CHALLENGING SPATIAL OPPRESSION IN A CONTEXT OF HOUSING RIGHTS DENIAL:
A CASE STUDY IN SO-CALLED AREA C, WEST BANK, PALESTINE

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ABSTRACT

Housing is a universal human right and essential to human survival and dignity. Yet in settler colonial contexts, policies of forced displacement and home demolition severely affect indigenous societies. For decades, Israel has pursued a policy of forced displacement and demolition of Palestinian homes and livelihoods in the occupied Palestinian territories (oPt). Consequently, thousands of Palestinian homes were demolished, and tens of thousands of people have been forcibly displaced. These policies deprive families of their homes, limit their access to basic services and infrastructure, affect their well-being and violate their human rights. Nevertheless, scarce research to date has examined housing rights within settler colonial context such as oPt. We know little about the impact of intentional home destruction policies on the inhabitants and their human rights, and even less about the counter practices that indigenous communities use to challenge these policies and exercise their housing rights.

Therefore, my doctoral research explores the challenge and complexity of exercising housing rights in an area affected by ongoing military occupation and settler colonialism. Specifically, it examines housing-related initiatives for vulnerable Palestinian communities at acute risk of home demolition and forcible displacement in the so-called Area C in the oPt. Thus, this thesis contributes to our understanding of how housing rights are being exercised within the complex context of deep spatial and settler colonial violence. This study employs the concept of settler colonialism and international human rights approaches to understand the context and process of housing rights denial, as well as to analyze the different dynamic strategies that have been used by Palestinians to exercise their housing rights while challenging the systematic and structural forms of settler colonial oppression. Therefore, the main research question guided this study is: how are housing rights being exercised within the complex context of ongoing military occupation and settler colonial practices in occupied Palestinian territories /so called Area C?

Using a qualitative case study approach, I examined housing-related initiatives in three different Palestinian communities located in so called Area C. For data collection, I conducted 47 in-depth interviews with Palestinian policy makers and key informants representing local communities, the civil service, and non-governmental organizations. I also engaged in direct observations and documentary analysis. Data was analyzed thematically and was organized according to the research main questions. The findings uncovered two main processes happening simultaneously: (1) the official and unspoken policies that contribute to spatial oppression and housing rights denial; and (2) the processes to exercise housing right, which include three main strategies that are being used in the so-called Area C. These three strategies are: 1) circumventing the oppressive power system through acts of ‘everyday resistance’ such as *sumud* (steadfastness) and individual surreptitious home-building; 2) negotiating the oppressive power system through an emerging Palestinian spatial-planning process; and finally, 3) engaging with the oppressive power system through a legal process (legal defense, aid, and advocacy).

The significance of this research is that it addresses the lack of knowledge about indigenous housing rights within the context of ongoing settler colonialism. By providing a comprehensive analysis of the complexity of exercising housing rights in such areas, this study contributes to an improved theoretical understanding of housing rights in settler colonial states. Also, it offers a new understanding of home demolition and forced displacement that goes

beyond the narratives of destruction, its impact on the inhabitants and the notion of victimization, by instead focusing on people's agency and community resilience to challenge settler colonial spatial oppression and denied housing rights. In terms of policy, this study provides insights for policymakers, civil society, and human rights institutions to promote housing rights for indigenous populations. Therefore, its findings will contribute to support the efforts by indigenous peoples, governments, civil society, and international human rights institutions towards progressive realization of the right to adequate housing in settler colonial contexts.

RÉSUMÉ

Le logement est un droit humain universel et essentiel à la survie et à la dignité humaines. Pourtant, dans les contextes coloniaux, les politiques de déplacement forcé et de démolition de maisons affectent gravement les sociétés autochtones. Pendant des décennies, Israël a mené une politique de déplacement forcé et de démolition de maisons et de moyens de subsistance palestiniens dans les territoires palestiniens occupés (TPO). En conséquence, des milliers de maisons palestiniennes ont été démolies et des dizaines de milliers de personnes ont été victims du déplacement forcé . Ces politiques privent les familles de leurs logements, limitent leur accès aux services et infrastructures de base, affectent leur bien-être et violent leurs droits humains. Néanmoins, peu de recherches à ce jour ont examiné les droits au logement dans le contexte colonial tels que les territoires occupés. Nous savons peu de choses sur l'impact des politiques de destruction intentionnelle des habitations sur les habitants et sur leurs droits humains, et encore moins sur les contres-pratiques que les communautés autochtones utilisent pour contester ces politiques et exercer leurs droits au logement.

Par conséquent, ma recherche doctorale explore le défi et la complexité de l'exercice du droit au logement dans une région touchée par l'occupation militaire et par le colonialisme. Plus précisément, cette recherche examine les initiatives liées au logement pour les communautés palestiniennes vulnérables se trouvant à risque élevé de démolition de maisons et de déplacement forcé dans la soi-disant zone C dans les territoires occupés. Ainsi, cette thèse contribue à notre compréhension de la manière dont les droits au logement sont exercés dans le contexte complexe de la profonde violence spatiale et coloniale infligé par les colons. Cette étude utilise le concept de concept de colon colonialisme et les approches internationales des droits de l'homme pour comprendre le contexte et le processus de déni des droits au logement, ainsi que pour analyser les différentes structures et stratégies qui ont été utilisées par les Palestiniens pour exercer leurs droits au logement tout en remettant en question les formes d'oppression coloniale des colons. Par conséquent, la principale question de recherche qui a guidé cette étude est la suivante : comment les droits au logement sont-ils exercés dans le contexte complexe de l'occupation militaire en cours et des pratiques coloniales des colons dans les territoires palestiniens occupés/la soi-disant zone C ?

En utilisant une approche d'étude de cas qualitative, j'ai examiné des initiatives liées au logement dans trois communautés palestiniennes différentes situées dans la zone dite C. Pour la collecte de données, j'ai mené 47 entretiens approfondis avec des décideurs palestiniens et des informateurs clés représentant les communautés locales, la fonction publique et les organisations non gouvernementales. Je me suis également livré à des observations directes et à des analyses documentaires. Les données ont été analysées thématiquement et organisées selon les questions principales de la recherche. Les résultats ont révélé deux processus principaux se déroulant simultanément : (1) les politiques officielles et tacites qui contribuent à l'oppression spatiale et au déni des droits au logement ; et (2) les processus d'exercice du droit au logement, qui comprennent trois stratégies principales qui sont utilisées dans la zone dite C. Ces trois stratégies sont les suivantes : 1) contourner le système de pouvoir oppressif par des actes de « résistance quotidienne » telle que le sumud (la fermeté) et la construction de maisons individuelles clandestines ; 2) négocier le système de pouvoir oppressif à travers un processus de planification

spatiale palestinienne émergente ; et enfin, 3) résister au système de pouvoir oppressif par le biais d'un processus juridique (défense juridique, aide et plaidoyer).

L'importance de cette recherche est qu'elle aborde le manque de connaissances sur les droits des autochtones au logement dans le contexte du colonialisme de peuplement en cours. En fournissant une analyse complète de la complexité de l'exercice des droits au logement dans ces zones, cette étude contribue à une meilleure compréhension théorique des droits au logement dans les États coloniaux. En outre, il offre une nouvelle compréhension de la démolition de maisons et du déplacement forcé qui va au-delà des récits de destruction, de son impact sur les habitants et de la notion de victimisation, en se concentrant plutôt sur l'action des personnes et la résilience de la communauté pour défier l'oppression spatiale coloniale des colons et le refus de logement. droits. En termes de politique, cette étude fournit des informations aux décideurs politiques, à la société civile et aux institutions des droits de l'homme pour promouvoir les droits au logement des populations autochtones. Par conséquent, ses conclusions contribueront à soutenir les efforts des peuples autochtones, des gouvernements, de la société civile et des institutions internationales des droits de l'homme en vue de la réalisation progressive du droit à un logement convenable dans les contextes coloniaux.

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DEDICATION

This thesis is dedicated to

my family and the many Palestinian families who

struggle to continue existing on their land with dignity despite adversity

and to

the many research participants who shared with me their

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CHALLENGING SPATIAL OPPRESSION IN A CONTEXT OF HOUSING RIGHTS DENIAL: A CASE STUDY IN SO-CALLED AREA C, WEST BANK, PALESTINE

1. INTRODUCTION

Housing is a universal human right[1] and is essential to human survival and dignity. Yet in conflict zones, intentional home demolition and forced displacement affect vulnerable populations severely. The occupied Palestinian territories (oPt) is an example in which settler colonialism, long-term military occupation and violation of housing rights intersect. For decades, Israel has pursued a policy of forced displacement and demolition of homes of Palestinians living under its prolonged military occupation (ACAPS, 2021; B'Tselem, 2013; NRC, 2012; UN-Habitat, 2015; UNOCHA, 2015). Thousands of Palestinians have been forcibly displaced or are at acute risk of forced displacement and home demolition (UNOCHA, 2015). Since 1967, Israel has demolished almost 60,000 Palestinian homes and structures causing tens of thousands of people to lose their shelter (ICAHD, 2021). These policies resulted in a dire human rights and humanitarian crisis and left Palestinian people suffering from severe inequalities and from spatial disparities, which have negative impacts on their well-being. So, this dissertation explores the challenge and complexity of securing access to homes, livelihoods, basic services, and infrastructure in so-called Area C, Palestine, as an area affected directly by ongoing military occupation and settler colonialism. Theoretically, this study presents the intersection of housing rights, settler colonialism and everyday resistance.

[1] Universal Declaration of Human Rights adopted by the United Nations General Assembly by resolution 2 17A (III) on 10 December 1948. Available at: http://www.un.org/en/documents/udhr/index.shtml#a25. Accessed September 25, 2020.

1.1 Research problem

After the Oslo II Accords[2] in 1995, Israeli policies of home and livelihood destruction and forcible displacement were directed toward so-called Area C[3] and East Jerusalem. Therefore, the marginalized and vulnerable communities in so-called Area C and East Jerusalem are the most affected by home demolition and displacements policies (ACAPS, 2021; B'Tselem, 2013; NRC, 2012; UNOCHA, 2015). In 2020 a total of 854 structures were demolished or evacuated in Area C—purportedly due to the lack of Israeli-issued building permits—causing the displacement of 1,001 people. Between Jan-Aug, 2021 alone, about 666 homes and structurers were demolished, leaving 957 people displaced (UNOCHA, 2021). These policies deprive families of their homes, limit their access to basic services, affect their well-being and violate their human rights including the human right to adequate housing (Amnesty-International, 2004; Meade, 2011; Silber, 2010; UNOCHA, 2015).

Access to housing rights in cases of prolonged military occupation and settler colonialism (where the very right to exist in one's homeland is challenged) is neglected both in research and in intervention. The literature devoted to housing rights has analyzed international human rights law and instruments that address housing rights and discussed its applicability (Kenna, 2005, 2008, 2010, 2012a, 2012b; Kothari, 1997; Leckie, 1989a, 1989b, 1992, 2003, 2012; UN-Habitat & OHCHR, 1991), the role of governments and other non-governmental actors in the realization of housing rights (Fitzpatrick et al., 2014; Leckie, 2003; Liba & Harding, 2015; Thiele, 2002;

[2] In September 1993, the Palestinian Liberation Organization (PLO) and the Israeli government signed a declaration of principles (known as the Oslo Accords) calling for the phased transfer of power from the Israeli military and its civil administration to Palestinian authority.

[3] Based on the Oslo Accords II, the West Bank was divided into three areas: 1) Area A (approximately 18% of the territory) includes the major Palestinian populated cities and villages and is under full Palestinian Authority (PA). 2) Area B (approximately 22% of the territory) includes most Palestinian rural communities and falls under the control of the PA for civil affairs while Israel controls the security. 3) Area C (approximately 60% of the West Bank) is where Israel retains authority over security issues as well as civil issues (UNOCHA, 2015).

UN-Habitat, 2005b), as well as the relationship between housing rights, discrimination, eviction and home demolition (Akesson et al., 2016; UN-Habitat, 2005b; Weinstein, 2012; Yung & Lee, 2014). Indeed, these are vital elements in addressing housing rights and their complexity. However, scarce research to date has examined housing rights within areas affected by prolonged military occupation, settler colonialism and political violence, such as is the case in the occupied Palestinian territories.

Additionally, few studies have discussed the ongoing intentional home demolition "domicide"[4] in occupied Palestinian territories and its impact on the inhabitants (Akesson, 2014; Meade, 2011), as well as the possible connections between intentional home demolition, violence and the "socio-cultural meanings" of home in the Palestinian context, such as identity and social and cultural network that includes family and society (Harker, 2009). Finally, little is known about the impact of intentional home demolition policies on Palestinians and their human rights, and even less about the counter practices that vulnerable communities utilize to challenge these policies and to exercise their housing rights.

In contrast to previous studies such as Graham (2004), Akesson (2014); Hanafi (2009); Harker (2009), my research situates the problem of intentional home demolition facing vulnerable populations in a settler colonial context within the framework of human rights. At the same time, it attempts to offer new accounts about the intentional home destruction that go beyond narratives of destruction, its impact on the inhabitants and the notion of victimization. Accordingly, this study focusses on human agency and on understanding the ways in which vulnerable communities at acute risk of home destruction and forced displacement, in their

[4] Domicide is a term that was coined by Porteous and Smith (2001) who define it as "the deliberate destruction of home by human agency in pursuit of specified goals, which causes suffering to the victim" (p. 12). Porteous, D., & Smith, S. E. (2001). *Domicide: The global destruction of home*. McGill-Queen's Press-MQUP.

everyday practices, challenge spatial oppression and denied housing rights while making and remaking places for themselves and others despite adversity.

As such, my research breaks new ground in its aim to explore three housing-related initiatives[5] *in so-called Area C—an area that makes up approximately 63% of the territory of the West Bank, where the right to exist and continued residence in the conflict zone is challenged—to provide a comprehensive understanding of the complexity of exercising housing rights in areas affected by spatial-political conflict and settler colonial practices.*

In this context, I used qualitative research to generate theories of how housing rights are challenged and how these rights are claimed in the face of the hegemonic power of settler colonialism and military occupation. Consequently, the result is a rich data set that allows me to show: a) the multiple effects that the military occupation and settler colonialism have on housing rights; b) the role of multiple actors involved in housing rights denial as well as the challenge to ensure the right to housing; and finally, c) the processes of exercising housing rights within such a context. I conclude my study by discussing the promise of these insights for an improved theoretical understanding of housing rights in areas affected by settler colonialism, pro-longed military occupation and political violence, as well as insights to develop new tools toward progressive realization of the right to housing in such contexts.

[5] What I mean by housing-related initiatives is more than walls and a roof above one's head. It includes all other aspects of housing (such as location, services and infrastructure, security of tenure, etc..), as well as all the processes (activities) necessary to develop housing (such as land zoning and planning, obtaining building permits and the struggle against home demolition).

1.2 Statement of Purpose and Research Questions

Research Goal:

The purpose of this study is to explore housing-related initiatives for vulnerable Palestinian communities at acute risk of home demolition and forced displacement in so-called Area C, to understand the ways in which housing rights have been exercised within the context of prolonged military occupation and settler colonialism.

Research Questions:

The main research question is:

How are housing rights being exercised within the complex context of ongoing military occupation and settler colonial practices in the occupied Palestinian territories (oPt) /Area C?

Sub-questions include:

i. What are the regulations and policy frameworks affecting housing rights for Palestinian communities in oPt/Area C?
ii. What are the current contextual supports/constraints to realizing housing rights for Palestinians communities in oPt/Area C?
iii. What are the different strategies that have been utilized to access housing rights in so-called Area C if any? What drives these strategies?
iv. How are these strategies been utilized and how do different actors affect them? What factors might participants perceive as supporting/hindering these strategies?

1.3 Research Approach

This research is guided by the philosophical assumptions underpinning the constructivist paradigm, which views 'reality' as a social construct and multiple context-specific reality. In particular, I used qualitative research methodology to examine three different 'cases' (housing-related initiatives) in Palestinian communities located in so called Area C.

Data collection for my doctoral research was conducted in the summers of 2015, 2016 and 2018. Drawing on 47 in-depth, semi-structured interviews, and over three months of participant observation with the Ministry of Local Government (MoLG) and UN-Habitat in 2016 and 2018, my dissertation brings together a conceptual framework grounded in theories of settler colonialism, geopolitical spatial planning, everyday resistance, and the human rights of adequate housing, in order to articulate a critical understanding of the exercise of housing rights in a context shaped by militarization and arbitrary power. The research design was developed through extensive consultation with several Palestinians living in Area C, who struggle to exercise their housing rights, as well as key informants from local and international organizations who are involved in different processes to promote access to housing rights such as Palestinian government officials, policy makers, urban planners, and human rights lawyers. The need to explore the ways in which housing rights are exercised in Area C was identified as a research area priority. Also, the three housing initiatives were chosen through these consultations.

1.4 Study Site

So-called Area C was invented in 1995 based on the Israeli-Palestinian Interim Agreement (Oslo II). Based on the five-year agreement, the West Bank was fragmented into three administrative zones with different security and administrative arrangements: 1) Area A comprises 18% of the West Bank, including the most populated urban areas (cities and big towns), and the Palestinian Authority has security and administrative control; 2) Area B comprises 22% of the West Bank, including mainly villages on the borders of Area A and the Palestinian Authority has administrative control, while security remains in Israel's hands; and 3) Area C refers to the rest of the West Bank, which comprises 60% of the land, including the most fertile lands and resources, with the lowest Palestinian population; it remains under Israel's full security and

administrative control (UNOCHA, 2015) (see figure 1.1A). The new Area zoning system separated Palestinian communities into a series of fragmented islands (Mushasha & Dear, 2010). This means there is a physical, political, and jurisdictional fragmentation within the West Bank (UNOCHA, 2009). Area C is now home for about 300.000 inhabitants, who live in about 532 communities (UNOCHA, 2015) (see figure 1.1B).

In Area C, land registration and planning authority remains under Israel control, which means the Israeli Civil Administration has full power over any kind of development in this area. After Oslo II, the situation in Area C remained the same and very little effort was directed toward improving the Palestinian population's living conditions (B'Tselem, 2013; Cohen-Lifshitz et al., 2008). The ICA applied a restrictive planning system that did not allow the Palestinian people to expand, construct homes, basic services, or infrastructure. Less than 1% of the land in Area C is devoted to Palestinian use, and it is already built up (UN-Habitat, 2015; UNOCHA, 2009).

Based on this restrictive planning system, Israeli-issued building permits are almost impossible to obtain. Therefore, the only way for Palestinian population to survive and continue living in their communities is to build their homes without a building permit, leaving them living under acute risk of home demolition and forcible displacement (B'Tselem, 2013; Cohen-Lifshitz et al., 2008; UN-Habitat, 2015; UNOCHA, 2009, 2015). In this context, Palestinian people struggle to realize their basic rights including housing, which is vital for human survival and dignity. A few studies have addressed the impact of home demolitions in Area C on its inhabitants. However, scarce research has been devoted to understanding the ways in which Palestinians challenge this reality and exercise their right to housing. Therefore, this study aims

to fill this gap and contribute to understand how Palestinians building and rebuilding their homes and communities.

