority Ministry of Finance (Mar. 21, 2001) (Arabic).

³⁶⁸ A confidential intelligence source furnished access to this document. Israel subsequently closed Orient House, citing illegal activities that endangered Israeli security and violated the Palestinian Authority's interim peace process obligations. According to the Oslo II interim peace agreement, the Palestinian Authority is barred from exercising any authority and conducting any activity in Jerusalem. Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Sept. 28, 1995, Isr.-Palestinian Liberation Organization, 36 I.L.M. 557, art. XVII(1a).

³⁶⁹ Hagai Hoberman, *In the Heat of the Palestinian Real Estate Battle in East Jerusalem*, HA'TSOFEH, Jan. 11, 2002, pp. 9, 10.

³⁷⁰ Hagai Hoberman, *In the Heat of the Palestinian Real Estate Battle in East Jerusalem*, HA'TSOFEH, Jan. 11, 2002, pp. 9, 10.

³⁷¹ Hagai Hoberman, *In the Heat of the Palestinian Real Estate Battle in East Jerusalem*, HA'TSOFEH, Jan. 11, 2002, pp. 9, 10.

³⁷² Khaled Abu Tuwama, *A Representative of the Jerusalem District in the Palestinian Legislative Council: "We Built 6,000 Houses Without Permits"*, JERUSALEM (weekly Hebrew newspaper), May 25, 2001, p. 22. Mr. Eid knows of what he speaks. His brother Yazid, with the assistance of criminal elements, squatted on land on Tel A Ful. The plot in question is owned by Arabs living abroad. There he built a substantial structure without a permit. The Municipality posted a demolition order on this building. Yazid Eid's illegal structure was erected right in the shadow of the uncompleted Jerusalem palace of the late King Hussein of Jordan. Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Dec. 6, 2001). See also Nadav Shragai, *PA Vows They Won't Stop Building in Jerusalem*, HA'ARETZ (English newspaper), Jan. 17, 2002.

³⁷³ Telephone interview with Zuhair Hamdan, head of a family in Sur Baher, in Jerusalem (Dec. 6, 2001).

³⁷⁴ Telephone interview with Amon Regular, Reporter for KOL HA'IR (weekly Hebrew newspaper), in Jerusalem (Nov. 22, 2001).

For example, Jibril Rajoub, the head of one of Arafat's security services acquired a house in Beit Hanina, the parking area of which is located on a roadbed.³⁷⁵

The above examples demonstrate something striking that goes beyond the extensive effort Arafat and his senior subordinates have made to subsidize illegal construction in Jerusalem. That is, Arafat's well-financed campaign, has not, to the best of this author's knowledge, been exposed, let alone analyzed, in even one of the numerous NGO reports that purport to explain the causes of the illegal construction. This silence can only suggest an active disinterest in revealing one of the two major causes of illegal building - the Palestinian leadership's investing tens (or hundreds) of millions of U.S. dollars to expand their demographic foothold in the City via endorsing, massively subsidizing, and prioritizing widespread illegal construction.

Despite the handful of media reports that have begun to address the Palestinian Authority's core role in the illegal building epidemic, the NGOs have ignored this phenomenon in their reports. According to an investigative article in the newspaper *Ha'aretz*, illegal Arab construction in Jerusalem, financially backed by the Palestinian Authority, has expanded to a magnitude hitherto unknown. Particularly in the northern part of the City, uninhabited buildings are being built at an alarming rate.³⁷⁶ In September 1998, Israel Television broadcast a story on the surge of illegal construction in the Old City. It reported that the Palestinian Authority had spent millions of U.S. dollars expanding thousands of existing housing units and building thousands of new units.³⁷⁷

Nearly two years ago the Ministry of Interior was cited as having counted 20,000 illegal structures in the Arab sector including Jerusalem. The trend involved multi-story structures being constructed with the encouragement of the Palestinian Authority. One Israeli minister has attempted to alert the public to the challenge posed by the Palestinian Authority's backing for illegal construction. According to Deputy Prime Minister and Minister of Housing, Natan Sharansky, Saudi Arabia is secretly financing the Palestinian Authority's campaign to build homes, for political reasons, in strategic areas in Jerusalem and other parts of Israel. Sharansky claims that, in all, "at least 40,000"³⁷⁸ living units have been built by wealthy Arab contractors paid by Saudi Arabia. He also observed that many of the structures are empty, although when the City demolishes one of them, "Arafat sends women and children to lay in the streets and cry hysterically that they have been thrown out of their homes."³⁷⁹

It remains to be seen if, and when, Nusseibeh's personal opposition to illegal construction will influence the official Palestinian stance of subsidizing and encouraging illegal building and opposing demolitions in every instance. On the one hand, this author has been reliably informed that Nusseibeh is part of a group of Arab individuals who are in contact with the Municipality as regards City Plan 6833.³⁸⁰ This group is completing the necessary steps and will likely receive permits to build houses on land in which they have an interest. Thus, as regards building his own house, Nusseibeh is complying with the planning rules. Yet, Nusseibeh continues to appear in person alongside the protesters when the Municipality demolishes illegally built structures.³⁸¹ It is difficult to reconcile his

³⁷⁵ Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (June 5, 2002).