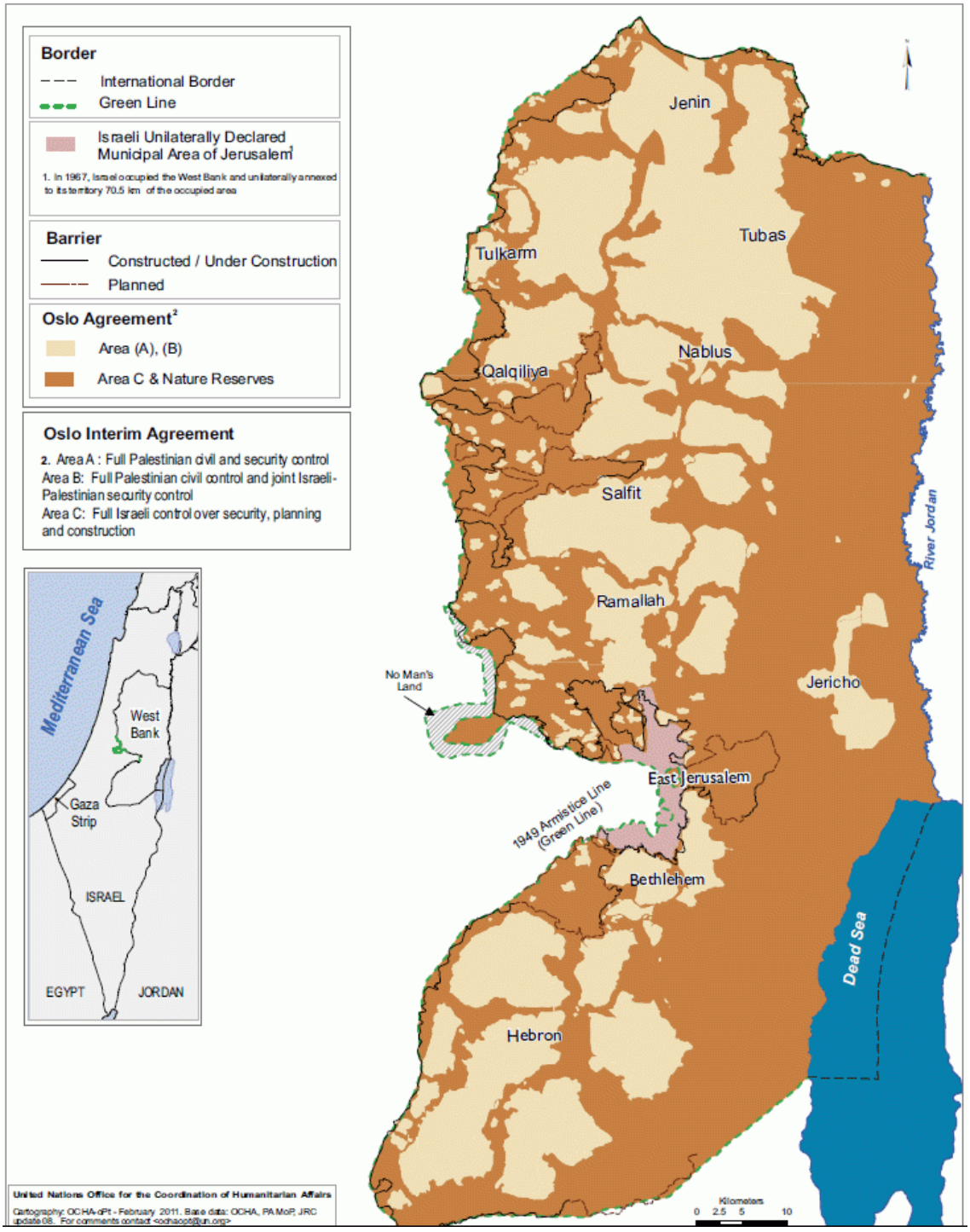

Figure 1.1A: West Bank: Area C _ OCHA MAP

Source: this is screen shot taken by the author from an interactive map that was created by UNOCHA. Retrieved on October 15, 2021, from: https://www.un.org/unispal/west-bank-area-c-ocha-map/#iLightbox[gallery2286]/0

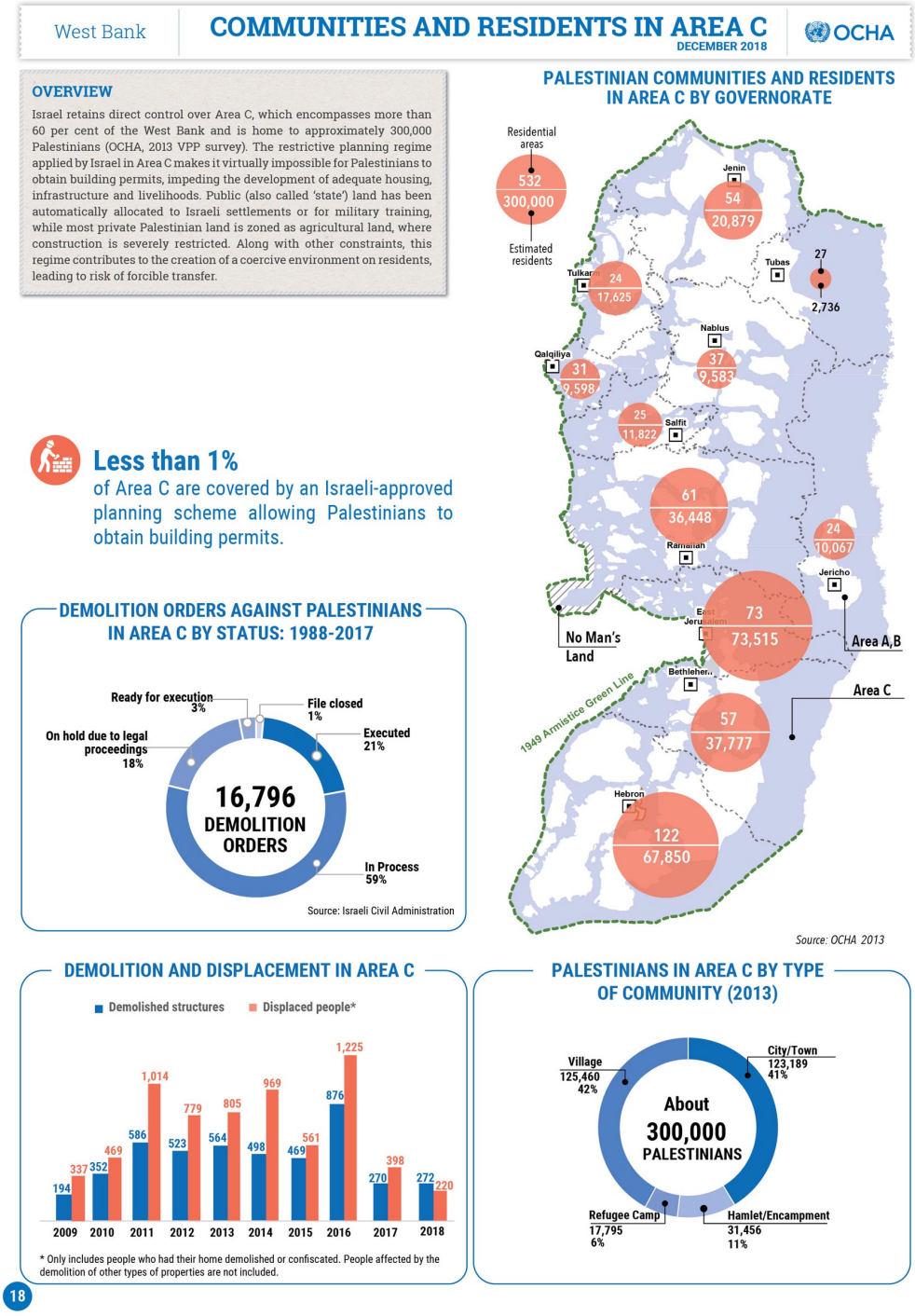

Figure 1.B: Palestinian communities In Area C, 2018.

Source: this is screen shot taken by the author from an interactive map that was created by UNOCHA. Retrieved on October 15, 2021, from: https://www.ochaopt.org/atlas2019/wbthematic.html

1.5 My Positionality and Connection to the Research Topic

I am a Palestinian woman and mother, born and raised in Nablus City in the West Bank. I witnessed the First Palestinian *Intifada* (Palestinian uprising) in 1987-1993, as well as the Second Palestinian *Intifada* in 2000-2007. Like all Palestinians, I suffered from Israeli military oppression and from settler violence. When I was a child, my eyes were opened to the military occupation violence. I used to visit my imprisoned uncles in Israeli jails. In 1982, my uncle Jasser Dwaikat (28 years old) was murdered by the Israeli army and left behind two children – one was 18 months and the other was 2 months. My grandparents' house was attacked by violent armed settlers under the protection of the Israeli army. In the first Intifada, I lived with my family for months under curfew with limited access to food and water and my school was closed for months. The worst experiences were witnessing the violent arrest of my brothers and friends who were cruelly beaten in front of us, and we could not do anything to protect them. In the second Intifada, I was humiliated many times by teen-age soldiers at check points, my home was invaded at the middle of the night, where my little boy was terrorised by these actions.

Given my life experiences, my roots are imbedded deep in the Palestinian land, and I carry a deep commitment to justice in Palestine. Throughout the research, I grappled a great deal with my positionality and the challenges this posed to the ethics of the research. Thus, in this research I faced the tension between being both an insider (Palestinian) and outsider (not involved directly in securing housing rights). Although being an insider helped me to gain trust, connect easily with the research participants and opened doors for me to attend and participate in meetings and critical discussions (Dwyer & Buckle, 2009), this positionality created some challenges. Taking a step back to be the neutral outsider researcher was challenging at many times. As Valentine (2005) noted, the qualitative research process—including the data analysis—is not an objective one because social processes are embedded in the context, and they are

affected by power relations and dynamics, so “science offers no final truth, no certainties, but exists in a state of continual revision” (Burawoy, 1998, p. 16). Therefore, social inquiry is deeply connected with and motivated by the context, and by the researcher’s social and political positions, views, experiences, and emotions, which play a critical role in shaping and directing research projects. In writing this thesis, I am fully aware there is no absolute truth but only relative ones.

Furthermore, conducting research in a context in which military violence shapes everyday life poses a big challenge in protecting participants’ security and safety. I was aware of the danger of my research results revealing information that might harm research participants’ work and open the Israeli army's eyes to Palestinian resistance strategies. Therefore, I checked all the time with key informants. I was careful to avoid revealing information that might harm Palestinian communities and their strategies to secure their housing rights.

Finally, it is important at this point to acknowledge that this research is influenced by the context, my views as a researcher and as a Palestinian who is affected by and engaged in the collective struggle against settler colonialism in Palestine. This research for me serves as a platform from which to resist oppression and to promote human rights and justice, and I hope the insights from this research will contribute to this end.

1.6 Terminology and the Political Production of Space

Another challenge I grappled with in this research is the terminology. I was concerned about using certain terms, that I consider colonial, in a way that contributes to giving these terms legitimacy. I am fully aware that there are two competing and contradicting narratives associated with Palestine since the establishment of the political Zionist movement in Europe in 1897 and since it began its ongoing efforts to colonize historic Palestine.

In such a context, terminology is important because it has strong political orientations and is connected to the production of spatial perceptions, which is significant in any context. Based on Said's argument (2000), using a "censorship of geography" that lacks territorial context allows the distortion of power relations. He states that "geography can be manipulated, invented, characterized quite apart from a site's merely physical reality" (Said, 2000, p. 180). I strongly believe that I should provide the context of certain terms that I use in this dissertation as a Palestinian scholar[6]:

1) Historic Palestine refers to the land between the Mediterranean Sea and the Jordan River, whose history goes back to ancient Canaan.
2) In saying *so-called Area C*, I use the term 'so-called' because I do not want to give legitimacy to the colonial terminology. Changing the names of colonized spaces is a well-known settler colonial practice. Area C is an invented term to describe the part of the West Bank that remained under Israel's full control, according to the Oslo Accords. It was supposed to be a short-term administrative classification but has become a long-term, widely recognized designation.
3) Natives, Indigenous[7] and/or Palestinian refers to the people who lived on the land between the Mediterranean Sea and the Jordan River for thousands of years despite the change of outside colonial powers, who ruled that area over history. "Palestinians continue to be geographically fragmented across Israel, the West Bank, and the Gaza Strip, and are scattered over the world in exile. Indigeneity connects these fragments to a

[6] "Perhaps the greatest battle Palestinians have waged as a people has been over the right to a remembered presence and, with that presence, the right to possess and reclaim a collective historical reality, at least since the Zionist movement began its encroachments on the land" (p. 184). Said, E. W. (2000). Invention, memory, and place. *Critical inquiry*, *26*(2), 175-192.

[7] I use the term indigenous based on the UN definition of indigenous and indignity in the fact sheet: Who are indigenous peoples? Available at: https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf

single experience– the process of settler colonialism, also known as the continuous Nakba" (Amara & Hawari, 2019, p.4)

There is not an agreed-on definition of 'indigenous' and 'indigeneity' adopted by any UN-system body because of the diversity of indigenous peoples. Therefore, I recognize that indignity is a contested term and is even more complex when it is applied to the Palestinian context. Several scholars have used indigeneity as it has been framed within the settler colonial theory in Palestine's Studies, which is discussed in section (3.1) (Barakat, 2018; Bhandar & Ziadah, 2016; Salamanca et al., 2012; Veracini, 2013; Wolfe, 2006). However, there is little discussion that unpacks the notion of Palestinian indigeneity in Palestine's Studies, but there is an emerging debate on using indigeneity in the Palestinian context as it stems from the role and place of the colonized within the settler colonial paradigm.

In this study the settler colonial paradigm is applied to Israel as a settler colonial state, which is built on the structures of elimination, colonial power, and replacement. While the term indigenous describes the population (regardless of their religious believes) who lived on the land before this settler colonial structure was operationalized and who suffered and is still suffering from its ongoing systematic violence.

I also recognize that even though the Zionist movement claimed European superiority and followed European setter colonial invasion and domination, yet it also claims indignity to the land in Palestine based on biblical narratives. In my arguments, I build on Edward Said's response –when he was asked if the Jewish people have claims to the land in Palestine– he asserts they have a claim to the land based on their religious narrative among others who also have similar claims. However, this religious claim does not give them exclusive rights to the land and does not justify the structures of elimination and oppression.

1.7 Thesis Outline

Throughout my thesis, my aim is to understand how housing rights are exercised in occupied Palestinian territories (oPt) /Area C. In the following four chapters, I lay the outline for my study approach, design, and findings. In Chapter 2, I contextualize the study, both in terms of the historical and contemporary contexts of historic Palestine and highlight key issues affecting Palestinians' access to housing rights. At the same time, I shed light on the roots of spatial oppression in historic Palestine. In Chapter 3, I outline the conceptual framework that has grounded my thesis research. I explore and critique the literatures surrounding settler colonialism, geopolitical spatial planning, everyday resistance, and human rights to adequate housing. In this chapter, I link important conceptual elements that are central to my research objectives. In Chapter 4, I describe my methodological approach as well as the specific research methods I employed during my fieldwork in the West Bank, Palestine. Also, I explain my approach to the data analysis, which crystalized around my research objectives as analytical categories. Then, I conclude this chapter by exploring the various ethical considerations woven throughout my fieldwork.

Following the research methodology, I present the research findings in two analytical chapters: Chapter 5 addresses the research sub-questions: i) *What are the regulations and policy frameworks affecting housing rights for Palestinian communities in oPt/Area C?*; ii) *What are the current contextual supports/constraints to realizing housing rights for Palestinians communities in oPt/Area C?* Here, I examine the complex role of two main official actors, Israel, and the Palestinian Authority (PA), and their policies and practices that affect directly and indirectly access to housing rights. In particular, I discuss the ways in which these policies served as matrix of housing rights denial in so-called Area C.

In Chapter 6, I examine the sub-questions: iii) *What are the different strategies that have been utilized to challenge these contextual constraints, if any? What drives these strategies?;* and *iv) How are these strategies utilized and how do different actors affect them? What factors might participants perceive as supporting/hindering these strategies?* Drawing on interviews and field visits, my observations during meetings and discussions, I present and examine three strategies utilized to exercise housing rights in Area C: 1) Building and rebuilding to remain, which documents and analyzes circumventing the oppressive power system through acts of 'everyday resistance', such as *sumud* (steadfastness) and individual surreptitious home-building; 2) Planning for housing rights, documents and analyze the practice of negotiating the oppressive power systems through an emerging Palestinian spatial-planning process; and finally, 3) Defending housing rights documents and analyze the practices of engaging with the oppressive power system through a legal process (legal defense, aid, and advocacy).

To conclude, in Chapter 7, I review the key findings and integrate the interpretations provided in the analytical chapters. Then I outline the research implications and advance several recommendations for social work practice, policy, and research.

2. ROOTS OF SPATIAL OPPRESSION AND DENIED HOUSING RIGHTS IN HISTORIC PALESTINE

This chapter provides historical and present-day context that underlines the roots of spatial oppression in Palestine. First, to better understand the spatial oppression in Palestine, I explain the historical context of settler colonial planning and the ways in which it has been used as a tool to achieve political control without taking into consideration the basic needs and human rights of Palestinian people. In particular, I provide an analysis of the land laws, and planning system, in relation to their implication on Palestinian housing rights. This analysis covers the period from late Ottoman rule (Land Code,1858) to the present day. I cover the different foreign authorities who ruled Palestine, including the Ottomans, the British Mandate, and the Jordanian administration. This is followed by a summary of the 1948 Nakba and its significance for Palestinian housing history. Then, I provide analysis of the role of the Israeli military occupation of Palestine, specifically its expansion of colonization in the West Bank. Finally, I outline the roots of housing rights denial and home destruction in so-called Area C as well as the unceasing risk of home demolition and forcible transfer in so-called Area C.

2.1 Settler Colonial Planning and the Elimination of the Palestinian Population

The built environment in Palestine has been heavily affected by the struggle over space between the colonial powers that aimed to control the land, and the Palestinian people who resist this power and control (Araj, 2010). The different foreign authorities and colonizers that have ruled Palestine[8] have each acted to impose their regulations and control urban development, the statutory planning system and legislation, while indigenous Palestinians were excluded from real

[8]The Ottomans, the British Mandate, the Jordanian administration in the West Bank and Egyptian administration in the Gaza Strip, and the Israeli colonization and occupation.

participation in these processes (Fruchtman, 1986; Khamaisi, 1997). All these practices have left their shadow on housing rights and development as a component of the physical development of the space.

This chapter lays the groundwork for understanding the roots of spatial oppression and housing rights denial using the framework of colonial and settler colonial planning, land laws, and legislation. It also shows housing as a vital component within the complexity of the struggle over space between the indigenous population and the colonial and settler colonial powers in their attempts to eliminate Palestinians and appropriate their spaces. According to Araj (2010), the struggle over space in Palestine, including housing, is historically rooted. Therefore, I will go through each historical period of significant change of power to shed light on the different regulations such as the land systems and planning laws and their implications for housing rights: 1) Late Ottoman Palestine (1858-1917); 2) the British Mandate (1917-1948); 3) the Jordanian administration in the West Bank (1948-1967); 4) the Israeli Occupation (1967-1993); and, 5) the period from the signing of the Oslo Accords in 1993.

2.2 Late Ottoman Palestine (1858-1917): Ottoman Land System, Planning Laws, and Implications for Housing Rights

The Ottoman period is significant in Palestine's history since it provided a legal and administrative legacy that has remained active until the present time (Coon, 1992; Fruchtman, 1986; Khamaisi, 1997). Ottoman land reforms in 1858 paved the way for significant policies that shaped the development of space in Palestine. The main aim of the Ottoman planning system was to manage physical development that included roads and buildings, particularly in towns (Abdelhamid, 2006; Araj, 2010; Fruchtman, 1986; Khamaisi, 1997).

Regarding Ottoman planning law, the literature refers to the Ottoman Land Code of 1858

as a significant event in this period, which allowed the private ownership of part of the land and opened a new era for land-use development in historic Palestine.[9] The aim of the 1858 Ottoman Land Code was to recognize land ownership through the processes of recording and redistributing the land, as well as to determine the development of control over public land (Abdelhamid, 2006; Fruchtman, 1986; Home, 2003; Khamaisi, 1997). Ottoman law required users to register their land, but much was not registered in order for residents to avoid paying high taxes (Home, 2003). Another reason for establishing this Code was to serve the state's interest in extracting tax revenue from every piece of land by establishing the title to the land and registering its legal owner (Shehadeh, 1993).

Following the 1858 Ottoman Land Code, in 1877 and 1891, special regulations were issued for the development and construction of buildings and roads. These regulations established a system of building permits to control development in towns (El-Eini, 2006; Khamaisi, 1997). In 1877, municipalities were established for 22 major towns and large villages. Municipal councils were given the power to dedicate land for utilities and public use and to issue building permits. The law prohibited building without permission; therefore, building permits were issued mainly in towns, while in villages the process of getting building permits was nearly absent (Fruchtman, 1986; Khamaisi, 1997). Fruchtman (1986) emphasizes that private land was rare, except in the existing urban areas. The land was publicly owned and, in practice, inhabited and tilled by tenants holding long or short leases (Abdelhamid, 2006; Fruchtman, 1986). This system of public ownership and lack of private land ownership enabled land confiscation in later stages by colonial powers, which had severe implications for housing rights.

[9] Historic Palestine: refers to Palestine before United Nations Partition Plan for Palestine (UN General Assembly Resolution 181 (II), 1947).

The Ottoman land laws represented by the Land Code of 1858 and later municipal regulations resulted in a huge variety of types of ownership and land use. It formed the basis for the land legal system in Palestine during the subsequent periods of the British Mandate, the Jordanian and Egyptian administration, and the Israeli Occupation. As we shall see in the following sections, some of these laws and regulations are still in effect now (Coon, 1992; El-Eini, 2006; Fruchtman, 1986; Home, 2003; Khamaisi, 1997).

2.3 The British Mandate (1917-1948): Land laws, Planning system and its Implications for Housing Rights

The period of British rule[10] is considered to be a time of fundamental transformation in urban planning in Palestine. Many scholars have examined land laws and planning systems in the British Mandate period (Abdelhamid, 2006; Al-Rimmawi, 2009; Coon, 1992; Fruchtman, 1986; Home, 2003; Khamaisi, 1997; Shehadeh, 1993). These studies document the British planning legacy and discuss in detail the wide-ranging British land and planning laws and their implications. This literature points to the fact that the British embraced the Ottoman system of land tenure to the degree it could help them in capturing and controlling Palestinian land. It also points out that the British Mandate specifically used the Ottoman Land Code of 1858 and amended it, on the one hand, to control development of the Palestinians and, on the other hand, to promote the Zionist settler colonial project in Palestine. The British government imposed mandatory land use planning laws to expand Jewish colonies and constrain the development of Palestinian communities.

[10] The British rule over Palestine started as a military occupation from 1917 to 1920, then as a civilian government from 1920 to 1923, and as a Mandate Administration from 1923 to 1948 (El-Eini, 2006; Fruchtman, 1986). After the Balfour declaration in 1917, which promised that Great Britain would support the establishment of a Jewish national homeland in Palestine, Palestine began suffering from politico-ethnic conflict between Palestinians and Zionists (Khamaisi, 1997).

British Mandate Regional Outline Schemes: A Colonial Planning System

The British colonial rule used regional planning as a tool in shaping geography (Khamaisi, 1997). The first act in this domain that has direct implications for housing rights was closing the registration of land and transferring the judgment of land issues from Islamic law (Sharia) to secular courts. In 1921, the British enacted the first Town Planning Order (TPO), which was considered part of the process of extending the British Planning System to the British colonies (Al-Rimmawi, 2009; El-Eini, 2006; Khamaisi, 1997). Fruchtman (1986) argues that British Town Planning in Palestine was a tool of "social control." As such, this order produced a centralized and restricted planning system. It created local planning commissions and a central planning commission that had the power to enforce or overturn local commissions' decisions. Based on this act, the urban planning authorities within the local municipal councils were deprived of their authority regarding urban development. The weakness of the local planning system in the municipalities and the absence of local planning in villages contributed to the centralization of the planning system. Therefore, physical development was controlled by this order and Palestinians were excluded from participating in the planning processes (Fruchtman, 1986; Home, 2003; Khamaisi, 1997).

In 1936, the British Mandate issued another town planning order, which added a district planning commission. Palestine was divided into six administrative districts[11] and the district planning commission started preparing land-use plans for these districts. Before the end of the Mandate in 1948, the district commission prepared and approved Regional Outline Plans for almost all of Palestine (Abdulhadi, 1994). Based on these plans, the boundaries for all municipalities that existed in Palestine were established; nine of these municipalities were in the

[11] The districts were: Galilee, Haifa, Samaria, Jerusalem, Lydda, and Gaza. (Cohen-Lifshitz, Mardi, & Shalev, 2008).

West Bank (Coon, 1992; Khamaisi, 1997). The Regional Outline Plans provided general guidelines for development and growth based on community needs and had two main goals: a) to guide the application of planning and building laws to all of Palestine; and b) to generate a legal tool for granting building permits outside cities and town planning areas (Cohen-Lifshitz et al., 2008). As such, the district commissions could issue building permits in the absence of locally outlined plans, or detailed plans (Abdulhadi, 1994). However, plans for villages were very limited even though villages comprised most of Palestine's localities. Outline plans were prepared for only 25 Arab Palestinian villages, eight of them in the West Bank (Coon, 1992).

The district plans have had a direct impact on land-use development in the West Bank, and therefore on housing development. The land zoning that was introduced by the district plans comprised four types of zoning: (1) development zones, including the built-up areas and small border areas of villages; (2) agricultural zones, which included all the areas outside the municipal area and the development zones in villages; (3) nature reserves; and (4) state domain zones (Khamaisi, 1997). Development in each zone was governed by a set of regulations that controlled the type of construction, the built-up areas and the set-back from existing roads or buildings (Abdulhadi, 1994). Development activities and construction of buildings were allowed only in the development and agricultural zones and prohibited in the natural reserves and state domain zones. Additionally, building permits were required for any development and building activities (Khamaisi, 1997).

The British Mandate prepared the plans for Palestinian districts with little opportunity for community participation or objection. The official approvals for community plans prepared by or for Palestinians were delayed and their population growth was not reflected in the housing projections. Even though most of the Palestinian population was living in rural areas, little

attention was given to development in villages. The few village development projects undertaken involved minor programs like sanitation and roads (Coon, 1992; Home, 2003). The Mandate plans (S/15, covering the northern part of the West Bank; RJ/5, covering Jerusalem; and R/6, covering a small part of the western West Bank, see Figures 2.1, 2.2 & 2.3) are still applied today to Palestinian communities in the West Bank, particularly in so-called Area C, by the Israeli Civil Administration as reference to approve master plans and therefore issuance of building permits (Cohen-Lifshitz et al., 2008; JLAC, 2011).

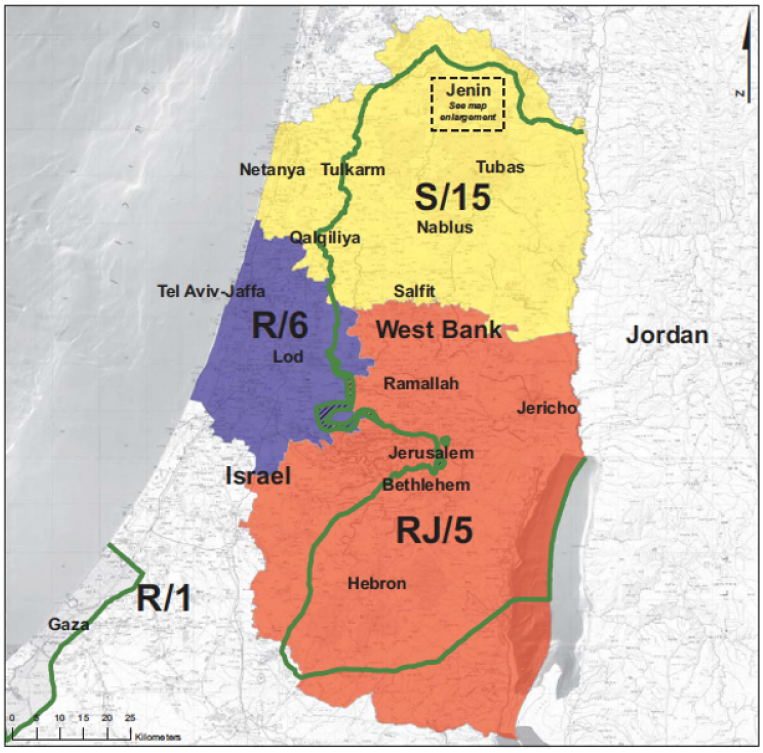

Figure 2.1: The British Mandate Regional Outline Plans in the West Bank.

[Compiled by W. Butmeh, UN-Habitat, Ramallah, for the author]

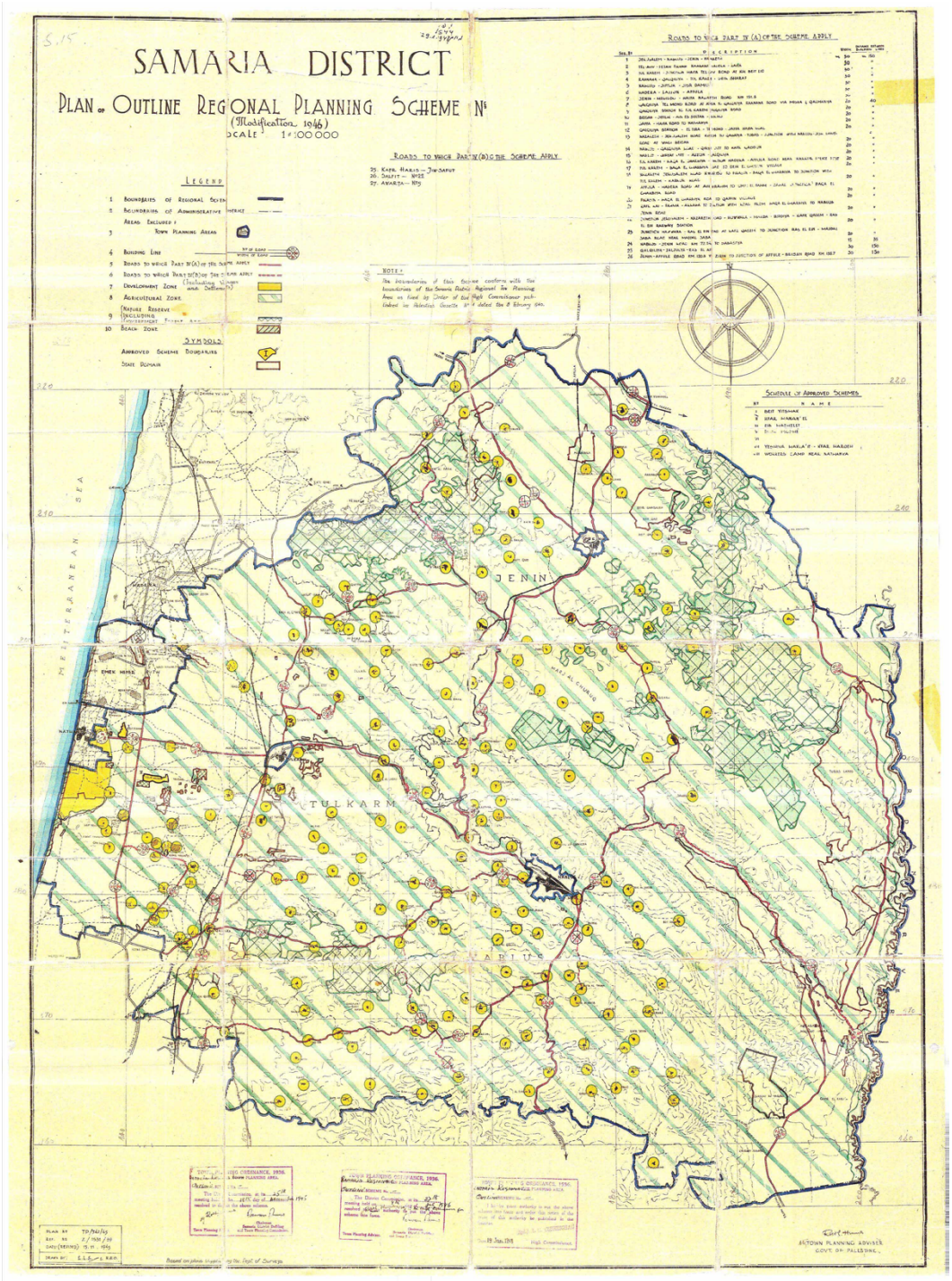

Figure 2.2: British Mandate District Plan S-15.

[Compiled by W. Butmeh, UN-Habitat, Ramallah, for the author]

Palestinian Population's Housing Right and Construction During the British Mandate

The district plans prepared by the British Mandate drew tight boundaries around Palestinian towns and villages and defined areas smaller than the existing built-up area. The houses beyond these boundaries were demolished[12] (Coon, 1992). The British Mandate planning regulations made it difficult to gain approval for extensions or new buildings (Home, 2003). At the same time, large land allocations were accorded to Jewish colonies (Home, 2003).

According to Coon (1992), rules for building rights were set up by planning regulations and formed the basis for obtaining building permits. All building or physical development had to obtain a permit according to the outline plan. Obtaining a building permit from the local or the district commission also required a confirmation of land ownership. However, the plans and the 1936 TPO gave the central commission the power to commence development and building without a permit from local or district commissions (Coon, 1992).

The Mandate Government was not involved in providing housing, nor providing financial assistance to municipal housing schemes. Its housing policy was mainly to initiate development schemes (El-Eini, 2006).[13] In 1945, the Mandate government put together the Emergency Building Scheme. In this scheme, Palestinian housing needs were clearly placed at a disadvantage compared to the housing needs of Jewish settlers, resulting in a spatial imbalance in housing provisions between Palestinians and Jewish settlers. This scheme had hardly any benefit for Palestinian rural housing, although this area was considered to be the most in need (El-Eini, 2006). In her attempt to justify the imbalance in housing provided through the Emergency

[12] Later, this policy of home demolition is adopted by the state of Israel toward the Palestinian population in all historic Palestine.

[13] El-Eini (2006) looks at the British Mandate through an oriental lens. She does not consider the Mandate as a colonizing power but rather a government that was implementing development schemes in Palestine.

Building Scheme of 1945, El-Eini (2006) claims that the obvious scarcity of 'Arab'[14] housing associations were the main reasons for excluding rural areas from housing development. El-Eini (2006) ascribes the scarcity of housing associations to the poor skills and lack of financial resources in the Palestinian population, while the settler Jewish population was more involved in the planning and implementation of the plans since they had organization and planning skills, as well as financial and material resources.

The explanation offered by Coon (1992) regarding the lack of housing development in rural areas differs slightly from El-Eini's justification; he argues that the Mandate law prohibited construction on agricultural land, preventing Palestinians in rural areas from expanding their villages, which left these villages overcrowded. Most of these agricultural lands were later transferred to Jewish-controlled local authorities or to the state for forestry or green space (Coon, 1992). The work of Home (2003) corresponds with Coon (1992), as he argues that while the Mandate restricted the spatial development of Palestinians, it allowed 'close settlement on the land' by Israeli settlers (p. 298). Thus, Israeli settlers increased their ownership and control over the land, establishing hundreds of new agricultural colonies, which were extended into the Occupied Palestinian Territories after the 1967 war (Home, 2003).

To summarize, many scholars found that the Mandate Planning Acts of 1921 and 1936 provided the framework for controlling land and physical development in Palestine, including housing construction (Abdelhamid, 2006; Abdulhadi, 1994; Coon, 1992; Fruchtman, 1986; Home, 2003; Khamaisi, 1997). The plan-making process was employed to restrict the expansion of Palestinian villages, while encouraging Zionist colonial settlement. The British Mandate amended the Ottoman planning system to realize its goals and spatial development policies. The

[14] El-Eini (2006) uses the term 'Arabs' to refer to the native population in Palestine, while other scholars who have been cited in this chapter use the term 'Palestinians' to refer to the same group.

needs of the indigenous Palestinian population, including housing, were not taken into consideration under this planning system. It was entirely initiated by the Mandate regime and imposed on Palestinians who did not trust the British Mandate and its policies especially when it came to land use and land confiscation. At the same time, new Zionist colonies were rapidly developing without the Mandate planning system requiring structural plans for them.

The struggle between Palestinians and Zionist settler colonizers to control the space and land in Palestine under the British Mandate was reflected in housing construction. The main contribution of the British Mandate to establishing systematic housing policies in Palestine was in general through their land and planning legal system, in particular the part that concerned land zoning and building rights. The British Mandate enabled Zionist colonial settlement and restricted Palestinian housing construction through delaying the approval of Palestinian district plans, complicating the process of gaining building permits (Home, 2003; Khamaisi, 1997), drawing tight boundaries on Palestinian towns and villages and, finally, demolishing houses outside these boundaries (Coon, 1992; Home, 2003).

2.4 The Palestinian Nakba 'Catastrophe': 1948

The end of the British Mandate in 1948 and the war between Arabs and Zionists that followed resulted in the partition of Palestine into three political entities (Khalidi, 1992). The state of Israel was established on one part that included 77% of Palestine. The second part, including 21% of Palestine, is called the West Bank and went under Jordanian authority in 1950. The third part, which includes 2% of Palestine, is called the Gaza Strip and went under Egyptian administration after the war (Khamaisi, 1997). Falah (1996) refers to 1948 as an event that

"uprooted Palestinians from their places" (p. 258). This Nakba,[15] meaning "catastrophe" in Arabic, resulted in widespread loss of home and community for Palestinians (Falah, 1996). Based on the United Nations' Conciliation Commission estimate, about 726,000 Palestinians were expelled from their homes in the territory that became state of Israel. [16]

This significant event has had notable implications for housing rights not only in Palestine but also for the whole region. One of the permanent features is the emergence of refugee camps[17] as a new form of housing to shelter refugees in the West Bank and Gaza Strip, as well as in other neighboring countries. Allweil (2011) considers 1948 a vital point in housing history that "marks a watershed line in the relationship between housing and sovereignty" (p. 5). She stressed that 1948 witnessed a mass loss of housing for the Palestinians, and mass housing solutions to accommodate the Jewish "immigration."

2.5 Jordanian Administration in the West Bank (1948 -1967): Jordanian Planning System and its Implication for Housing Rights[18]

Despite the political partition of Palestine, the British Mandate's land laws and plans continued to guide planning legislation in the three political entities (Khamaisi, 1997). In this section I will focus only on the West Bank, including East Jerusalem, and the development of planning legislation and land-use and its implication for housing rights.

The Jordanian planning Law, which was applied in the West Bank, was based, with little amendment, on the Mandate planning system. The development of towns and villages and,

[15] The *Nakba* (catastrophe) did not get this name from the number of casualties in the war; rather it refers to the loss of homes and homeland in what Hanafi terms "Spacio-cide" (Hanafi 2009).
[16] "A/AC.25/6/Part.1". United Nations. 28 December 1949. p. 22. Retrieved 12 Oct. 2018 from https://unispal.un.org/UNISPAL.NSF/0/C2A078FC4065D30285256DF30068D278
[17] I discuss the emergence of the refugee camps only briefly since the scope of this thesis does not allow in-depth examination of the literature about the camps.
[18] Due to the complexity and fragmentation of historic Palestine after the Nakba to different political entities with different foreign authorities, I will focus only on the West Bank in the coming sections.

therefore, the housing sector was limited and guided by the plans that were produced during the British Mandate (Abdelhamid, 2006; Abdulhadi, 1990; Coon, 1992; Khamaisi, 1997). However, in contrast to the British Mandate planning legislation that excluded the local government from the planning process, under the Jordanian Administration the local government—including the municipal and village councils—was responsible for local planning and controlled construction activities within the municipal boundaries. However, the municipal boundaries remained defined by the Mandate's plans. Construction activities outside the municipal limits needed approvals from the districts' planning committees and, in most cases, from the central planning committee (Abdulhadi, 1994).

In 1955, the Jordanian Administration passed the "Towns, Villages and Building Planning Law" no. 79, which was amended and enacted in 1966.[19] The Planning Law of 1966 was a complex mixture of Ottoman, British and Jordanian law (Coon, 1992) which governed the planning process on the local, district, and national levels. It largely maintained the British Mandate planning laws in the West Bank with some additions (Abdulhadi, 1990; Coon, 1992; Khamaisi, 1997). It established a hierarchical planning structure that included three levels of planning authorities—on the national, district and local level—and defined the responsibilities of each level of authority regarding the preparation and approval of development plans, and the issuing of building permits. The first level was the Higher Planning Council (HPC),[20] which was chaired by the Minister of the Interior. The second level consisted of the District Planning

[19] Towns, Villages, and Buildings Planning Law (Temporary Law) (Law No. 79 of 1966) (Jordan): document from the Ministry of Local Government (MoLG), Ramallah, Palestine.
[20] Towns, Villages, and Buildings Planning Law (Temporary Law) (Law No. 79/1966)/ article 6. The (HPC) is responsible for: defining planning area's boundaries, approving regional and outline plans, hearing appeals against the decisions of the District Committees, and approving regulations relating to building procedures.

Commissions (DPC)[21]—intermediate between the HPC on the national level and the local level (Local Committees)—for every administrative district. The third level was the Local Planning Committees,[22] which gave the village councils powers to act like the municipal councils and endorsed participation from local communities and non-official organizations. Based on the Jordanian Planning Law, any construction of new structures (including housing) required building permits either from the municipal councils or from the district committee if towns and villages did not have councils. Appeals against the refusal of building permits were possible. Construction without a permit resulted in demolition or a fine. However, in practice, demolitions due to a lack of building permits rarely took place (Abdulhadi, 1994).

It is important to note that in 1953, the Jordanian administration started to survey the land in the West Bank. By 1967 only 38% was registered (Abdulhadi, 1990), which affected the Palestinians' ability to prove land ownership after 1967. However, by 1967, only around 13 % of the land in the West Bank was registered in the name of the state (Abdulhadi, 1990).

2.6 Israeli Military Occupation 1967–1993:[23] Expansion of Colonization to the West Bank

As a result of the Six Day War in June 1967, the Israeli army occupied the West Bank and Gaza Strip. Right after the Israeli army occupation the West Bank, they issued the first Military Order (MO) which handed executive and legislative powers to the Israeli military regime. This gave the

[21] Ibid: article. 8. The (DPC) is responsible for: approving detailed plans, hearing objections to regional and outline plans, and making its recommendations to the HPC regarding these objections, hearing appeals against the decisions of the Local Planning Committees in the district, and carrying any functions related to building inspections.
[22] Ibid: article. 9: it could be a city or town council (article 9.1.a, b) and village council (article 9.1.c). The Local Planning Committees are responsible for: preparing the outline and detailed plans; hearing objections to detailed and outline plans, providing opinions on the objections to the District Planning Committee, approving of parcel schemes and granting building permits (article 9.2).
[23] In this study, I divide the period of Israeli military occupation of the West Bank into two phases: 1. Phase 1 (1967-1993); 2. Phase 2 (1993- present) after the Oslo agreement when limited authority over the main cities and towns was transferred to the Palestinians, while about 63% of the West Bank came to be known as Area C and remained under full Israeli military control.

Israeli military regime power over Palestinians and every aspect of their life, including their territories' development, paving the road for expanding Israeli colonization to the West Bank.

Directly after the 1967 War, the Israeli policy to control territorial space and transform it into Israeli space shaped the spatial development of the West Bank. The implicit and explicit goal of the Israeli authorities – to control as much land as possible with a population as small as they could make it – informed all their policies in the West Bank. In order to achieve this goal, many policies were directed toward the built environment (Al-Rimmawi, 2009). By the end of 1967, the Israeli government started its strategic colonization plan, known as the Allon Plan (see figure 2.4), in the West Bank. [24] Although this plan was not formally approved, it formed the foundation for territory appropriation and the establishment of Israeli colonies in the West Bank (Abdulhadi, 1990; B'Tselem, 2002). In 1978, Israeli colonization efforts in the West Bank were expanded based on the Drobless Plan,[25] (see figure 2.5), which, to this day, is considered the main document informing Israeli colonization policy in the West Bank (Abdulhadi, 1990; B'Tselem, 2002). The plan proposed constructing a chain of Israeli colonies on the main mountains and hilltops around Palestinian cities and towns across the West Bank. Also, the plan included the establishment of a road network aimed at fragmenting and isolating Palestinian towns and villages (B'Tselem, 2002). Based on these plans, many Israeli colonies and an Israeli-

[24] The Allon Plan was conceived by Yigal Allon who served as the Minister of Immigrant Absorption and Vice Prime Minister in the Israeli government between 1967-1969. It proposed the annexation of Palestinian lands that were not heavily populated, including the Jordan valley, areas around Jerusalem and southern Hebron hills. It advocated for Israeli sovereignty and "Jewish presence" in the West Bank, based on the claim it is necessary for Israel's defense
http://www.knesset.gov.il/lexicon/eng/alon_eng.htm, accessed on April 17, 2018.

[25] The Drobless Plan was crafted by Matitiyahu Drobless—head of the World Zionist Organization's Settlement Division. According to the plan "The civilian presence of Jewish communities is vital for the security of the state… There must not be the slightest doubt regarding our intention to hold the areas of Judea and Samaria forever… The best and most effective way to remove any shred of doubt regarding our intention to hold Judea and Samaria forever is a rapid settlement drive in these areas". Matitiyahu Drobless, The Settlement in Judea and Samaria – Strategy, Policy and Program (in Hebrew) (Jerusalem: World Zionist Organization, September 1980), p. 3 as cited in (B'Tselem, 2002).

only network of bypass roads were established and spread across the West Bank,[26] promoting land appropriation and territorial control (Abdulhadi, 1990; B'Tselem, 2002). Planning is one of the strategic tools used to facilitate the implementation of Israel plans, resulting in the forcible displacement of the Palestinian population and violations of their basic rights including their housing rights.