³⁷⁶ No byline, *Expansion of Illegal Construction*, HA'ARETZ (Hebrew newspaper), June 5, 2000.

³⁷⁷ *Surge of Arab Housing Construction in Jerusalem*, Channel One Israel Television, Sept. 10, 1998.

³⁷⁸ Sharansky's press official explained that his figure includes illegal Arab building in all of Israel, not just Jerusalem. Interview with Iris Goldman, Press Advisor to Israel Knesset Minister Natan Sharansky, in Jerusalem, Jan. 11, 2002.

³⁷⁹ Press Release - 01/29/2002, *Saudi Arabia Financing Illegal Construction of Empty Arab Homes in Jerusalem to Take Over the City*, Zionist Organization of America, Jan. 29, 2002.

³⁸⁰ Confidential interview with senior Municipal official, in Jerusalem, Feb. 22, 2002.

³⁸¹ Cf. Margot Duckevitch and news agencies, *9 Buildings in Isawiya Demolished*, JERUSALEM POST, Jan. 15, 2002, p. 3; Joel Greenberg, *Israel Demolishes 9 Arab Homes in Jerusalem*, JERUSALEM POST, Jan. 15, 2002, p. A10. However, unlike his predecessor, Nusseibeh does not attempt to

contradictory behavior, except to surmise that Nusseibeh fulfills his political duty to the Palestinian Authority by appearing at the demolitions.

D. Illicit Profit: The Role of Criminal Elements in Illegal Building

Alongside the political reasons for illegal building, avarice is also a paramount factor. Simply put, building illegally is very profitable and many view the lax enforcement efforts of the city as presenting a great business opportunity.³⁸² For example, in the Arab neighborhood of Shoafat, an Arab builder exploited the lack of enforcement by erecting ten large, multi-story structures, without any permits. By acting outside of the law, he saved the taxes and fees routinely paid by persons who obtain a building permit.³⁸³

Likewise, savings are realized when construction code regulations, designed to serve and protect a structure's occupants and neighbors, are ignored. In the Shoafat case economies were achieved by erecting the ten buildings on land belonging to others, including Arabs living abroad that are unaware that their land has effectively been stolen. This builder likely calculated that in the worst case scenario the ten buildings would be demolished. However, in the meantime, the entire matter is tied up in court, and the builder collects rent, turning a profit even if the tenants, aware of the illegality, pay only one-fifth of the monthly rent for a comparable, but legal, apartment.³⁸⁴ Two other examples follow:

- A private planner submitted a complaint regarding an illegal building in Beit Hanina to the Director of the Building Inspection Department. The author explained that he was writing on behalf of others who were afraid that if they protested, violent retaliation would follow. The letter states that a particular five-story building was in clear violation of the neighborhood limits as to height and size, thereby causing environmental damage to the entire area. The author advises that if the Municipality fails to take vigorous action it will be viewed as a laughingstock.³⁸⁵
- A complaint was lodged with the Mayor's Advisor on East Jerusalem Affairs by a group of residents from Hod El Tabel, in Beit Hanina. The group had signed and paid for an amendment to the neighborhood plan, known as the 'treaty' with the Municipality. With these funds, the Neighborhood Committee's engineer was entrusted with updating the local plan to include streets, schools, kindergartens, leisure areas, and all the other public needs. The residents' letter complained that persons from outside the neighborhood, who were not signatories to the treaty, had recently commenced building illegally in Hod El Tabel. Ahmad Burkan was named therein as being one of the illegal builders. The complainants accused him of building an illegal two-story structure on a roadbed. They also stated that Burkan's construction was going on day and night, generating noise that disturbed them. Burkan ignored protests by the group, so they turned to the Municipality to request it to stop the illegal construction and to punish the offenders. The group further complained that the illegal structures were being constructed very close to their homes, often blocking out sunlight. They also claimed that this resulted in their children falling ill.³⁸⁶

provoke violence at these demonstrations. Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Apr. 15, 2002).