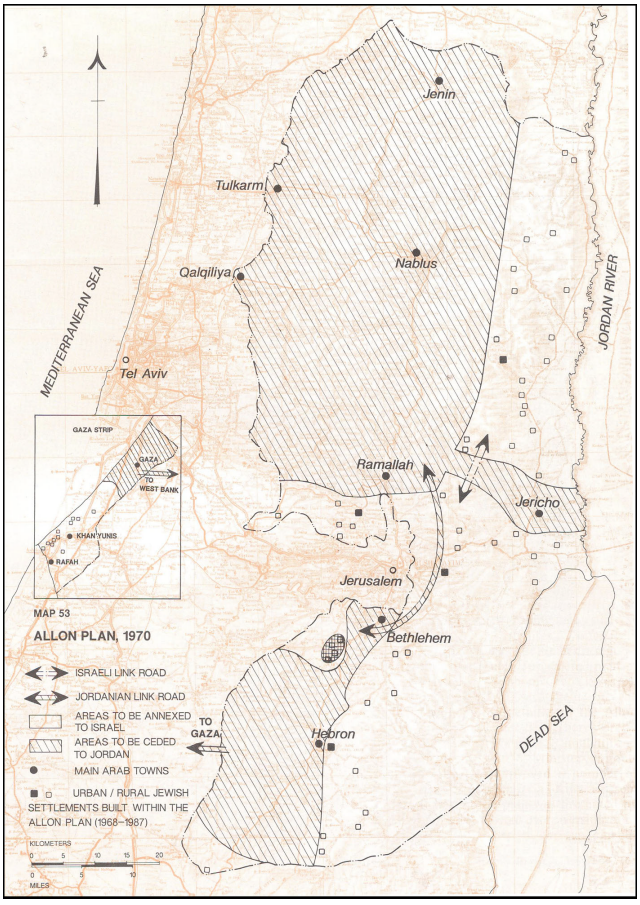

Figure 2.4: Allon Plan
Benveniśtî, M., & Khayat, S. (1988). The West Bank and Gaza Atlas. West Bank Data Base Project.

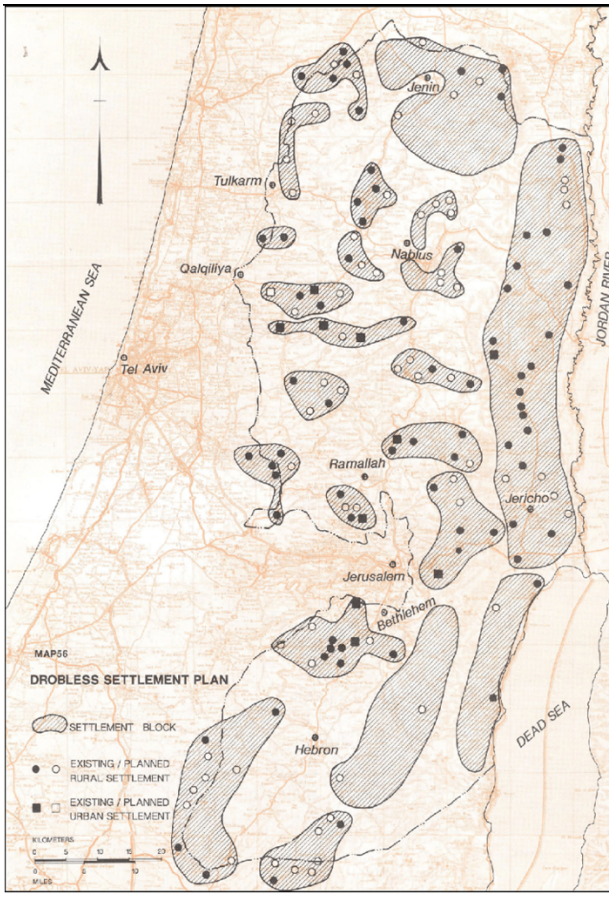

Figure 2.5: Drobless Plan
Benveniśtî, M., & Khayat, S. (1988). The West Bank and Gaza Atlas. West Bank Data Base Project.

[26] Projecting the Allon and Drobless Plans onto current maps, which shows the Israeli colonization in the West Bank, shows the extent to which they match.

Planning Under Colonial Military Occupation and its Implications for Housing Rights

The British Mandate colonial land and planning system was the legal framework that informed and facilitated Israeli control and capture of the territorial space and physical development in the West Bank (Abdelhamid, 2006; Abdulhadi, 1990; Alnoubani, 2010; Araj, 2010; Bahiri, 1990; Coon, 1992; Fruchtman, 1986; Home, 2003; Khamaisi, 1997). If this framework contradicted Israeli interests, amendments were initiated through the issue of MOs,[27] such as MO 393[28] and MO 418[29] (Abdulhadi, 1990; Araj, 2010; Khamaisi, 1997).

The strict military regime facilitated the creation of policy schemes with implications for housing rights and development in the West Bank, which continue to the present day. On the one hand, there exist policies that limit the extension of Palestinian communities by restricting and hindering new development and demolishing Palestinian homes and structures. On the other hand, there are policies of Israeli colonial settlement that promote extensive construction and development of new physical Israeli colonies in the West Bank (Cohen-Lifshitz et al., 2008). These dual directions were implemented through a series of activities that include: (a) the centralization of planning processes in the hands of the Israeli Occupation authorities; (b) the use of British Mandate plans in a selective way and without revision to municipal boundaries; (c) hindering access to building permits; (d) demolition of homes and livelihood structures; and finally (e) building Israeli colonies. The sum of these practices—outlined below—has negatively impacted Palestinian efforts toward housing development within the complex conditions of military occupation and settler colonialism and contributed to the denial of their housing rights.

[27] Since 1967, the Israeli authorities have used MOs to transfer land in West Bank into state ownership and later to Israeli settlement (B'Tselem, 2010).
[28] Order regarding Supervision of Construction (Judea and Samaria) (No. 393), 5730-1970.
[29] Order Concerning Towns, Villages, and Buildings Planning Law (Judea and Samaria) (No. 418), 5731-1971.

The centralization of the planning process

The centralization of the planning process by Israeli occupation officials has enabled them to implement top-down control of physical space through the Military Government and later the Civil Administration.[30] This has direct implications for the Palestinian population's planning rights and, therefore, their housing rights. First, MO 393[31] in 1970 widened the planning powers of the occupation authorities (Abdulhadi, 1990; Coon, 1992), and gave the military commander the authority to halt, prohibit and set conditions for new construction, including housing (Abdulhadi, 1990).

Then, MO 418[32] amended the Jordanian Urban Planning and Infrastructure Law of 1966.[33] It established the Israeli Higher Planning Council (HPC),[34] abolished the District Committees and gave their power to the HPC.[35] At the same time, MO 418 allowed the establishment of Planning Committees within Israeli colonies and gave them the power to issue master plans and permits (UN-Habitat, 2015). Through this order, the planning system, land use policies and development in the Palestinian communities were concentrated in the hands of the Israeli government through the Civil Administration (Abdulhadi, 1990; Cohen-Lifshitz et al., 2008; UN-Habitat, 2015). Thus, through the exclusion of Palestinian municipal councils from planning administration, Palestinian housing needs were ignored (Khamaisi, 1997).

[30] In 1981 and based on Israel MO No. 947, Israel established the Civil Administration (ICA) to replace the initial orders that established the Israeli military government. The Israeli Civil Administration is the current authority in the West Bank, under the command of the Israeli defense ministry and its military courts. As such, it is ruled and controlled by the Israeli Army and its commanders, applying military law to guide every aspect related to Palestinian's daily lives.
[31] Order regarding Supervision of Construction (Judea and Samaria) (No. 393), 5730-1970.
[32] Order Concerning Towns, Villages, and Buildings Planning Law (Judea and Samaria) (No. 418), 5731-1971.
[33] The applied law regarding planning in the West Bank during this period was the Jordanian Planning Law no. 79 of 1966 and "security enactments" in the form of MOs issued by the Israeli Army Commander or the Head of the Civil Administration. This is still the case in so-called Area C.
[34] Order 418, Article 2(2).
[35] All its employees are Jewish Israelis with no representation of the Palestinian population.

The use of British Mandate plans

The selective use by the Occupation authorities of British Mandate plans restricts and limits any new construction including housing (Araj, 2010). These British Mandate plans continue to be used in the West Bank as a reference to either issue or refuse building permits and demolish houses. Contrary to urban planning standards, these mandates plan were not updated to meet the population's needs as the amendment was not approved (Coon, 1992; Home, 2003). Coon (1992) clarified that the Mandate plans focus solely on existing development and do not address future development. The use of these plans effectively limits development only to those structures that were in place when these plans were developed.

The use of the Mandate plans without revisions to municipal boundaries restricts the expansion of Palestinian communities and blocks them from achieving more spatial control (Abdulhadi, 1994; Araj, 2010). Regardless, many towns and villages prepared planning schemes for new development programs; however, these plans were not approved (Abdulhadi, 1994).

Obstructing access to building permits

Any construction project, including housing, requires the acquisition of building permits, most often a long and complicated process. It also requires conformity to all the conditions of the Mandate District Plans including zoning, size of plot and frontage, rights of buildings, setback, affirmation of ownership and confirmed land parcel schemes (Abdulhadi, 1990). Khamaisi (1997) asserts that the HPC hindered construction of new buildings and refused the issuance of new building permits in the absence of even one of these conditions.[36]

Araj (2010) and Coon (1992) agree that the Occupation authorities exploited two

[36] For example, in 1986, the number of building permits issued by the Israelis in areas outside main municipalities in the West Bank was 381 out of 2,370 applications (Coon, 1992, p. 133)

restrictive measures in the Mandate plans to refuse building permits outside towns and villages. First, through the prohibition of building in agricultural zones (even though development was not prohibited in this zone according to the Mandate plans) and, second, through the prohibition of building more than one house on a plot of land by not authorizing parceling of the land. Khamaisi (1997) argues that the proof of land ownership and the land parcel schemes were the most difficult conditions to meet—especially in villages—which make up 95% of the West Bank. After 1967, Occupation authorities ended new land registration[37] under MO 291[38] (Shehadeh, 1997). This change simultaneously placed approximately two-thirds of West Bank lands in a state of 'limbo' and refuted the Land registration records from the Ottoman period (Araj, 2010; Coon, 1992; Khamaisi, 1997).

Despite these measures, many people built houses without a building permit, which left them under threat of home demolition (Abdulhadi, 1994). Araj (2010) considers this practice to be 'planning from the bottom up' to resist the hegemony of the Occupation policies. She emphasized that Palestinian people acted as informal actors who challenge the formal policies and practices that aim to limit their existence to particular spaces.

Home and infrastructure demolition (Domicide)

The policy of home demolition is a core part of the Israeli settler colonial project in Palestine, and it has been expanded to the West Bank since 1967. This policy is considered a continuation of the British Mandate home demolition policy and Israeli policies of home destruction inside parts of Palestine which became the state of Israel in 1948, the process the Israeli historian Ilan Pappé (2006) described as 'ethnic cleansing'.

[37] Land registration started during the British mandate in 1928 and continued during the Jordanian role in the West Bank (Shehadeh, 1997)
[38] MO 291: "Concerning the Settlement of Disputes over Titles in Land and the Regulation of Water" (19 December 1968)

According to the Israeli Committee Against House Demolitions (ICAHD, 2021), approximately 60,000 Palestinian structures have been demolished since 1967. These structures include homes, schools, livelihood structures and infrastructure such as roads and water pipes, which all are vital to Palestinian life.

There is a significant body of literature that has examined the history of home destruction policies in historic Palestine, as well as the ongoing home destruction, its impact on shaping Palestinians spaces, and its implications for the lives of Palestinian people. Some studies focus on the Palestinian Nakba (catastrophe) in 1948, including ethnic cleansing via the destruction of Palestinian villages, loss of homes and homeland where Palestinians were swept from their homes in cities and villages [39] (Falah, 1996; Khalidi, 2010; Masalha, 2012; Pappé, 2006). Other studies examine the ongoing destruction of Palestinian cities, villages, and built environment (Abujidi, 2014; Abujidi & Verschure, 2006; Graham, 2004; Hanafi 2009), in which the deliberate destruction of Palestinian spaces has been described as 'urbicide' (Abujidi, 2014; Graham, 2004) and 'spacio-cide' (Hanafi 2009). Graham (2004) proposes that the destruction of the Palestinian built environment is part of 'asymmetric urbicide' (p. 193). He points out that home demolition is part of an Israeli urban destruction policy that aims to change the landscape in the West Bank through "carefully planned construction of place and space in the occupied Territories" (p. 194). Weizman (2002) argues that 'territorial and architectural planning' are at the core of the 'Palestinian-Israeli conflict' and that the built environment is used as the arena of this conflict (Weizman, 2002).

On the other hand, some studies focused on home demolition and its implications for Palestinians (Akesson, 2014; Harker, 2009; Meade, 2011; Shalhoub-Kevorkian, 2010). Harker

[39] The destruction of Palestinian communities continued in 1967; certain villages such as Yalu, Beit Nuba and Immuas were completely demolished in the aftermath of the 1967 war (Abdulhadi, 1994).

(2009) and Akesson (2014) describe the Israeli home destruction policy in Palestine as domicide, a term that was coined by Porteous and Smith (2001) who define domicide as "the deliberate destruction of home by human agency in pursuit of specified goals, which causes suffering to the victim" (Porteous & Smith, 2001, p. 12). While Halper (2010) considers the policy of home demolition to be a collective punishment of Palestinian inhabitants that contributes to what he has identified as Israel's *matrix of control* (Halper, 2000, 2010), the Applied Research Institute of Jerusalem (ARIJ) connects the action of home destruction to Israeli colonial policies and plans, in which home demolition is considered an integral part of this policy (ARIJ, 2004).

According to Amnesty-International (2004), home destruction policy falls into two categories; (1) houses built without permits and (2) houses demolished for "military/security needs"[40] (p. 7). Buildings were built without permits because it was very difficult, and often impossible, for Palestinians to obtain building permits outside the municipal boundaries in the years between 1967-1995 and later in so-called Area C and East Jerusalem (Abdulhadi, 1994; Nyamu-Musembi & Cornwall, 2004; UN-Habitat, 2015). Demolition for purposes of "military/security needs" is understood broadly and can be interpreted by the Occupation authorities in many ways. This category includes: (a) punitive demolition of houses belonging to families of Palestinians who are known or suspected of involvement in suicide bombings and other attacks against Israeli civilians and soldiers; (b) houses which the Israeli authorities claim it is necessary to destroy for "security needs"; (c) houses which the authorities contend were used or could be used by Palestinian armed groups to shoot or launch attacks against Israelis (Amnesty-International, 2004). Amnesty-International (2004) demonstrates that these

[40] For more information on punitive home demolition and its legal consequences see: (Al-Haq,1994). Legal Consequences of the Demolition of Houses by Israel in the West Bank and Gaza Strip. Retrieved from http://www.alhaq.org/publications/publications-index/item/legal-consequences-of-the-demolition-of-houses?category_id=10 , April 25, 2018.

demolitions have targeted the most vulnerable sector of the Palestinian population.

Israeli colonization policy[41] in the West Bank, land seizure and confiscation.

Parallel to destruction of Palestinian buildings and the prohibition and restriction against building new housing, Israeli occupation authorities facilitate the construction and development of Israeli colonies and a network of road bypasses to connect them (Araj, 2010). Israeli occupation authorities confiscate land[42] through the selective use of the vague and complex existing laws and through MOs (Home, 2003).

The Israeli settler colonization policy in the West Bank contravenes land-use provisions in the British Mandate regional plans, since these plans do not reserve areas of lands to construct new communities for specific religious or ethnic groups (Araj, 2010; Coon, 1992; Home, 2003; Khamaisi, 1997). Therefore, to enable the development of Israeli colonies, the occupation authorities used the Mandate plans in a selective way and amended them. According to Coon (1992), the HPC prepared the first Israeli Regional Plan no. 1/82[43] in 1982 that reserved lands in the West Bank and Gaza Strip for Israeli colonies.[44] Additionally, the HPC prepared Road Plan No. 50 in 1984 to connect the Israeli colonies with each other and to Israel through bypass

[41] Israeli colonies in the Palestinian territories occupied since 1967, including East Jerusalem, are illegal according to United Nations Security Council Resolution 2334, which was adopted on 23 December 2016. Constructing these colonies violates International Law.

[42] For more information on Israeli colonization policy and land confiscation to build colonies see: (B'Tselem, 2002, 2010, 2016).

[43] "It identified five land-use zones: agriculture, nature reserve, future development, reserved area, and built-up village areas. This plan was aimed at preventing the Palestinians' right to building permits in agricultural zones according to the Mandate plans. It also limited Palestinian development in villages and in congested built-up areas. Notably, the areas designated for future development by this plan were selected for the creation or expansion of Jewish colonies. This plan was submitted by the HPC according to the Jordanian Planning Law no. 79, but has not yet received final approval" (Araj, 2010, p. 127)

[44] The number and size of the Jewish colonies and bypass roads in the West Bank has grown intensely after the signing of the Oslo Accords in 1993.

roads.[45] These plans determined a large setback from existing and proposed roads (Araj, 2010; Coon, 1992; Khamaisi, 1997; Shehadeh, 1993). According to Alnoubani (2010), the Israeli colonies in the West Bank have their own municipal councils that have authority over planning, land use, housing development and infrastructure. In some cases, Israeli colonies were exempt for the requirement for granting building permits and structural plans (Coon, 1992).

Shehadeh (1993), Falah (2003) and Yiftachel (2006), in their analysis of Israeli colonial settlement policy, agree that this policy is a tool to control territories and to limit Palestinians' ability to expand. Shehadeh (1993) argues that Israel, in its colonial policy, considered the Palestinian communities and lands as constraints, therefore they were "encircled and then penetrated and fragmented" (p. 81). Falah (2003) considers the Israeli "settlements"[46] as "micro-colonies," because (a) they act on behalf of and reflect the government policy and (b) they are serving, like outposts, to capture and control more territory" (Falah, 2003, p. 189). Yiftachel (2006) agrees with Falah (2003) and states that Israel colonial policy, within the green line and later in the OPT, was used to achieve its Judaizing strategy. He describes Israel colonial policy as a combined and colonized 'Judaization' and '*de-Arabization*' policy.

Israeli colonial policies have a direct impact on Palestinian housing development. These policies foster control of space and the erasure of indigenous Palestinian communities through prohibiting Palestinians from building on their own land and denying their rights for housing.

[45] This plan created a dual road system in the West Bank: the main users of the one is the Palestinians, and of the other are the Jews. According to ARIJ (2004) the term 'bypass roads' came with the advent of the Oslo Accords and were not present before that.
[46] Settlements is the term Israeli authorities use for their colonies.

2.7 Militarized Colonial Occupation (1993-present): Land Fragmentation and Segregation

In September 1993, the Palestinian Liberation Organization (PLO) and the Israeli government signed a declaration of principles (known as the Oslo Accords).[47] Based on the Oslo Accords, the Palestinian Authority (PA) was granted limited sovereignty over parts of the West Bank as a transitional period to self-determination and complete independence (Qazzaz, 2007).

In this period, the significant issue with major implications for housing rights is the division of the West Bank into different zones with different policies and regulations. This added another level of complexity to the existing laws, regulations, and occupation policies. The new zoning system separates Palestinian communities into a series of fragmented islands (Mushasha & Dear, 2010). This fragmentation has had significant implications for urban planning and therefore the development of the Palestinian communities.

Territorial Fragmentation in the West Bank: The Invention of So-Called Area C and its Implications for Housing Rights

Based on the Oslo II agreement in 1995,[48] and the Sharm el Sheikh Memorandum in the year 2000,[49] the West Bank was divided into Zones[50] A, B, C, H1 and H2 (ARIJ, 2004; Hanafi 2009). Zone A (Area A) includes the major populated cities and villages and comprises 17% of the West Bank; the PA has, in theory, control of both security and civilian administration.[51] Zone B (Area B) represent 23% of the West Bank, mostly rural areas, in which the PA has control only over civilian issues. Zone C (Area C) constitutes 60% of the West Bank; this area remains under

[47] According to the Oslo Accords of 1993, the Palestinian National Authority (PA) was formed as a 5-year transitional body, which was meant to lead to the final status solution to be negotiated.
[48] Available at http://www.palestinefacts.org/pf_1991to_now_oslo_accords_2.php. Accesses January 13, 2019.
[49] Available at https://www.knesset.gov.il/process/docs/sharm_eng.htm. Accesses January 13, 2019.
[50] See figure 2.6: Oslo II agreement (1995) official map of Areas A and B, the rest of the West Bank is being defined as Area C.
[51] This sovereignty exists only in theory as the Israel army and armed settlers still have complete capacity to invade Area A at any time.

full Israel security and civilian control (B'Tselem, 2016; Thawaba, 2014). Hebron City is split into two security zones: (1) H1 is under the PNA control, and (2) H2 is under Israeli military control (Hanafi 2009).

This newly imposed zoning system divided Area A and B into 165 non-contiguous islands that cannot thrive as the surrounding lands are located in Area C. The boundaries of Area A and B are drawn around the communities' built-up areas (B'Tselem, 2016). Additionally, these enclaves are divided by the Israeli-only network of roads that bypass them and connect the Israeli colonies with each other and with Israel (ARIJ, 2004; B'Tselem, 2016). Hanafi (2009) points out that "the objective of this classification (A, B and C) is primarily to exclude and make possible the spacio-cidal project" (p.115). (Araj, 2010) points out that, in addition to the division of the space into zones (A, B and C), there is no physical boundary demarcation. As a result, many places remain in 'limbo,' thus hindering their development, as it is not clear whether they are in Area B or C.[52]

This political zoning system has created two different yet parallel planning schemes: (1) a colonial planning scheme controlled by the Israeli occupation authorities, designed to serve the Israeli settlers living in the West Bank while limiting the development of Palestinian communities and (2) a Palestinian scheme designed to serve (and restrict) the Palestinian people within the boundaries of Area A and B only (ARIJ, 2004). I would argue that the colonial planning scheme that is applied in Area C is not new. The same colonial planning scheme that was applied before Oslo is maintained and deeply employed to control the land and empty it of its indigenous inhabitants. As such, Palestinian communities in Area A and B are trapped within

[52] From my own experience working with an architectural firm in Ramallah, we prepared all the plans and tender documents for a public building to be built on a piece of land on the boundary of area B, but we were never able to get an answer if the land was in area B or C. The PA could not decide, and the Israeli authorities never provided an answer. Therefore, Jericho municipality decided to relocate the project. (See figure 2.6)

the boundaries of these areas and cannot expand beyond them as they are surrounded by Area C, which is under Israeli control. The same is true for Palestinian communities in Area C, which cannot develop without—the almost impossible to gain—Israeli consent.

Araj (2010) analyzed the planning system in the West Bank slightly differently than ARIJ (2004). She recognizes additional layers heightening the planning system's complexity. Araj (2010) identifies four actors that are involved in the 'territorial changing' and 'the struggle over the space.' Similar to ARIJ (2004), she identifies two formal planning systems imposing policies from the top-down: (1) the Israeli colonial planning system in so-called Area C, and (2) the PA planning system in Area A and B only. On the other hand, Araj (2010) distinguishes additional layers imposing policies which take place from the bottom-up and include: (1) the practices of the Israeli settler colonizers that change the facts on the ground, which are then supported by the Israeli governments using military power to control the land; and (2) the practices of the Palestinian people who resist this control and the hegemony of Israeli state policies and power. The following section will shed light on the planning system in so-called Area C and its implication for housing rights.

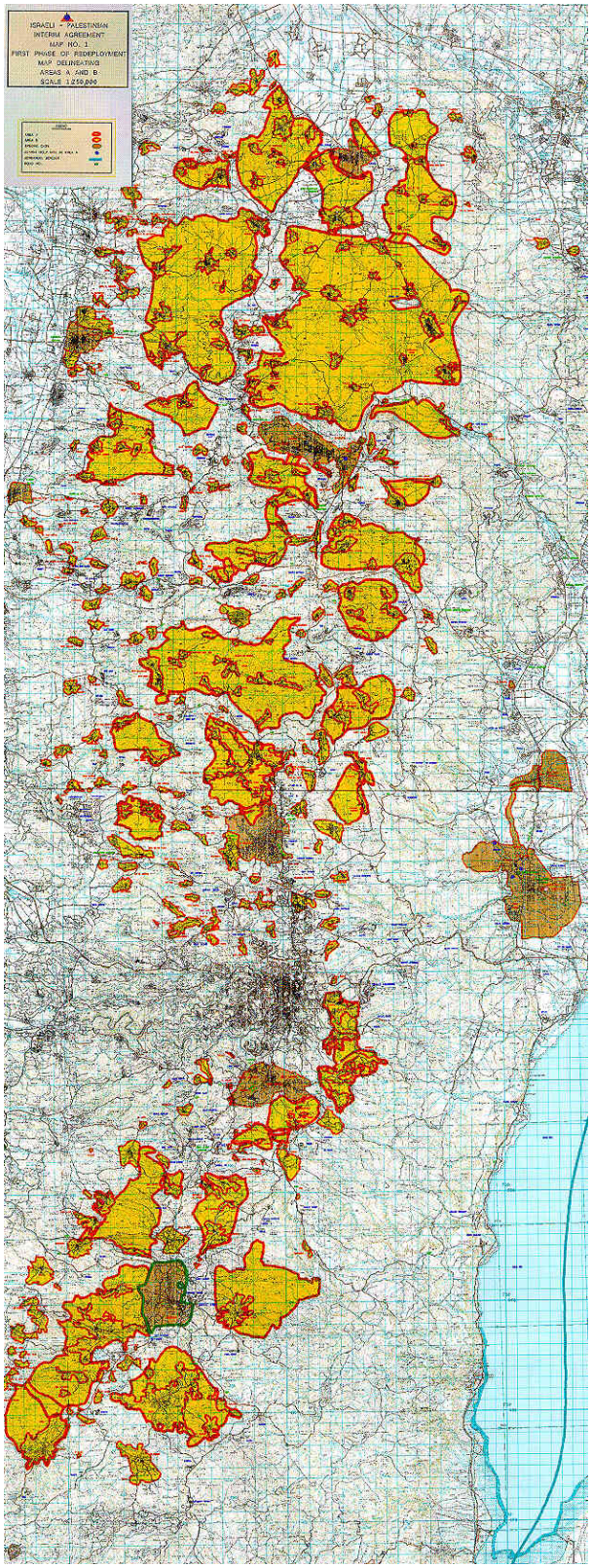

Figure 2.6: Oslo II agreement (1995) official map of Areas A and B, the rest of the West Bank is being defined as Area C.

Note: "Israeli-Palestinian Interim Agreement Map No. 1: First Phase of Redeployment, Map Delineating Areas A and B." retrieved on October 12, 2021, from: http://www.mfa.gov.il/MFA_Graphics/MFA%20Gallery/1995/9/MFAJ01v30.jpg

The Roots of Housing Rights Denial and Home Destruction in So-Called Area C[53]

The Oslo Accords and the fragmentation of Palestinian land, spaces and communities is considered another step in the Israeli settler colonial project in Palestine (Bhandar & Ziadeh, 2016). This imposed political zoning system facilitates the expansion and continuation of the Israeli settler colonial project—that Palestinians have been facing since the late 19th century—to the West Bank. It enables and escalates colonial dispossession and landgrabs in so-called Area C. Keeping planning under Israeli military occupation control allows and maintains the discriminatory application of planning laws and regulations in so-called Area C, which permits the development of Israeli colonies while restricting the development of Palestinian communities. Thus, this territorial fragmentation gave the opportunity to the Israeli government, under the cover of the peace process, to implement its strategic colonization plans in the West Bank. At the same time, it paved the way for what Yiftachel (2006) named as a 'creeping Apartheid' regime in the West Bank.

Employing colonial planning laws within such a settler colonial context—one that uses military power and violence to enforce its political agenda—has a direct impact on housing rights. It results in a housing shortage and poor infrastructure, especially in so-called Area C (Helu, 2012). The UN Special Rapporteurs on adequate housing, Kothari (2002) and (Rolnik, 2012), confirm that these policies of land fragmentation have had devastating effects on housing rights for Palestinian communities in so-called Area C.

The same planning policies—directly impacting housing rights—which had been used before the Oslo Accords in the areas outside the municipal boundaries, are maintained and often employed in so-called Area C (Al-Rimmawi, 2009; Alnoubani, 2010; Araj, 2010; ARIJ, 2004;

[53] Areas of the West Bank annexed to Jerusalem in 1967 are not part of Area C and this study will not address them. Israeli law is in force in these areas.

Cohen-Lifshitz et al., 2008; Hanafi 2009; Home, 2003; UN-Habitat, 2015; UNOCHA, 2009; Zeid & Thawaba, 2018). The struggle over space and the policies of "construction and deconstruction" (Araj, 2010, p. 7) again manifest themselves in the different practices of both Palestinians and the occupation authorities in so-called Area C. Regarding housing, ARIJ (2004) points out that the Israeli policies in Area C have prevented housing development.

The main policy guiding most of the 'construction and destruction' practices in Area C is the use of urban planning as a tool to control Palestinian development, including development of housing. Again, the occupation authorities continue applying the planning laws and regulations in a discriminatory fashion, which maintains two distinct but parallel planning schemes in Area C: one for the Palestinians with a focus on restriction and destruction, and one for the Israeli settlers that promotes expansion and construction. Israeli authorities continue applying the British Mandate plans and the MOs for the Palestinian settlement in Area C in a selective way (Alnoubani, 2010; Araj, 2010; Cohen-Lifshitz et al., 2008; UN-Habitat, 2015). Palestinians remain excluded from the planning process (Cohen-Lifshitz et al., 2008; UN-Habitat, 2015; UNOCHA, 2009), and structural plans for their villages need the approval of the Israeli authority. These plans are usually restricted to pre-existing built up areas, which leaves no opportunity for future expansion and halts housing development (Araj, 2010; UN-Habitat, 2015; UNOCHA, 2009). Based on an analysis by the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), less than 1 percent of the land in Area C is available to Palestinians for construction (UNOCHA, 2009). On the other hand, Israeli colonies are allowed to have their own planning committees and are represented in all planning activities (UN-Habitat, 2015; UNOCHA, 2009). Detailed plans have been prepared and approved for almost all Israeli colonies (UNOCHA, 2009).

The implicit policies of not approving building permits and home demolition are continued and intensely employed (UN-Habitat, 2015; UNOCHA, 2009). Palestinians rarely succeed in obtaining building permits in Area C and less than two percent of all requests made between 2009 and 2018 were approved by the ICA (U. N. O. f. t. C. o. H. A. UNOCHA, 2021) .The extremely difficult—almost impossible[54]—process of obtaining a building permit forces many people to build without one (ARIJ, 2004; UN-Habitat, 2015; UNOCHA, 2015), leaving buildings under the threat of demolition. This policy applies to housing and any other infrastructure and development (UNOCHA, 2009). As a result, there is a negative impact on the right to adequate housing even inside the approved municipal boundaries.

Unceasing Risk of Home Demolition and Forcible Transfer in So-Called Area C

Recently, many communities in so-called Area C are at acute risk of home demolition and forcible displacement. According to the UN's Office for the Coordination of Humanitarian Affairs (UNOCHA),[55] from 2009 to April 2020, a total of 6258 Palestinian structures were demolished by the occupation authorities in so called Area C. A total of 8600 people were displaced due to home demolitions, and a total of 45,476 people were affected due to the demolition of structures related to their livelihood, including such things as animal shelters, water reservoirs, and other vital infrastructure such as schools, roads and solar electricity panels (see Figure 2.7). This destruction of Palestinian structures is legitimized by occupation forces based on a lack of Israeli-issued building permits that are in fact impossible to obtain. Between

[54] It is almost impossible to obtain building permits because of the restrictive planning and zoning system applied by the Israeli authorities (UN-Habitat, 2015; UNOCHA, 2015).

[55] This data is obtained from an "interactive web-based platform and presents a dataset obtained from the Israeli Civil Administration on the demolished structures in Area C since 2009. The Israeli NGO Bimkom–Planners for Planning Rights obtained this data from the ICA, based on the Israeli Freedom of Information Act." OCHA states on its website that they cannot confirm the data accuracy.

2009-2018 only 1.5 percent—a total of 98 out of 4,422—applications for building permits were approved by the ICA (U. N. O. f. t. C. o. H. A. UNOCHA, 2021).

Not only were thousands of Palestinian structures demolished, but also thousands of families continue living under the threat of home demolitions. Before demolition takes place, the ICA issues demolition orders. According to the UNOCHA data base, there are about 19,828 outstanding demolition orders for so-called Area C (See figure 2.8); 9,138 of them are classified as "in process." This category is unclear and not explained in the ICA database, which contributes to a sense of ambiguity and increases people's feelings of vulnerability.[56] These polices of housing rights denial and living in uncertainty under the threat of home demolition and livelihood resource destruction create an unsafe and unlivable environment that drives the Palestinian population to leave their communities.

At the same time, these actions violate the international conventions that prohibit property destruction such as Fourth Geneva Convention that states in Article 53:

> *"Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations"*[57]

[56] https://www.ochaopt.org/page/demolition-orders-against-palestinian-structures-area-c-israeli-civil-administration-data. Retrieved on October 12, 2021

[57] Article 53, Fourth Geneva Convention, 1949, p.187. Retrieved on April 27, 2019, from http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf

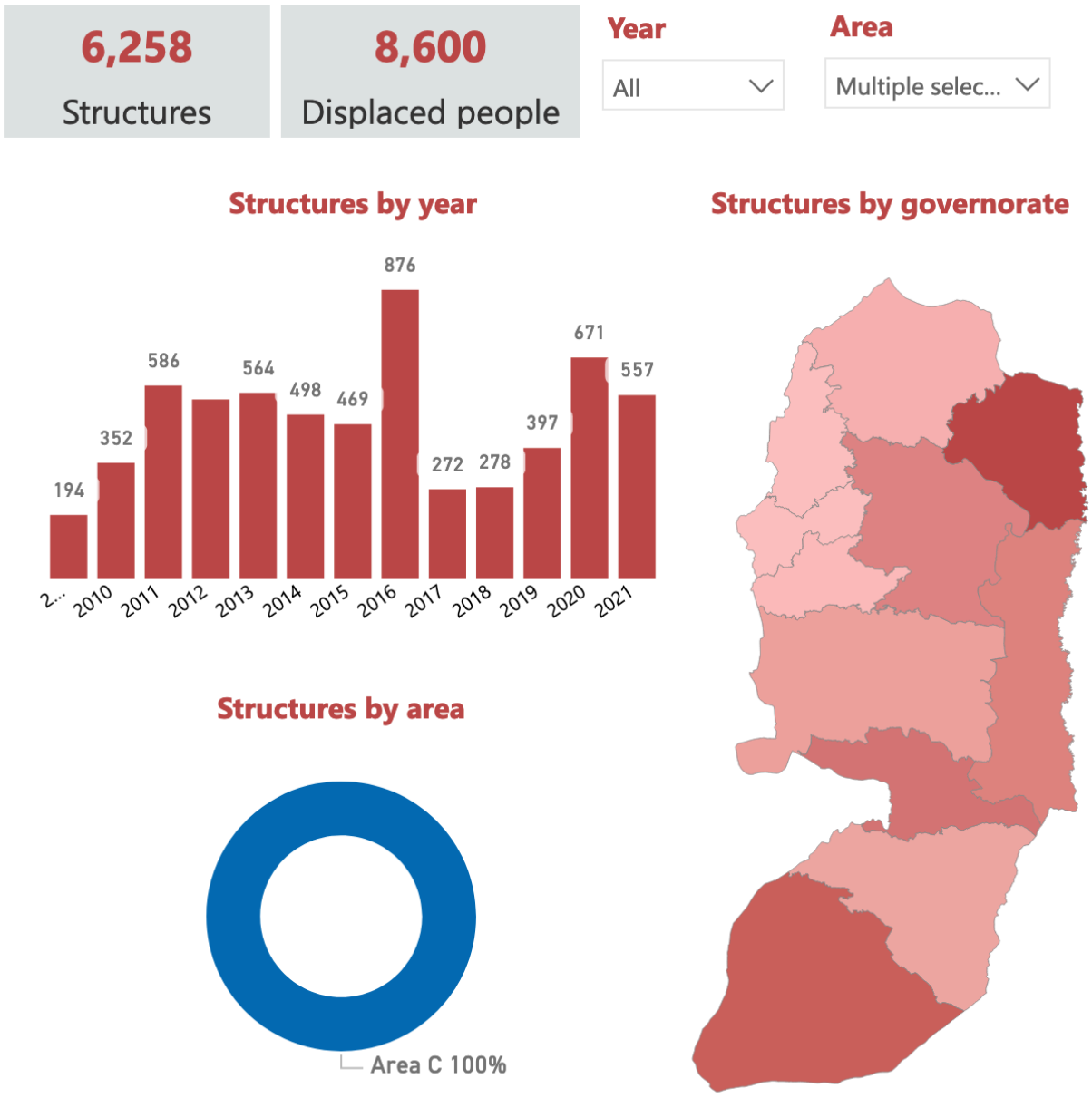

Figure 2.7: Numbers of demolished structures and displaced people in so called Area C, 2009-2021[58]

Source: (UNOCHA): https://www.ochaopt.org/data/demolition

Note: "the demolition of Palestinian-owned structures and the resulting displacement of people from their homes across the West Bank since 2009"

[58] This figure is obtained from an "interactive web-based platform and presents a dataset obtained from the Israeli Civil Administration. The dataset was obtained by the Israeli NGO Bimkom–Planners for Planning Rights, based on the Israeli Freedom of Information Act." Retrieved on October 12, 2021, from: https://www.ochaopt.org/data/demolition

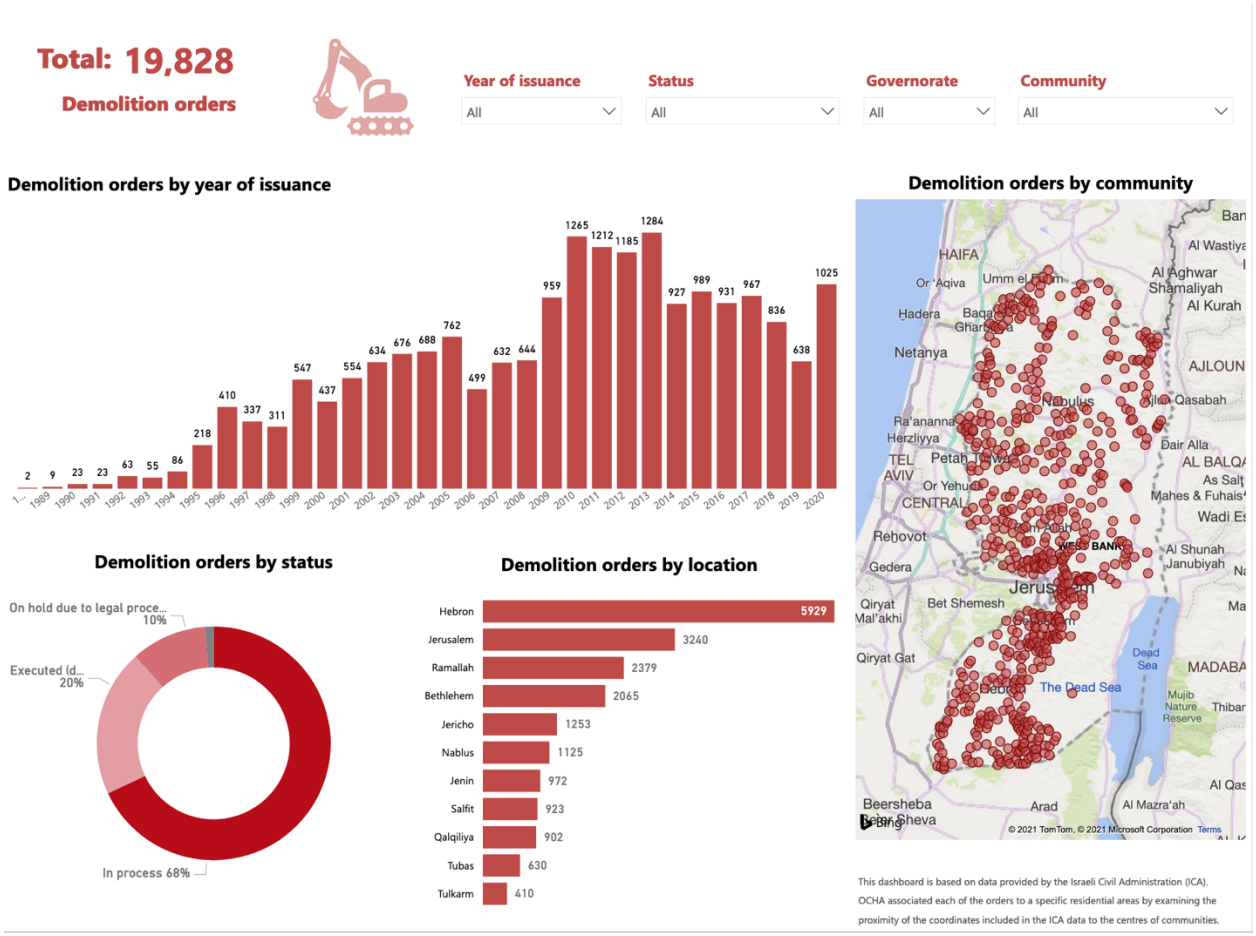

Figure 2.8: Demolition Orders against Palestinian Structures in so-called Area C, 1988-2020[59]

Source: (UNOCHA): https://www.ochaopt.org/page/demolition-orders-against-palestinian-structures-area-c-israeli-civil-administration-data
Retrieved on October 12, 2021

[59] This figure is obtained from (UNOCHA) interactive web-based platform, which presents a dataset obtained from the Israeli Civil Administration on all the demolition orders it has issued in Area C since 1988. UNOCHA states that the dataset was obtained by the Israeli NGO Bimkom–Planners for Planning Rights, based on the Israeli Freedom of Information Act." So, UNOCHA cannot confirm its accuracy.
Retrieved on October 12, 2021, from:
https://www.ochaopt.org/page/demolition-orders-against-palestinian-structures-area-c-israeli-civil-administration-data

2.8 Chapter Conclusion

The core system that informs all these policies and practices is the Israeli settler colonization in historic Palestine, which is rooted in dispossession. All the tactics described above are part of 'a sophisticated matrix of apartheid policies' (Bhandar & Ziadeh, 2016) that were designed to deprive the Palestinians of their land and erase their existence in their homeland. Because constructing houses, infrastructure and services root people in their land, these aspects of housing rights are directly targeted and denied by the settler colonial regime. The home is a symbol of existence and a symbol of holding onto the land. As such, in the context of continuing Israeli settler colonialism in Palestine, the configurations of military power and land geographically shape settler colonial spaces and violate fundamental human rights such as the right to have a home.

3. CONCEPTUAL FRAMEWORK: SETTLER COLONIALISM, HUMAN RIGHTS, CRITICAL PLANNING AND EVERYDAY RESISTANCE

Four fields of critical interdisciplinary scholarship shaped my understanding and of the spatial oppression and denial of housing rights in colonized Palestine, as well as the strategies utilized by Palestinians to challenge it to exercise their housing rights. The key fields of scholarship on which I drew are:

1) Settler colonialism, which offers an analytical framework for understanding the roots of different policies and practices that endorse spatial oppression and housing rights denial.

2) Human rights theory, which provides the basis to understand housing rights, housing rights denial and its connections to spatial oppression.

3) Critical planning theory, which sheds light on planning as a tool of control that facilitates settler colonial polices while denying housing rights to Palestinians; and finally

4) Everyday resistance theory, which promotes a politicized interpretation of the actions Palestinians take to oppose the power imbalance that enforces systematic inequality and oppression related to settler colonial domination.

In the following sections, I will shed light on these four fields of scholarship and how they contribute to my understanding of housing rights denial and the counter practices which aim to exercise housing rights within a settler colonial context.