³⁸² Telephone interview with Amnon Regular, Reporter for KOL HA'IR (weekly Hebrew newspaper), in Jerusalem (Nov. 22, 2001).

³⁸³ Telephone interview with Israel Ben-Ari, Deputy Manager of Licensing and Inspection Department of Jerusalem Municipality, in Jerusalem (Dec. 6, 2001).

³⁸⁴ See Amnon Regular, *Building On Luck*, KOL HA'IR (weekly Hebrew newspaper), July 13, 2001, p. 27.

³⁸⁵ Letter from Zeev Bern to Director of the Planning Inspection Department of the Jerusalem Municipality, Jan. 18, 1998.

³⁸⁶ Letter from Group of Residents in the Beit Hanina area, to Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs of Jerusalem Municipality, June 24, 2001.

Criminal greed, which motivates some illegal construction, should be understood in the context of the encouragement and financing of illegal building by the Palestinian Authority and certain Arab governments, as detailed in the previous subsection.³⁸⁷ The illicit entrepreneurs frequently take over land that does not belong to them and begin building. Palestinian Authority security officials are paid bribes in return for dissuading the true owners of the land from complaining to the Municipal authorities.³⁸⁸ The Palestinian Authority security officials often promise the aggrieved landowners that they will get the illegal construction off their land, but never actually do so.³⁸⁹ Recent reports indicate that land theft, typically from absentee Christian owners living abroad, has become widespread in Jerusalem, the Bethlehem area, and in other West Bank cities.³⁹⁰ Political backing enables illegal builders to enjoy what could be described as the best of both worlds. On the one hand they are perceived in the street as active participants in the national/Islamic struggle, secure in the expectation that the Palestinian Authority will cover their legal expenses and fines if they are caught. No less important, their parochial financial interests are served because, in the current circumstances, illegal building is generally profitable building. In sum, breaking the law yields abundant benefits.³⁹¹

Thus, this major cause for illegal building in the Arab sector of Jerusalem is 'economic,' but not in the sense this word is commonly used. It is often asserted that poor Arab families with many children, have no alternative but to add additional rooms onto their living units in violation of the Planning and Building Law. Certainly such 'economic' motives do exist - often involving poor Jews as well as poor Arabs. The minor additions they attach to existing legal structures, however, must be distinguished from the wave of new construction,³⁹² often of entire structures, in pursuit of a quick profit.³⁹³ These law-breakers build multi-story, upscale apartment buildings suitable for rental or sale to the affluent. Even a cursory tour of the hundreds of high density, upscale apartment houses, some of which are photographed in Appendix 3, will give the reader a sense of the magnitude of the sums involved in illegal construction in the Arab sector of Jerusalem. These four-, six-, and eight-story apartment houses were not put up by, or for, Arab families living in poverty. Indeed, people living in these illegal structures (if and) when the City demolition crew arrives are likely pawns in a cynical game motivated by criminal greed.

Some of these criminal elements have formed links with senior officials in the Palestinian Authority's intelligence and security services who also want to get rich quickly. Using high quality forged documents of land ownership, these criminals have erected major structures in Beit Hanina and elsewhere on land owned by the old and the weak, land owned by persons living abroad, and even land belonging to the Waqf. The Waqf, usually thought of as a powerful institution enjoying the good grace of the Palestinian Authority, felt compelled to take the awkward step of complaining to the Municipality.³⁹⁴

³⁸⁷ Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Dec. 6, 2001).

³⁸⁸ Interview with Ehud Olmert, Mayor of Jerusalem Municipality, in Jerusalem (Dec. 31, 2001).

³⁸⁹ Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Dec. 6, 2001).

³⁹⁰ The thefts in the adjoining Bethlehem area began with the arrival of the Palestinian Authority seven years ago. They are reported to have been perpetrated by forging land title deeds and with the assistance of senior Palestinian Authority officials, including high-ranking officers of its security forces. Khaled Abu Toameh, *PA Officials Accused of Swiping Land, Property*, JERUSALEM POST, Nov. 12, 2002, p. 5. In Jerusalem similar tactics are being used. Several gangs, some linked to the Palestinian Authority, use forged title deeds to lay their hands on vast areas in fashionable Arab neighborhoods such as Beit Hanina and Shoafat. According to an Arab lawyer from Jerusalem, "Many of the land robbers claim that they hold military ranks in the PA.... They grab the land which doesn't belong to them, build new homes, and market them without any fear." Khaled Abu Toameh, *Jerusalem Arabs Victimized by Real Estate Scam*, JERUSALEM POST, Nov. 17, 2002, p. 4.