3.1 Settler Colonialism: A Framework for Understanding Spatial Oppression and Housing Rights Denial

Drawing from postcolonial theory, the concept of settler colonialism provides a foundation for understanding the territorial dimensions of spatial oppression and housing rights denial, as well as the actions of Palestinians to secure their housing rights in colonized Palestine and specifically in so-called Area C. Therefore, in this research, I locate the Palestinian struggle to secure and

exercise their housing rights within the broader context of indigenous struggles worldwide against settler colonialism. In this section, I first theorize settler colonialism, then I shed light on parallels between different settler colonial projects in different contexts, including those in the United States of America (USA), Canada, Australia, and South Africa. Finally, I situate the Palestinian case within the settler colonial paradigm.

Conceptualizing Settler Colonialism

There is an emerging and growing body of literature that is devoted to providing an understanding of the concept of settler colonialism (Barker, 2012; Morgensen, 2011; Veracini, 2010b, 2015; Wolfe, 1999, 2006). These scholars agree that settler colonialism is an ongoing, structural system of power that embraces connecting forms of oppression rooted in territorial control and elimination of indigenous peoples. It normalizes the repression, dehumanization, and genocide of indigenous peoples, as well as the appropriation of their spaces and culture.

Fundamental to the idea of settler colonialism is the notion of terra nullius[60]—empty land— which ignores the existence of indigenous people and their socio-cultural presence (Wolfe, 1999). It is a global and transnational phenomenon that involves the reproduction of colonial communities, in which an exogenous group dominates an indigenous population (Veracini, 2010b). Therefore, it is related to both colonialism and migration. However, settler colonialism is conceived structurally and analytically as distinct from colonialism (Veracini, 2010b; Wolfe, 1999). Both Wolfe (1999) and Veracini (2010b) emphasize the importance of the

[60] The claim of *terra nullius* was used first to refer to Australia as an empty land. Elkins, C., & Pedersen, S. (2005). *Settler colonialism in the twentieth century : projects, practices, legacies*. Routledge. According to UN-Habitat. (2005a). *Indigenous peoples' right to adequate housing: A global overview* (Report No. 7). (United Nations Housing Rights Programme (UNHRP), Issue. (UN-habitat). *Terra nullius* is "a doctrine that, as applied to indigenous peoples, holds that indigenous lands are legally unoccupied until the arrival of a colonial presence, and can therefore become the property of the colonizing power through effective occupation." (p. xvi).

distinction between colonialism and settler colonialism as the two concepts function in different ways and have different end goals. Veracini (2010b) stresses that although colonialism and settler colonialism intersect and define each other, they have contrasting modes of operation. Colonialism attempts to control resources and dominate and exploit the colonized populations for labor from a metropolitan center, such as in the case of British rule in India (Veracini, 2013). At the core of any settler colonial structure, by contrast, is: a) the "elimination of the natives" (Wolfe, 2006, p. 389) and their replacement with a settler society that has sovereign capacity, different culture, language and landscape; b) transforming and expropriating indigenous spaces; and c) controlling the land and resources, as in such cases as Canada, the USA, Australia and Palestine (Veracini, 2013; Wolfe, 1999, 2006).

In theorizing settler colonialism, Wolfe (1999) emphasizes "invasion is a structure, not an event" (p. 2). He offers an understanding of settler colonization as an on-going power structure that is designed to erase indigenous societies, occupy their territory, and promote the creation of new settler societies. This ongoing project is based on the continued displacement of indigenous people who obstruct its development. Furthermore, it affects the present life of the indigenous people because of the continuing presence of the settler colonizers who come to stay (Veracini, 2015).

According to Wolfe (1999), the "primary goal of settler-colonization is the land itself… [Its] dominant feature is not exploitation but replacement" (p. 163). Settler colonial societies construct complex narratives to dehumanize the indigenous Palestinians and effectively erase their presence from the land to legitimize imaginary colonial spaces based on this perception of empty land. Thus, settler colonial societies claim and transform the space into their own and are able to consider it "home" (Wolfe, 1999). They control land through the creation and imposition

of different systems and structures that transform property ownership, as, for example, through laws and record-keeping systems (Glenn, 2015). To succeed in controlling and transforming space, settler collectives in Israel, for example, exercise their sovereign capacity and generate power constructed through the destruction and erasure of the indigenous Palestinians (Barker, 2012).

Based on a comparison between different settler colonial contexts including Australia, the USA, and Israeli settler colonialism in Palestine, Wolfe (2006) explains further how settler colonialism is built on the "logic of elimination." Wolfe (2006) states, "settler colonialism destroys to replace" (p. 387) and to support this argument he uses the founding father of Zionism Theodor Herzl's statement, "If I wish to substitute a new building for an old one, I must demolish before I construct,"[61] as an example of this logic (Wolfe, 2006, p. 388). Furthermore, Wolfe (2006) argues that "the primary motive for elimination is not 'race or religion, ethnicity, grade of civilization' but access to territory" (p. 388). Thus, it is a land-centered project that aims for permanent residence. As Wolfe (2006) says, "Settler colonizers come to stay" (p. 388).

To construct this logic of elimination, setter colonizers use various methods that entail violence such as the "erasure of indigeneity," territorial and physical fragmentation of the colonized, domination and "spatial sequestration" (Wolfe, 2006, pp. 389-404). Additionally, settler colonizers build settler colonies, which "are made by conquest, not just by immigration" (Veracini, 2010b, p. 3). Also, they establish property rights over land and resources at the expense of the dispossession of indigenous people, using various forms of direct and indirect violence such as "militarized genocide" and forcible displacement of the natives from their land

[61] Theodor Herzl, Old–New Land [Altneuland, 1902], Lotta Levensohn, trans. (New York: M. Wiener 1941), p 38. As cited in Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research Journal of Genocide Research*, *8*(4), 387-409.

(Glenn, 2015). Settler colonialism is thus performed through legal, political, economic, social and cultural institutions (Shalhub-Kifurkiyan, 2015).

Settler Colonialism in Multiple Contexts: Connecting Israeli Settler Colonialism in Palestine to Settler Colonialism Worldwide

In the past decade, there has been a growing body of literature relating the Israeli settler colonial project in Palestine to other settler colonial projects around the world, such as those in Canada, the USA, Australia, New Zealand and South Africa, in order to provide a deeper understanding of the Palestinian case beyond merely a political conflict and military occupation (Barker, 2012; Busbridge, 2017; Pappé, 2012; Veracini, 2015; Wolfe, 2006). Additionally, as settler colonialism is 'transnational' (Veracini, 2015), the Israeli settler colonial project in Palestine can be better understood by reading the significant parallels with other settler colonial states around the world (Veracini, 2015). Therefore, in this section, I discuss settler colonialism in multiple contexts with a focus on Israeli settler colonialism in Palestine. The similarities and differences between them are highlighted to lay the groundwork for locating Palestine within the settler colonial paradigm, which will be discussed in the next section.

Scholars of indigenous studies use the concept of settler colonialism as a framework to highlight commonalities in different contexts such as Australia, Canada, the USA, South Africa and Israeli settler colonialism in Palestine (Elkins & Pedersen, 2005; Hixson, 2013; Veracini, 2006, 2015; Wolfe, 2006, 2012). According to Wolfe (2012), not all settler colonial contexts and processes are identical, but they share the same "logic of elimination" and result in similar outcomes (p. 135). For example, in the USA, Australia and South Africa, settler colonizers sought to construct new spaces for their communities based on this "logic of elimination." Thus, settler colonial structures rely significantly on spatial constructs, such as the notion of '*terra*

nullius'—empty land—to normalize and justify the annihilation of indigenous peoples through systemic violence, dispossession and displacement (Elkins & Pedersen, 2005; Hixson, 2013). Settler colonizers claim their conquest of territory is simply inhabitation of empty land.

Similarly, Israeli colonization in Palestine relied heavily on the notion of 'empty land' to justify its invasion and dispossession of the Palestinians (Masalha, 1997). In the early stages of the Zionist movement, Zionist leaders and writers introduced Palestine to the world to be perceived as 'empty land.' This is clear in Israel Zangwill's statement[62] —which became a Zionist slogan to justify the conquest of Palestine—"a people *[Jews]* without a land returning to a land *[Palestine]* without a people" as cited in (Kimmerling, 1983b, p. 9).

Likewise, Said (1992) cited that this Zionist slogan was invented by Zangwill at the end of the nineteenth century, and since then it has been used to justify the suppression of Palestine. Said (1992) argues that this discourse is rooted in Orientalism, in which Palestine was portrayed as a desert in need of the Zionists to turn it to a green place. Said (1992) writes, "Palestine has been a place where a relatively advanced (because European) incoming population of Jews has performed miracles of construction and civilizing […] against what was always portrayed as a dumb, essentially repellent population of uncivilized Arab natives" (P.8). Moreover, the Israeli state went on to reinforce its settler colonialism and to achieve the natives' elimination by denying the existence of the Palestinians, emphasizing "the claim that Palestinians were/are not a people" (Shalhub-Kifurkiyan, 2015, p. 5).[63]

[62] Israel Zangwill (1864-1926), Anglo-Jewish writer and Zionist leader. Retrieved on May 20, 2018, from: http://ajcarchives.org/AJC_DATA/Files/1927_1928_5_SpecialArticles.pdf.

[63] Former Israeli prime minister, Golda Meir, said in an interview with the Sunday Times: "There was no such thing as Palestinians, they never existed" (Meir, 15 June 1969) as cited in Krystall, N. (1998). The de-arabization of West Jerusalem 1947-50. *Journal of Palestine Studies*, *27*(2), 5-22. (p. 19). When Meir articulated this famous statement, she was living in Bisharat family house that was built and owned by them in the Talbiya neighborhood in Jerusalem, and who were expelled in 1948. Ibid.

To further clarify the parallels between Israeli settler colonialism in Palestine and other settler colonial contexts, Peteet (2016) draws a comparison between settler colonialism in South Africa and the Israeli settler colonial project in Palestine, generating sets of similarities and distinctions. While recognizing that Israel and South Africa are both settler colonial states, which can be situated within the global settler colonial formation, Peteet (2016) sheds light on the similarity of policies that governed Blacks under Apartheid in South Africa and policies that, today, govern the Palestinians under Israeli settler colonization. Peteet (2016) points out that Israel and South Africa were both supported by Britain and built on "ideologies of separation," using institutionalized Apartheid mechanisms (p. 250). In both states, the result was control of territory for "exclusive use of white or Jewish settlers" through dispossession, forcible displacement and pushing indigenous people into enclaves (p. 250).

Similarly, Wolfe (2006) and Waziyatawin (2012) point out significant parallels between settler colonial strategies implemented historically and still ongoing in the USA and Israel. Wolfe (2006) makes the connection between the overt segregation promoted by a "racial zoning" system in big south American cities, and the segregation created in Palestine through the "West Bank barrier"[64] as concrete examples of spatial confiscation (p. 404). Waziyatawin (2012) analyzes dispossession techniques employed by settler colonial states in both contexts, such as control mechanisms, destruction of livelihoods and land appropriation, all while exploiting the notions of legality to legitimize these acts. She also addresses the similarities and differences in forms of anti-colonial resistance utilized by both the Dakota First Nation and Palestinians.

[64] The so-called 'West Bank barrier' is a separation wall that Israel built inside the West Bank in 2002 to separate Palestinians from Israeli colonies built inside the West Bank and East Jerusalem. In 2004, the International Court of Justice (ICJ) issued an advisory opinion considering the wall illegal.

Wolfe (2012) also, however, discusses two significant distinctions between Israeli settler colonialism in Palestine and settler colonialism in Australia and the USA in terms of the tools of dispossession, although both are based on the "logic of elimination" and have the same outcome. The first distinction is that "Zionism originated as an international movement that consciously avoided confinement to a single metropole in favour of a supportive transnational umbrella" (p. 135-136), so it was not an empire or nation-state project. The second distinction is that, prior to 1947, Zionism purchased land in Palestine based on the local law—the Ottoman Land Code of 1858—but that from 1948 on, the land was captured through "violent expropriation" (Wolfe, 2012, p. 143).

Furthermore, organized Zionism as an international transitional movement gained support from international imperial powers and private sources, which secured funds to purchase land from the natives prior to 1947, and thereby maintained the settler colonial project expansion. Finally, Wolfe (2012) points out that in contrast to settler colonialism in Australia and the US, Zionism explicitly refuses "native assimilation" (p. 136). Therefore, its application of the "logic of elimination" is considered more severe. However, these distinctions do not make the Israeli settler colonial project in Palestine exceptional, but rather provide examples of techniques of settler colonialism being adapted to different contexts, and where "Zionism presents an unparalleled example of deliberate, explicit planning" (Wolfe, 2012, p. 135).

Another important difference between Israeli settler colonization in Palestine and other contexts—the US, Australia and South Africa—is the use of theology and religious beliefs in choosing the land targeted to colonize.[65] In the Israeli case, their conquest is justified by using

[65] Palestine, which is known to Zionists as "Zion or Eretz Israel (the Land of Israel) is a central pillar of the Jewish religion" and it was the land that was targeted for settler colonization. For many generations, Jews maintained "rituals and customs which were directly connected to that country" Kimmerling, B. (1983a). *Zionism and territory : the socio-territorial dimensions of Zionist politics*. Institute of International Studies, University of California. (p.8)

biblical and historical narratives about the land to claim a connection between it and the settler colonizers (Kimmerling, 1983a), while in the other contexts the land was chosen based on its "political, geographic and economic availability" and potential (Kimmerling, 1983a, p. 8).

Situating Palestine Within the Settler Colonial Paradigm

After reviewing settler colonialism in multiple contexts with the focus on commonalities and differences between several settler colonial contexts and settler colonialism in Palestine, in this section, my aim is to engage further with the literature that situates Palestine within the settler colonial paradigm to understand the ways in which settler colonial practices shaped Palestinian spaces and therefore, Palestinians' access to housing rights.

Settler colonialism in Palestine is—like other settler colonial projects in the world—premised on dispossession and has its own trajectory. However, early Zionists admitted the colonial nature of their project in Palestine (Lloyd, 2012), informed by the logic of settler colonialism since long before 1948,[66] continuing through 1967[67] and, in fact, until the present day (Veracini, 2013). This settler colonial project is sustained and continues expanding through a 'matrix of apartheid policies'[68] directed toward all Palestinians and their fragmented territories (Bhandar & Ziadeh, 2016). At the same time, Palestinians have continued their struggle—to resist and challenge this project and to claim their basic rights in their homeland throughout this time and until today (Peteet, 2017).

A few scholars—such as Abdu and Yuval-Davis (1995), Kimmerling (1983b), Rodinson (1973), Sayegh (1965) and Sayigh (1979)—have conceptualized and analyzed Palestine/Israel

[66] 1948 is when the state of Israel was established and the Palestinian people were expelled from their homeland, which become to be known as the year of the Nakba, "catastrophe" in Arabic.
[67] 1967 when the Israel army occupied the West Bank and Gaza strip.
[68] See also "matrix of control" (Halper, 2000).

from the 1960s to the 1990s using the settler colonial paradigm and offered an interpretation of the Zionist movement as a colonial movement. Sayegh (1965) was among the first that situated the Palestine/Israel analysis within the settler colonial paradigm. In his study, Sayegh traces the historical evolution of Zionist settler colonialism in Palestine while engaging with Palestinian political discourse and activism. This study is considered a pioneering work that analyzes the Zionist project in Palestine using settler colonialism and, at the same time, underlines the distinction between European colonization elsewhere and Zionist colonization of Palestine. Sayegh's (1965) study highlights the following as central elements of the Israeli settler-state: racism, violence, and territorial expansion (p. 21). According to Sayegh (1965), the Zionist movement entertained the natives' elimination through violence to achieve "racial exclusiveness" in the land (p. 23-27). Additionally, Sayegh's study sheds light on Palestinian resistance and its main characteristics.

It is notable that in the last ten years, there is an emerging and a growing body of literature that discusses the relevance of and/or utilizes the settler colonial framework to theorize Palestine/Israel. Examples include but are not limited to: Busbridge (2017); Clarno (2017); Lentin (2016); Lloyd (2012); Salamanca et al. (2012); Veracini (2006, 2013); and Wolfe (2006, 2012). For example, Salamanca et al. (2012) emphasize the importance of using the settler colonial framework in Palestine Studies and in the analysis of Israeli state practices in Palestine. According to Salamanca et al. (2012), the settler colonial paradigm provides a cohesive understanding of the Israeli practices and policies as integral parts of the Zionist project, instead of a series of fragmented and distinct issues within a given context (Salamanca et al., 2012, p. 2). Also, Piterberg (2015) discusses this shift in Palestine Studies to using the settler colonial paradigm and emphasizes its importance in analyzing the past and present history of

Palestine/Israel, and in understanding the Israeli colonization of Palestine as part of a global phenomenon and not as exceptional.

On the other hand, Veracini (2013) grounds his analysis of the Israeli settler colonial project in Palestine in the distinction between what he considers a successful settler colonial project when "the settlers become natives and their position becomes normalized" (p. 28) and an unsuccessful colonial project (when colonizers control and maintain separation from the colonized). Based on this distinction, he divides settler colonialism in Palestine between pre-1948 and post-1967. He suggests that Zionism produced a successful settler colonial project in the parts of Palestine captured pre-1948, while it is failing to reproduce a successful one in the parts of Palestine that were occupied in 1967. He argues that settler colonialism does not apply fully in the territories that Israel conquered by war in 1967 because Israel failed to expel most of the native population from the occupied Palestinian territories, as it did in 1948's Nakba. Therefore, Israel went on to control the natives instead of eliminating them. Israel maintains a sharp separation between the natives and the colonizers in the occupied Palestinian territories and creates a colonial system based on relational power: the oppressor controls the lives of the oppressed.

Bhandar and Ziadeh (2016) challenge the work of Veracini (2013) and argue that the "settlers never become natives" or their actions normalized. They criticize what they consider a narrow use of the settler colonial framework as an analytical tool. Accordingly, they point out some omissions in the settler colonial discourse that might intensify some political challenges such as lacking nuance regarding race and class differences among Israeli settlers, overlooking historical scholarship on the colonization of Palestine, as well as overlooking Israeli colonization efforts that took place prior to the 1948 Nakba (Bhandar & Ziadeh, 2016).

Barakat (2017) also criticizes Veracini (2013) and considers their conclusion problematic. Barakat (2017) argues that by making the distinction between Zionist settler colonialism before 1948 and after 1967, Veracini (2013) follows the "Zionist narrative" that emphasizes the fragmentation of historic Palestine to different territories and zones including: the parts of historic Palestine colonized before and during the 1948 Nakba—which became the state of Israel— the West Bank, Gaza strip and East Jerusalem. Additionally, Veracini's analysis disregards Israel's ongoing efforts to eliminate the Palestinian population, which is considered a key element in reading any settler colonial project.

At the same time, Barakat (2017) builds on Wolfe's theory of *structural genocide*[69] and argues that the elimination of the natives is still ongoing in all parts of historic Palestine, though it is taking different shapes in the West Bank[70] and the Gaza Strip due to the large Palestinian population still present. Similarly, Salem (2016) points out how the Israeli settler colonial project that started in the 19th century was expanded to the Palestinian territories occupied in 1967 and manifests itself strongly in East Jerusalem and in so-called Area C. Therefore, the West Bank and East Jerusalem are going through what he terms a "continued Nakba," as the Israeli state uses the same strategies that they used in the areas conquered before 1948 such as forcible displacement and the policy of home demolition—which is still active within both the areas taken in 1948[71] and areas occupied post-1967[72] (Salem, 2016).

Likewise, Pappé (2007) provides historical evidence of what he terms the *ethnic cleansing* of Palestine. By offering archival evidence, he demonstrates that forcible erasure of the

[69] Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research Journal of Genocide Research*, *8*(4), 387-409. uses the term "structural genocide" to explain cases specifically related to settler colonialism when elimination manifests as genocide.
[70] Even the West Bank is fragmented to different administrative zones: Area A, Area B and Area C.
[71] Such as in the unrecognized Palestinian Bedouin villages in the Negev.
[72] Such as East Jerusalem and so-called Area C.

indigenous Palestinian population is at the core of the Zionist ideology to appropriate the space, and it is a strategy that has been used and is still in effect in all parts of historic Palestine. Pappé (2012) builds on the work of Wolfe (1999) and his understanding of settler colonialism, which is based on invasion as a structure, not an event, to explain how Israeli policies and practices in Palestine are designed to enforce the ongoing settler colonial project in all of historic Palestine, starting with the 'ethnic cleansing' of indigenous Palestinians in the 1948 Nakba in favor of making the Palestinian territories available for settler colonizers. Similarly, Lloyd (2012) points out the core mechanism that drives ethnic cleansing in historic Palestine, controlling space through a complex legislative system, which is implemented by the state's "powerful hegemony," where the state is so powerful that it can deny responsibility without repercussion (Piterberg, 2015, p. 17).

While previous studies have focused on situating Palestine/ Israel within the settler colonial paradigm and on understanding the structure of the Israeli settler colonial project and its policies and practices (Busbridge, 2017; Clarno, 2017; Elkins & Pedersen, 2005; Lentin, 2016; Lloyd, 2012; Salamanca et al., 2012; Veracini, 2006, 2013; Wolfe, 2006, 2012), in this study, I expand on that by shedding light on the relationship between settler colonialism and housing rights. I examine the complexity of exercising housing rights under the Zionist settler colonial regime in Palestine and discuss Palestinians' counter practices in challenging housing rights denial and 'spatial oppression.'

3.2 Conceptualizing Housing Rights

In this section, I situate the problem of human space destruction and deliberate home demolition (domicide) (Porteous & Smith, 2001) facing the Palestinian communities living at acute risk of forcible displacement within the framework of human rights. In particular, I examine the concept

of the '*right to adequate housing*,' which according to the UN definition is not limited to a roof over one's head. Rather, it includes other aspects necessary for human survival, well-being, and dignity. Also, by considering the '*right to adequate housing*,' I uncover how domicide impinges on the realization of housing rights and therefore violates human rights. I found this concept useful because it provides a legal and moral foundation to protect individuals against the states' oppressive policies and practices that violate the enjoyment of human rights, including physical shelter, security of tenure and the availability of services and infrastructure.