³⁹¹ Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Nov. 15, 2001).

³⁹² See Interview with Hassan Abu Assleh, Engineer in City Planning Department of Jerusalem Municipality, in Jerusalem (Dec. 31, 2001). Abu Assleh, an engineer employed by the City planning department for 30 years, also blamed intra-family pressure for some of the illegal building, which he believed needs to be stopped.

³⁹³ Bill Hutman and Itim, *East Jerusalem Homes Built Without Permits Demolished*, JERUSALEM POST, Aug. 21, 1996, p. 12.

³⁹⁴ Avi Fogel, *Major Land Theft*, JERUSALEM (weekly Hebrew newspaper), July 27, 2001, pp. 8-9.

As in the case of the Palestinian Authority's subsidies, not one of the NGOs has identified the preeminent motivation of old-fashioned criminal greed that underlies the illegal building epidemic. Why are they silent? Can the NGOs be unaware of the *Kol Ha'ir* expose disclosing the Palestinian Authority's backing of a criminal gang of Arab builders? Why don't the NGOs echo Nusseibeh's forthright statement that gangs that build illegally, on land that does not belong to them, should be thrown into jail, rather than allowed to persist in illegal conduct?³⁹⁵ Where are the NGOs that ignore this organized criminal conspiracy? One City official complained that the NGOs only get involved at a much later stage. That is, when the Municipality commences the process of administrative demolition, the criminals complain to the NGOs and the media, hoping they will stigmatize and stymie the law enforcement process.

VI. The Controversy Over Building Permits

A. Allegations that the Municipality Does Not Issue Building Permits to Arabs

One of the primary accusations leveled at the Municipality is its alleged unwillingness to grant building permits to its Arab residents. This accusation is widely considered factual, and seen as justification for illegal building.

The historical roots of this accusation deserve consideration. The chaotic planning situation in existence when Israel captured the Jordanian-occupied sector in 1967, was the major factor that delayed applying modern urban planning concepts for decades. That is, the adjoining Arab villages had no planning schemes, no modern infrastructure, and the construction there was disordered.³⁹⁶ It was therefore particularly difficult for the Municipality, within the limits of its budget, to incorporate these villages into the modern city plans.

After abolishing the outdated Jordanian plans in the aftermath of the 1967 War,³⁹⁷ the reunited Municipality's initial planning effort was directed at the inner core of the Arab sector. It was known as Plan 9 *Mem/Ayin*. However, due to the fact that this Plan was to a scale of 1/5000, it lacked sufficient detail to serve as a basis for granting building permits. Furthermore, after 1967, the Arab residents had to become accustomed to abiding by more rigorous Israeli planning law. This explains why during the first few years after 1967, most Arab residents of Jerusalem did not file requests for building permits. During the years of 1974-1975, however, more Arab residents began to file requests for building permits,³⁹⁸ adding urgency to the preparation of local outline schemes for Jerusalem's Arab neighborhoods.³⁹⁹ At that time, due to bureaucratic difficulties, the process for obtaining a construction permit frequently did take years, was complicated and relatively expensive. Although it is beyond the scope of this Study to scrutinize that period and in particular the bureaucratic difficulties faced by the City's Arab residents, it is clear that it was the perception of many Arabs that the Planning and Building Law discriminated against them.⁴⁰⁰ The Arab public's negative attitude toward the planning process likely has its roots, in part, in this period.

³⁹⁵ Interview with Dr. Sari Nusseibeh, President of Al Quds University and Palestinian Authority Political Commissioner for Jerusalem Affairs, in Jerusalem (Jan. 30, 2002).

³⁹⁶ Interview with Yossi Cohen, Mayor's Advisor for Neighborhoods of Jerusalem Municipality, in Jerusalem (Nov. 26, 2001).

³⁹⁷ The British Mandatory authorities prepared the original macro plans for the urban development of Jerusalem. The Jordanian sector of Jerusalem continued to apply the 1944 Kendall plan until the 1967 War, with only minor amendments. In parallel with the Kendall plan, the Jordanians drafted two new master plans that were never fully adopted: Anthony and Schecter (1962-3), and Kendall (1964). See Section II. C of the text above and the accompanying notes.

³⁹⁸ Appendix 6B.

³⁹⁹ Interview with Micha Bin-Nun, Director of Licensing and Inspection Department of Jerusalem Municipality, in Jerusalem (Dec. 31, 2001).

⁴⁰⁰ It is beyond the scope of this Study, which focuses on the present, to evaluate the merit of those claims.