There are many definitions and statements about what housing rights are and what they mean, both internationally and within most countries. In this section, I will use the United Nations definition of 'adequate housing' as specified in General Comment No. 4.[73] I chose this definition because this research focuses on an area that is under prolonged military occupation according to international law. Therefore, International Human Rights and International Humanitarian Law should be applied in this context to protect the life, health, and dignity of the Palestinian population. This also means, therefore, moral, ethical, and legal pressure to secure and protect housing rights. Moreover, the right to 'adequate housing,' according to General Comment No. 4's definition, is holistic in terms of including important key aspects essential for human survival, well-being, and dignity, such as security of tenure, availability of services and infrastructure, affordability and habitability.

In the following sub-sections, I first provide an overview of housing rights within international law. Second, I introduce the United Nations' definition of the right to adequate housing and its various aspects—security of tenure; access to services and infrastructure;

[73] Committee on Economic, Social and Cultural Rights, General Comment No.4, The right to adequate housing (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991). Available at http://www.refworld.org/docid/47a7079a1.html. Accessed January 15, 2015.

affordability; habitability; physical accessibility; location; cultural adequacy. Due to the complexity of this concept, I focus on security of tenure and access to services and infrastructure because, in the context of prolonged military occupation, the struggle is often around securing the very basic aspects necessary for survival, such as having a roof over one's head, and access to basic services and infrastructure. Finally, I conclude by introducing the debate around the relative usefulness of using the rights-based approach to housing.

Housing rights as Instruments of International Human Right Law

The right to housing has been recognized by International Human Rights Law as a basic human right. Thus, it has legal foundations and has been protected throughout the body of International Human Rights Law and its instruments. The protection of human rights, including housing rights, is premised on the entitlement of all people to live in dignity, and because the right to adequate housing is necessary to access other human rights (Leckie, 2012).

The first international document that recognized the right to housing is the Universal Declaration of Human Rights[74]—adopted by the United Nations in 1948—through article 25(1). It says: "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, and housing…."

In 1966, the International Covenant on Economic, Social and Cultural Rights (ICESCR),[75] affirmed the 'right to adequate housing' as a basic human right. Article 11(1) states: "The States party to the present Covenant recognize the right of everyone to an adequate

[74] Universal Declaration of Human Rights adopted by the United Nations General Assembly by resolution 2 17A (III) on 10 December 1948. Available at: http://www.un.org/en/documents/udhr/index.shtml#a25. Accessed January 15, 2019.
[75] International Covenant on Economic, Social and Cultural Rights; adopted and opened for signature, ratification, and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27. Available at http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx. Accessed January 15, 2021.

standard of living for himself and his family, including adequate food, clothing, and housing…" This Convention formed a framework to link the development of human settlement with the realization of human rights (Ren, 2012). Kenna (2008) argues that the ICESCR has established housing rights as an integral part of economic, social, and cultural rights within the United Nations. As well, the ICESCR provides a legal source for the right to adequate housing. It requires states to use all proper means, including legislative, administrative, judicial, economic, social and educational measures, as steps to ensure the realization of the right to adequate housing (Almaden, 2014). To solidify the "right to adequate housing," the United Nations Committee on Economic, Social and Cultural Rights (UN CESCR) defined its meaning in General Comment No. 4 (1999). The Comment emphasizes that the right to adequate housing should not be interpreted narrowly as having "a roof over one's head," nor should it be understood "exclusively as a commodity" (1991, paragraph 7). Rather, it "should be seen as the right to live somewhere in security, peace and dignity" (paragraph 7). Still, the application of international human rights conventions requires states to sign on and ratify their content within national law.

Core elements of the right to adequate housing

The UN CESCR, through General Comment No. 4 (1991), emphasizes the significance of the concept of 'adequacy' in relation to the right to housing. It recognizes seven elements that must be considered to define 'adequate housing.' These seven core elements are[76] 1) security of

[76] Adequate housing elements as per Comment No 4:
Legal security of tenure: "Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats."
Availability of services, materials, facilities, and infrastructure: "An adequate house must contain certain facilities essential for health, security, comfort and nutrition… [including, inter alia, access to] safe drinking water, energy for cooking, heating, and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services."

tenure; 2) access to services and infrastructure; 3) affordability; 4) habitability; 5) physical accessibility; 6) location; 7) cultural adequacy. Nevertheless, adequacy is determined by contextual social, economic, cultural, climatic, and ecological factors, and is specific for each context (General Comment No. 4, 1991). Leckie (2012) considers these elements to be the basic criteria of housing adequacy that must be met before any form of shelter can be said to constitute 'adequate housing.'

Security of tenure

Security of tenure is recognized as a cornerstone of the right to adequate housing under international human rights law (Rolnik, 2013; UN-Habitat, 2008).[77] Rolnik (2013) considered lack of security of tenure as a central challenge to the realization of this right and discusses security of tenure as a combined concept. First, she defines tenure as "the set of relationships with respect to housing and land, established through statutory law or customary, informal or

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Affordability: "Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by State parties to ensure that the percentage of housing-related costs is, in general commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. Tenants should be protected by appropriate means against unreasonable rent levels or rent increases…."

Habitability: "Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well…."

Accessibility: "Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources." Disadvantaged groups "should be ensured some degree of priority consideration in the housing sphere. Both law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal…."

Location: "Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centers and other social facilities. This is true both in large cities and in rural areas … Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants."

Cultural adequacy: "The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared toward development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed…"

[77] Raquel Rolnik was a UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.

hybrid arrangements" (Rolnik, 2013, p. 6). Then she defines security of tenure "as tenure of land and/or housing which ensures a secure home and enables one to live in security, peace and dignity" (Rolnik, 2013, p. 7). van Gelder (2010) argues that security of tenure is not only dependent on well-defined rights, but also on political, cultural and administrative processes. Hulse and Milligan (2014) agree with van Gelder (2010) and focus on the concept of 'security' as a multi-layered concept with physical, financial and psycho-social dimensions, important to many aspects of human well-being.

General Comments No. 4 clarify the threats to security of tenure, as well as states' obligations to ensure a minimum degree of security of tenure; it recommends that state parties take all necessary measures to recognize security of tenure for all individuals who lack it. The Committee stresses that:

> Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment, and other threats. State parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups (paragraph 8a).

Also, UN-Habitat (2008) puts emphasis on General Comments No. 4 and defines security of tenure as "the right of all individuals and groups to effective protection from the State against forced evictions" (p. 9). Even though under international human rights law "the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing,"[78] the degree of protection and its operationalization is still normative and not clear. Although the term 'other threats' is theoretically broad, the conceptualization of tenure security is too often limited to forced evictions and little attention is given to other security of tenure elements (Rolnik, 2013; (UN-Habitat, 2008).

[78] United Nations Commission on Human Rights resolutions 1993/77 and 2004/28.

In this research, I expand the conceptualization of tenure security to include deliberate home demolition—domicide—as a threat to the security of tenure that results in forcible eviction. Therefore, there is a need to protect vulnerable populations against domicide, particularly in the context of prolonged conflicts, ethnic cleansing, and settler colonialism where domicide is used for political reasons. Thus, this research addresses the intersection between domicide and security of tenure as a cornerstone of housing rights violation in such contexts.

Rolnik (2013) examined the authoritative guidance of the United Nations mechanisms and concludes that states must secure tenure particularly for the most disadvantaged and marginalized, such as low-income groups, informal settlers, women, and minorities (p. 11). Despite the importance of security of tenure for people's sense of "ontological security" (Hulse & Milligan, 2014) and the evidence that security of tenure is not only important for human rights, but also for development (Rolnik, 2013), security of tenure is still not available to many vulnerable groups (UN-Habitat, 2007), including communities living in areas affected by political violence, ethnic cleansing and ongoing settler colonialism. However, little research addresses security of tenure as a cornerstone of housing rights for vulnerable communities living in such contexts of political violence. Therefore, my research will contribute to filling this gap.

Availability of services and infrastructure

The UN CESCR also addresses the standards in housing quality and environment to be considered adequate. According to General Comment No. 4 "an adequate house must contain certain facilities essential for health, security, comfort and nutrition" (paragraph 8b). Further,

> beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating, and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services (paragraph 8b).

According to housing rights advocates,[79] these standards in housing quality and environment need to be legally defined and enforced for the right to housing to be realized. Scholars who promote a rights-based approach to housing underline the importance of housing quality as integral elements of housing adequacy. Leckie (2012) states, "the link between water, sanitation, and housing rights is clear: clean and affordable drinking water and adequate means to dispose of waste should be available within every home" (p.166). Similarly, Adams (2008) expands the definition of home to include the surrounding environment, while Kothari (1997) draws attention to the negative health impact associated with the denial of essential basic services such as water, electricity and sanitation.

Scholars also draw a connection between housing quality, the surrounding environment, health, inclusion and well-being (e.g., Charlton (2010); Richards et al. (2007); UN-Habitat (2003). According to UN-Habitat (2003) the availability of water, sanitation and energy are conditions to be enabled and empowered. Likewise, Charlton (2010) considers access to services and infrastructure an aspect of the notion of inclusion. She states, "formal housing facilitates the inclusion of a household into perceived entitlements of the city" (p. 4). Accordingly, Richards et al. (2007) identify shelter and basic services among the most important influences on quality of life and well-being of the informal settlements' inhabitants in South Africa. However, availability of services, infrastructure, and security of tenure are interdependent. The provision of services and infrastructure can be undermined by tenure problems (McGranahan, 2015; Murthy, 2012). Therefore, informal settlements that lack tenure security do not have easy access to services (Charlton, 2010; McGranahan, 2015; Richards et al., 2007).

[79] Such as Habitat International Coalition (Housing and Land Rights Network) and UN- Habitat.

At the same time, the realization of housing quality and availability of services, facilities and infrastructure faces many challenges in developing countries. For example, in 2010, through Resolution 64/292,[80] the United Nations General Assembly explicitly recognized the human right to water and sanitation but without any clear measures to ensure its application. Despite international agreement on the unhealthy impact of poor sanitation, it is still widespread in many areas. There are also intense debates on what should be done and how, including whether utility operators should be private or public (McGranahan, 2015).

It is notable that the literature, when discussing aspects of housing rights and their applicability, focuses mostly on developing countries where there is a state (although often weak or fragile) that facilitates the applicability of these aspects of housing rights. Little research addresses housing rights in conflict zones, and in areas affected by prolonged military occupation and settler colonialism, where the power is in the hands of a foreign authority (occupiers and settler colonizers). In these settings, the state tends to work against the population's best interests and instead for its own political agenda. Even less research focuses on how these basic aspects of housing rights are secured in such areas. Accordingly, my research contributes to addressing this gap by addressing the struggle to exercise housing rights and, in particular, securing shelter and access to services and infrastructure in the context of prolonged military occupation and settler colonialism.

The usefulness of using a human rights approach to housing

The literature that analyzes international statements on the 'right to housing' can be divided into two categories. The first considers these international statements as important steps toward a full

[80] Retrieved on May 18, 2020, from http://www.un.org/waterforlifedecade/human_right_to_water.shtml.

and progressive realization of the right to adequate housing and includes the work of Leckie (2012), Liba and Harding (2015), Paglione (2006), Rajotte (2009) and Thiele (2002). The second criticizes a human rights approach to housing because of its contested normative value and abstract nature (Leckie, 1989a, 1989b). One key criticism focuses on the lack of enforceability of these rights, which affects providing clear direction for transferring the policy-making processes from the political to the legal sphere (Fitzpatrick et al., 2014).

On the one hand, international statements on the 'right to housing' are seen as a major achievement toward the acknowledgement of the right to adequate housing as a component of the right to an adequate standard of living. The UN CESCR recognizes the right to adequate housing as a freestanding right (Liba & Harding, 2015). Thus, it is considered an authoritative legal interpretation of the right to housing since it is used as a standard for assessing the performance of governments in the provision of this right (Almaden, 2014; Leckie, 2012).

Likewise, Thiele (2002) considers the UN CESCR's General Comment No. 4 (1991) as the "most advanced international standard protecting housing rights" (p. 713) because it provides a specific meaning of the right to adequate housing and advances the ability to judicially determine its content. The "states party to the ICESCR are legally obligated to respect, protect, and fulfill these requirements" (Thiele, 2002, p. 713). In addition, the Comment No. 4 extends the concept of adequate housing to include not only shelter itself, but also its surroundings. In doing so, it offers a foundation to exercise other rights, such as access to work, education and healthcare services (Paglione, 2006; Ringelheim & Bernard, 2013). The Committee has further identified the connection between housing and building community and the interrelationship of these domains for human dignity (Liba & Harding, 2015). Therefore, Liba and Harding (2015)

advocate for a human rights-based approach to translate the right to actual adequate housing on the ground.

On the other hand, scholars who criticize the UN CESCR definition of adequate housing focus on illustrating its limitations. Kenna (2010) argues that the UN CESCR's criteria to identify adequate housing requires states to have a high level of national welfare and well-developed institutions, which is far from reality for most states, let alone in the case of fragile states and conflict zones. Leckie (1989b) argues that the UN CESCR definition's "emphasis on the complexity of housing as a physical, social, economic and cultural issue" is problematic (1989b, p.527) because the right to adequate housing became a multi-layered concept that contains many elements, which are difficult to reconcile with one another (Leckie, 1989a).

In their attempt to assess and identify states' responsibilities to protect and fulfill the right to adequate housing, Sarigiannidis and Pervou (2013) argue that adequacy presents a "qualitative element of housing," in which housing conditions are not specified (p.29). Furthermore, the UN CESCR analysis of housing adequacy is descriptive and limited to abstract comments. Therefore, states' obligations to protect and fulfill the human right to adequate housing cannot be specified. They consider inadequacy to be an immeasurable term that hinders progress in formulating rights. Therefore, they suggest that the international community has a responsibility to provide 'objective criteria' that will help to assess states' legal obligations to provide adequate housing conditions.

Fitzpatrick et al. (2014) argue that the right to housing is a moral statement that puts ethical pressure on states to formulate policies that fulfill this right. This interpretation of the 'right to housing' is in line with the United Nations Development Programme (UNDP) position, which considers human rights in international instruments as "moral claims" on "collective

agents, and the design of social arrangements" (UNDP, 2000, p. 25). The rights expressed in international instruments are inevitably broad and abstract in nature rather than detailed, delimited, and contextualized. Thus, three problems can be identified in using human rights discourse with respect to housing: "their contested normative value and coherence, their lacking enforceability and their abstract nature" (Fitzpatrick et al., 2014, p. 457).

Likewise, Sarigiannidis and Pervou (2013) assert standards are not enough and have historically failed to protect the right to housing. Including housing rights in national legislation is also not enough to ensure better access to adequate housing for low-income groups; therefore, the right to housing should be "translated to inclusive policies and practical programs that consider people's capabilities" (UN-Habitat, 2007, p. 135).

Indigenous peoples' right to adequate housing

Indigenous peoples, globally, suffer from housing rights violations in their occupied territories, even though indigenous peoples' right to adequate housing is protected by international law. In addition to the Universal Declaration of Human Rights and the ICESCR, indigenous peoples' right to adequate housing is protected by the International Labour Organization (ILO) Convention No. 169[81] concerning Indigenous and Tribal Peoples in Independent Countries. While the ILO Convention No. 169 refers to both the ICESCR and the Universal Declaration of Human Rights, which recognize the right to adequate housing, the Convention considers the responsibility of governments to promote the "full realization of economic, social, and cultural rights [of indigenous and tribal peoples] with respect for their social and cultural identity, their

[81] International Labour Organization (ILO) Convention No. 169: C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169). Convention concerning Indigenous and Tribal Peoples in Independent Countries. Retrieved on May 2020 from http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169

customs, traditions and their institutions" (Article 2b). Still, the dispossession of indigenous peoples from their lands has severe implications for their housing rights, and there are often similarities in the ways their housing rights are violated across different national contexts (UN-Habitat, 2005a). These violations are varied and include discrimination in housing laws and policies, exclusion from decision making, land dispossession and forced evictions (UN-Habitat, 2005a). Prout Quicke and Green (2017) emphasize the precarious status of indigenous peoples in terms of their housing rights. They explain that as a result of the interweaving of current political and policy agendas that discriminate against indigenous peoples, and historical dispossession based on colonial ideologies that aim, from the beginning, to eliminate and, later, limit and contain the indigenous presence (Prout Quicke & Green, 2017).

As indigenous peoples' rights to housing have been systematically violated by settler colonizers, and few attempts have been made to study indigenous peoples' housing rights (Prout Quicke & Green, 2017). The literature discussing indigenous peoples' housing is mostly about housing quality, cultural adequacy and homelessness (Alaazi et al., 2015; Anderson & Collins, 2014; Walker & Barcham, 2010), as well as the links between housing, health and well-being (Christensen, 2016; Perreault et al., 2020; Riva et al., 2021). However, little research has addressed housing rights conceptually as it relates to the right to exist on the land. So, my research contributes to fill this gap by exploring how indigenous people in Palestine [Palestinian communities living at acute risk of home demolition and forcible displacement in so-called Area C] exercise their housing rights within a settler colonial context that denies their basic to exist on their land.

3.3 Power and the Production of Space: Planning for Control and Facilitating Domicide

I start this section by Edward Said's thoughts on the complexities of space production and geography, in *Culture and Imperialism*, as it resonates with me, and it shaped my understanding of space making and remaking despite adversities. Said (1993) states:

> Just as none of us is beyond geography, none of us is completely free from the struggle over geography. That struggle is complex and interesting because it is not only about soldiers and cannons but also about ideas, about forms, about images and imaginings. (Said, 1993, p. 7)

Said (1993) draws our attention to our, conscious and /or unconscious, engagement in the struggle over space and its connection to our very existence. However, power plays a critical role in shaping the construction of space. Power takes different forms, such as the power of dominate groups, which comes from top down and imposes policies that serve the dominate group's interest. As well, power can come from the bottom up to resist the dominant power to mitigate its impact on the weaker and vulnerable groups. In this section I explore spatial planning as a tool that shapes the construction of space and is rooted in power relations. Therefore, in the next sub-sections, I will examine the relationship between power and planning to shed light on planning as tool of development, as well as a tool of control and oppression.

Urban and regional planning[82] is often perceived as a tool of development that brings about public good for communities (Hall, 2014) and planners are often considered advocates for social justice (Thompson, 2012). So, urban planning is often seen as involving reforms to improve people's lives and create positive change (Friedmann, 1987) and is expected to be

[82] In this section I rely heavily on Oren Yiftachel's theorizing as he is one of the few authors that discussed planning as a tool of control and a lot of his conceptualization stems from his work experience in Palestine/Israel. So, here I will use his definition of planning as "the formulation, content, and implementation of spatial public policies… [T]the practice of planning includes all policies that affect urban and regional development, zoning, and land use… [I]t includes urban, regional and national spatial policies controlled directly or indirectly by the modern state" Yiftachel, O. (1998). Planning and Social Control: Exploring the Dark Side. *Journal of Planning Literature*, *12*(4), 395-406. (p.395)

objective and fair (Stein & Harper, 2003). Based on this conception, the planning process is supposed to be guided by spatial public policies that imply and manage or make change directed toward equity and justice for all.

But planning can also serve as a system of oppression and control (Yiftachel, 1998). This danger is embedded in power relations and the ways in which dominant groups impose and exercise their will at the expense of weaker groups, leading to spatial segregation and social exclusion (Sturzaker & Shucksmith, 2011). Therefore, understanding how urban planning is used as a tool for exclusion and control, as well as how it promotes certain policies and agendas, is crucial to uncovering the role of dominant power in constructing spatial injustice and denying housing rights for the vulnerable groups.

Several planning scholars have highlighted the 'dark side' of planning, for example, Forester (1989), in his book "Planning in the Face of Power", draws attention to the political dimension of planning as one of hegemony rather than development. Likewise, Flyvbjerg (1996) uses the term the 'dark side' of planning when referring to power and politics in planning theory and the role of spatial planning in promoting a certain agenda—which does not necessarily promote equity and social justice—based on power dynamics. However, Stein and Harper (2003) argue that an effective tool to counter the negative influence of power in planning is the distinction between what is supposed to be a just and fair planning process, and what happens on the ground where the imbalance in power produces inequalities, discrimination and exclusion.

To demonstrate the impact of planning on ethnic and racialized minorities, Thomas (1995) illustrates how housing and development policies in Britain have excluded the Black population and led to class and racial marginalization, while prompting white supremacy. Similarly, (Thompson, 2012) argues that planners' work can lead to exclusion and ghettoization

of the weaker segments of society, based mostly on ideas of "hiding and marginalizing the poor," using tools such as highways, parks, parking lots and open spaces that function as barriers (Thompson, 2012, p. 745). Thus, in multi-ethnic and racialized societies, spatial policies often discriminate against minorities and lead to segregation and disempowerment (Yiftachel, 1998).

Furthermore, Yiftachel (1998) critiques the focus of planning theories, pointing to the often progressive and reformist nature of planning, and calls for underlining the 'dark side' of planning where spatial planning is used as a tool of control and social oppression. He argues that "planning as oppression" exists in different settings, where oppressive power uses urban planning as a tool to impose the dominant group's interest over the weaker group's, resulting in negative impacts on social relations (Yiftachel, 1998, p. 398). He suggests a conceptualization of planning as social control and oppression that has four dimensions: 1) "the territorial dimension" through "containment, surveillance and segregation"; 2) "the procedural dimension" through "exclusion and marginalization"; 3) "the socioeconomic dimension" through "deprivation and dependence"; and 4) "the cultural dimension" through "homogenization, alienation, and de-legitimization" (1998, p. 403).

Yiftachel (2009b) further conceptualizes urban informalities as 'gray spaces'. Based on his analysis of the state of Israel's planning policies and practices, he argues that the dominant power facilitates the creation of 'gray space' in which weaker groups are stuck between the 'lightness' of legality and the 'darkness' of eviction and destruction (p. 89). He expands the definition of 'gray spaces' to include the spaces that are endorsed and facilitated 'from above' by the regime to privilege certain groups such as "private 'settlers' in areas of ethnic conflict." Then, Yiftachel (2009b) points out two processes that occur and terms them 'whitening' and 'blackening.' The first process, 'whitening,' includes creating and legitimizing 'gray space' for

groups favored by the regime, and therefore for the expansion of dominant interests. A good example of this is the process of legalizing Israel's illegal colonies in the West Bank.

The second process, 'blackening,' includes the destruction of the 'gray spaces' of marginalized groups using violent state power. Thus, the state is engaged in facilitating a process of 'creeping apartheid' (Yiftachel, 2009b, pp. 88-89), such as the destruction of the unrecognized Palestinian villages in the Negev and home destruction and forcible displacement in so-called Area C of the West Bank. In these cases, planning allows the dominant power to "legalize, criminalize, incorporate or evict" and consequently allows it to manage inequality and injustice within urban societies (Yiftachel, 2009b, p. 96). Yiftachel (2009b) argues—while referring to the state of Israel's planning polices within the borders created in 1948—that these processes of 'whitening' and 'blackening,' where the state facilitates 'creeping apartheid,' is embedded in institutionalized discriminatory systems that favors one group over another based on ethnicity and religion (Yiftachel, 2009b, p. 98).

Indeed, Yiftachel's analysis (2009a, 2009b) of the planning regime in the state of Israel deepens our understanding of how planning can be used as a tool of oppression and social control in ethnically divided communities, grounding his analysis using the 'ethnic conflict' lens. He defines the state of Israel as an 'ethnocratic'[83] state that designed and institutionalized its policies to deepen Jewish control and exclude Palestinian citizens. In doing so, however, he ignores the settler colonial nature of the state of Israel and therefore the core elements of settler colonialism—elimination of the indigenous Palestinians and territorial control—that drives the planning system in Israel while it engages in facilitating 'gray spaces.' Rather, he asserts that the

[83] Yiftachel, O. (2009a). Critical theory and 'gray space': Mobilization of the colonized. City, 13(2-3), 246-263. (2009a), refers to Israel as 'the ethnocratic Jewish state' and the oppressive power.

underpinning of the creation of 'gray spaces' and 'creeping apartheid' are 'forced urbanization and Israelization' of the Palestinian Negev Bedouin (Yiftachel, 2009a, p. 247)

Likewise, Jabareen (2006) examines the planning system in Israel using an 'ethnic conflict' lens as well. He argues planning in Israel is based on 'ethnocratic' urban policies that discriminate against certain groups and exclude them, creating what Jabareen (2006) terms 'spaces of risk.' These spaces create conflict, vulnerability and lack of trust among different groups (Jabareen, 2006). However, Jabareen (2006) discusses only briefly the imbalance of power relations to explain the roots of these 'ethnocratic' urban planning policies by looking at "state hegemony over the city" (p. 312). However, both Yiftachel (2009a, 2009b) and Jabareen (2006) neglect in their analysis the nature of the state of Israel as a settler colonial state, which designs its policies to construct spaces that align with its nature as a settlers state.

Settler Colonial Planning: the case of South Africa and Palestine/Israel

This section provides an overview of colonial planning and the processes associated with 'gray spaces' within settler colonial contexts by discussing South Africa and Palestine/Israel. Using a postcolonial lens, Porter (2016) examines colonial planning in settler states focusing on the USA, Canada, Australia and New Zealand and how colonial planning creates structures of injustice towards the indigenous population. In particular, Porter (2016) clarifies colonial planning's direct effect on indigenous peoples' rights and lives. Porter (2016) argues that colonial planning has been used by the colonizer to marginalize, oppress and diminish indigenous people's autonomy and sovereignty (Porter, 2016). In South Africa—deeply rooted in the colonial era—planning was used as a tool to manage and support the colonial and apartheid[84]

[84] Apartheid: "the system of spatial or territorial control associated with the formerly racist regime of the Republic of South Africa and now a symbolic reference to all forms of cultural domination and oppression arising from spatial strategies of segregation" (Soja, E. W. (2010). On the Production of Unjust Geographies. In *Seeking Spatial*

regimes (Turok, 1994), as well as to foster racial segregation through spatial separation and dispossession of racial groups (Harrison et al., 2008). Planning laws were an original part of 'the legislative arsenal' to prevent urbanization by the Black population and to maintain racial segregation and exclusion (Berrisford, 2011).

Through examining the role of planning in improving or increasing 'deep ethnic conflict' in Jerusalem and Johannesburg, Bollens (1998) argues that urban planning is used as a critical tool for control and ethnic separation (p. 746). In occupied Jerusalem[85] and South Africa during the apartheid era, urban planning policies reinforced domination, promoted spatial inequalities, and increased deprivation. In Jerusalem, the unilateral Israeli planning system restricts the Palestinian right to development and fragments their identity, increasing political instability (Braier, 2013; Braverman, 2007; Khamaisi, 2011). According to Soja (2010), apartheid represents the extreme in "creating unjust geographies" in South Africa, where the struggle over geography and the political organization of space was reinforced through a system of "legislation, ideological rationalization, and violent political action" (p. 39). This system produced an institutionalized racial segregation and spatial structure that was designed for the benefit of one group to the disadvantage of another.

Similarly, in Palestine, the legacy of colonial spatial planning and its impact on the political organization of space is well documented (Abdelhamid, 2006; Abdulhadi, 1990; Araj, 2010; Coon, 1992; Fruchtman, 1986; Khamaisi, 1997). The planning laws inherited, amended, and deployed by colonial powers—the British Mandate and later by the Israeli settler colonial regime—facilitate injustice and oppression, as well as legitimize spatial colonization. The laws

Justice (pp. 31-66). University of Minnesota Press. https://doi.org/10.5749/minnesota/9780816666676.003.0003 , (p. 39).

[85] The west section of Jerusalem was captured by Zionist militants in 1948 and the East section was occupied by the Israeli army in 1967 during the Six Day War.

contribute to the maintenance of territorial control and the elimination of the indigenous Palestinians. From the interpretation of Ottoman laws and amendments to the Jordanian planning law, through to military orders, all are attempts to legitimize spatial oppression (Abdulhadi, 1990; Araj, 2010; Coon, 1992). These planning laws are discussed in detail in the context chapter (Chapter 2), where I trace the historical development of planning laws in historic Palestine and their implications for housing rights.

Home Destruction "Domicide" and Forced Displacement in Palestine

Home is emphasized as key for human survival and well-being as it provides security, privacy and belonging. Losing one's home is associated with emotional distress, deep grief, and negative impact on humans. The literature has well documented the meaning and importance of home, such as Relph (1976) who states "people are their place and a place is its people." (p. 34) and Somerville (1997) who describes home as "a complex, multi-leveled or multi-dimensional construct […] Home is physically, psychologically, and socially constructed" (p.226), indicating several meanings of home embracing privacy, identity and familiarity. Academic literature has also examined home destruction and its negative impact on its inhabitants. For example, Porteous and Smith (2001) conceptualized the loss of home and forced displacement by coining the notion of domicide, the murder of homes, to describe "the deliberate destruction of home by human agency in pursuit of specified goals, which causes suffering to the victim" (p. 12). Porteous and Smith (2001) consider domicide a global process that takes place in different shapes and for various reasons, such as war or development and it might result in:

> …the destruction of a place of attachment and refuge; loss of security and ownership; restrictions on freedom; partial loss of identity; and a radical decentring from place, family, and community. There may be a loss of historical connection; a weakening of roots; and partial erasure of the sources of memory, dreams, nostalgia, and ideas. (p.63)

Furthermore, Zhang (2018) argues that domicide is not only about loss of physical space, but also it disrupts relationships and identity; domicide "reinforces existing socio-spatial patterns of inequality, insecurity and oppression, forcing upon people that have already been marginalized, excluded and penalized." (Zhang, 2018, p. 193).

Few studies have examined the ongoing home destruction in Palestine. Porteous and Smith (2001), Harker (2009) and Akesson (2014) describe Israel's home destruction policy in Palestine as "domicide." Drawing upon Porteous and Smith (2001) definition of domicide, Harker (2009) extends the notion of domicide to include not only intentional home demolition, but also any form of home evection, exile, and displacement. Similarly, Harker (2009) and Akesson (2014) connect the policy of "domicide" with the "matrix of control"—a term coined by Halper (2000)—to describe the Israeli restrictions imposed on Palestinians in order to isolate them in ghettos and control their lives, such as the construction of the separation wall, checkpoints, land confiscation and the construction of Israeli-only roads in the West Bank. While the "matrix of control" creates man-made restrictions and limits the development of Palestinian communities, the confiscation of Palestinian land to build Israeli settlements in the West Bank escalates the intentional destruction of Palestinians' homes.

To explain the impact of intentional home demolition, Meade (2011) states that this loss of home causes insecurity, humiliation, grief, anger, trauma, distress and a loss of identity. Likewise, Harker (2009) connects one's loss of home with their familial sense of security, and emphasizes the emotional distress resulting from the loss of home and its negative impact on self-identity. Similarly, Akesson (2014) considers home to be a vital point in a family's life trajectory that shapes the family's everyday experiences; therefore, loss of home causes negative effects on families' well-being, such as raising the levels of physical and emotional stress and the

psychological effects on families and children, as well as the loss of sense of identity. Also, her study demonstrates the importance of further research that aims to better understand this phenomenon.

Another key point that Akesson (2014) addresses is the counter practices that vulnerable communities utilize to challenge home demolition policies. She argues that Palestinian families resist home demolition by *Sumūd* (steadfastness in classic Arabic) (Akesson, 2014, p. 15), which includes staying in their homes and not leaving even if they are threatened with mental and physical violence. Although the researcher sheds light on the counter practices used to resist the policies of home demolition such as *Sumūd*, she offers only a limited understanding of *Sumūd* that does not include other counter practices that Palestinians employ, such as efforts to continue rebuilding their homes, attempts to update the land zoning, and efforts to provide basic services and infrastructure to marginalized communities. Therefore, further research is needed to understand the different strategies that Palestinians utilize to challenge the policies of home demolition, as well as to understand the different elements that might improve or hinder these strategies.

In the same way, Harker (2009) emphasized Palestinians' local practices that contribute to place making. In particular, he calls for more consideration of the "socio-cultural meanings" of home in the Palestinian context, which is connected to social and cultural networks within Palestinian society. Therefore, a study that takes into consideration the socio-cultural aspects of home as vital elements in the analysis of the Palestinian practices to challenge the spatial oppression and exercise their housing rights is needed.

3.4 Conceptualizing Everyday Resistance Among Palestinians

Power and resistance rely on one another in the sense that power depends on points of resistance to spread itself (Hoy, 2005). However, Baaz et al. (2016) argue that resistance is an evolving and flexible phenomenon that can take different forms, and can be "integrated into everyday social life." (p.138). In this section, I will identify and discuss everyday resistance in my attempt to understand Palestinian practices to exercise their housing rights.

Everyday resistance is a concept first introduced by Scott (1985) in his book *Weapons of the Weak: Everyday Forms of Peasant Resistance*, in which he argues that peasant acts to challenge their oppressors are often everyday forms of resistance. Scott states that everyday resistance has an "implicit disavowal of public and symbolic goals… [and] is informal, often covert, and concerned largely with immediate, de facto gains" (p. 33). Scott identifies everyday resistance as:

> any act(s) by members(s) of a subordinate class that is or are intended either to mitigate or deny claims (for example, rents, taxes, prestige) made on that class by super-ordinate classes (for example, landlords, large farmers, the state) or to advance its own claims (for example, work, land, charity, respect) vis-à-vis those superordinate classes. (1985, p.290)

Also, Scott (1985) argues that resistance does not have to be recognized in order to be effective, and most often the weak groups do not engage in organized and open resistance because it carries with it high risk of devastating and violent reactions from the oppressors. For example, resistance could be through everyday political acts such as avoiding tax or increases in land rent (Scott, 1985, p. 296) and 'false compliance, feigned ignorance, evasion and sabotage' (Scott, 1985)

However, Scott's work has faced criticism for its rigid definition of what constitutes everyday resistance (Alayan & Shehadeh, 2021; Vinthagen & Johansson, 2013; Richter-Devroe,

2018). According to Scott, acts of everyday resistance must be intentional; outcome without intention is less grounds for the classification of everyday resistance (Scott, 1985).

Richter-Devroe (2018) situates Scott's work into the Palestinian context, arguing that:

> [Palestinian women's] material survival acts are not intended as long-term political resistance strategies; they are tactics with which women can only temporarily circumvent settler-colonial policies. They are ad hoc, improvised, and most of the time—although women do also frame them as resistance (a point I return to below)—they are devised out of mere economic necessity without much broader political meaning or demands attached to them (pp. 111-112).

Consequently, Richter-Devroe (2018) believes that Palestinian women's acts of everyday resistance should not be restricted to being labeled apolitical, similar to Bayat (2010) who also argues that individuals living their ordinary lives, while in opposition to oppressive powers, are justified on "moral grounds" for their work to turn into a collective/political struggle (p. 60). Alayan & Shehadeh (2021) generally agree with Scott that everyday resistance should be intentional, however they make note of "intersectional discrepancy across contexts" (p. 1064).

Everyday resistance also refers to the non-violent forms of resistance communities use to challenge their oppressors. As there continues to be limited information on the ways communities, particularly in long-term conflict zones, resist the violation of their human rights, it is important to examine the unique forms of everyday resistance as they are usually disguised or hidden in some way (Ceric, 2020).

Palestinian Everyday Resistance: Sumūd

In Palestine, many forms of everyday resistance have been utilized from the 1920s to the present day stemming from the state favouring Jewish immigrants over indigenous Palestinians (Dana, 2018). Palestinians can use past tragedies to inform their methods of resisting an oppressive colonial regime. As resistance can be classified under political, economic, personal needs, and

increasing status/identity, Palestinians are collectively and individually challenging an oppressive settler colonial state violating their basic human rights in an attempt to reclaim their land (Baaz et al., 2016; Peteet, 2017). For example, Naji Al Ali, a Palestinian cartoonist, has become a symbol of resistance in his community as he created powerful drawings to keep the stories of his people alive, eventually resulting in his assassination (Hamdi, 2011). Like Al Ali, who produced images of orphaned children and women representing the motherland (Hamdi, 2011), other activists and citizens have utilized their abilities to oppose the power imbalance stemming from colonization.

The term Sumūd, directly translated as steadfastness or persistence (Van Teeffelen, 2006), has two different meanings (Hammami, 2004). The first, and original, definition of Sumūd meant "refusing to leave the land despite the hardships of occupation" (Hammami, 2004, p. 27). The term's meaning has shifted to mirror the phrase "al-hayat lazim tistamirr" or "life must go on" (Hammami, 2004, p. 27). This means the Occupation's tactics to immobilize communities will not be successful as families continue to follow through on daily life activities such as going to school and work (Hammami, 2004). According to Richter-Devroe (2018), Sumūd is a low profile and unorganized task that often takes place by one individual. Richter-Devroe categorizes Sumūd actions into three sections: 1) *Material based survival strategies*, such as securing employment and monetary opportunities and remaining on the land; 2) *Cultural resistance*, such as maintain cultural art, dance, and clothing; and 3) *Social and ideational resistance*, such as maintaining a community's morale and "sense of normalcy" (Richter-Devroe, 2018, p. 99). Similarly, Darweish and Sellick (2017) classify forms of everyday resistance into three categories: 1) *Active resistance*, participants do all they can to resist their oppressors through non-violent means such as strikes and demonstrations; 2) *Symbolic resistance*,

participants express resistance through means of culture or gestures; and 3) *Defensive/ constructive resistance*, participants resist colonizer rule by creating their own means to support their communities. This last form of resistance is similar to the culturally relevant term "Sumūd."

The Distinct Role of Palestinian Women in Everyday Resistance

Within the literature, many authors discussed the distinct gendered experience of Palestinian women under Israel's occupation and their engagement in the acts of everyday resistance (Richter-Devroe, 2018; Johansson & Vinthagen, 2015; Alayan & Shehadeh, 2021). According to Richter-Devroe (2018), the responsibility of Sumūd has been taken up by Palestinian women as a response to the increasing male inability to provide under Israel's occupation. This has led to Palestinian women constructing their own responses to social and political oppression to sustain their families and communities (Richter-Devroe, 2018).

In the work of Darweish and Sellick (2017), they describe instances of everyday resistance among Palestinians living in Israel in 1948-1966. As such, various women participants outlined their specific roles within everyday resistance; they needed to decide if they were going to "resist or to submit" (p. 359). Specifically, Darweish and Sellick documented instances of *Active Resistance* that displayed the role of Palestinian women when resisting housing displacement. This resistance ranged from physically refusing to move with their families in the face of Israeli soldiers, to using elaborate tactics such as using livestock to return to the land. Everyday resistance and housing rights were also shown through communal efforts, where a family would rent a space to displaced families based on their shared personal goal of resistance (Darweish & Sellick, 2017).

3.5 Chapter Summary

Settler colonialism, human rights theory, critical planning theory and everyday resistance theory shaped my understanding of the roots of spatial oppression and housing rights denial, as well as the actions to challenge the power imbalance, structural oppression, and settler colonial domination in colonized Palestine.

In section (3.1), I examined settler colonialism as a framework for understanding spatial oppression and housing rights denial in colonized Palestine. To summarize, **Settler colonialism** is an ongoing, structural system of power and systematic oppression that promotes settler colonial domination. The core of settler colonialism is based the notion of empty land, which normalize the settler colonizers ongoing acts that aim at eliminating the indigenous populations and taking over their territories to establish a new settler colonizer society. Therefore, settler colonialism emphasizes "invasion is a structure, not an event" (Wolfe, 1999, p. 2), which involves ongoing and systematic forms of oppression to appropriation and transform the indigenous spaces and culture. To achieve this end, setter colonizers use different forms of violence to erase indigeneity such as domination, territorial fragmentation, land confiscations and building colonial settlements.

Settler colonial projects in the world are not identical, however there are parallels among them. In the last decade, many scholars situated Palestine within the settler colonial paradigm to understanding the structure of the Israeli settler colonial project and its policies and practices. It is notable that the settler colonial project in Palestine has been informed by the logic of settler colonialism and it employed similar dispossession techniques used in other settler colonial states such as Canada, USA, Australia, and New Zealand.

This, using settler colonial lens provided a framework to understand and analyse Israel practices and polices related to Palestinians' housing rights in so called Area C in the West Bank.

As well as to explore and understand Palestinians' actions to oppose structural oppression, dispossession, and inequality in their attempts to secure their right to exist on their land and to exercise their housing rights.

In section (3.2), I situate the problem of human space destruction facing the Palestinian communities within the framework of human rights, in particular the right to adequate housing. Theoretically, **the right to housing** has been set out as a rights-based statement in the United Nation conventions, which gives rise to certain entitlements. Yet fulfilling the right to adequate housing is far from the reality for marginalized groups in both developing and developed countries. The UN has broadened the definition of the right to housing and put emphasis on the complexity of housing as a physical, social, economic, and cultural issue. The breadth of the rights expressed in international human rights instruments and the normative nature of the human-rights approach provides a morally protected space—on the individual, communal and institutional levels—for challenging and resisting oppression.

Still, housing rights literature does not articulate how the specifics of the right to adequate housing can be judicially determined and how states can be obliged to protect and fulfill its requirements. Moreover, it is notable that the right to housing in long-term conflict zones is being neglected both in research and in intervention, let alone in cases of prolonged military occupation and settler colonialism, where the very right to exist in one's homeland is challenged. Even though housing is considered a basic human right, settler colonial states still deprive indigenous populations of these rights using military power and oppressive policies and practices to violate and deliberately deny these rights. Based on the above, this research builds on previous studies and attempts to contribute to filling these gaps in the literature. Also, it aims to shed light on a challenging topic that touches the lives of many people who struggle to live in

dignity with their families. By focusing on the human agency of an indigenous population, my research explores the strategies that have been developed to challenge and resist the denial of housing rights in the context of settler colonialism.

In section (3.3) I examined **planning as a tool of control and oppression** that shapes the construction of space. Spatial planning is often understood as a tool of development that creates spaces in which there is room for growth and prosperity. However, several scholars such as Flyvbjerg (1996) and Yiftachel (1998) draw attention to the 'dark side' of planning rooted in power imbalance and inequality, which support the dominate group's agenda at the expense of the weaker and vulnerable segments of society. This understanding of planning as a tool for exclusion and control, as well as how it promotes certain policies and agendas, is crucial to uncovering the role of dominant powers in constructing spatial injustices such as denying housing rights for the vulnerable groups.

Planning as a tool of control and oppression is used heavily in settler colonial states such as the USA, Canada, Israel, and South Africa. Several scholars discuss how settler colonial planning shapes the spaces of indigenous populations and creates structures of injustice towards them. Thus, settler colonial planning was and is an effective tool to facilitate territorial control and to eliminate the natives' presence on their land. Particular attention was given to explaining how Israel used planning to facilitate its settler colonial project in Palestine, the context of this thesis.

Furthermore, home destruction, domicide, and forced displacement were examined to establish a connection between the 'blackening' process used against indigenous spaces and the destruction of such spaces using state violent power. However, scarce research examined the role of planning as control in facilitating housing rights denial in settler colonial contexts and even

less examined the ways in which indigenous populations exercise their rights within this hegemony of the settler colonial regimes.

Finally, in section (3.4), I conceptualized **everyday resistance**, to understand the ways in which Palestinians oppose the settler colonial power that enforces systematic inequality and oppression related in the context of housing rights denial. Within the literature, there is a sizeable amount of research pertaining to theories of everyday resistance as well as their application to the Palestinian context. However, there was a gap in knowledge surrounding everyday resistance and housing rights in Palestine. While the literature included individual case studies of Palestinian families being displaced from their lands, they were limited to the study of resistance as a broad topic. There is a lack of specific and critical analysis deconstructing everyday resistance with regards to exercising housing rights in the context of continued housing demolitions in so-called Area C. This research contributes to filling the gap in the existing literature.

In the next sub-section, I present the conceptual framework that emerged from this intensive study of the literature, explaining how the different concepts were integrated to support this study.

3.6 Conceptual Framework for the purposes of this thesis

The aim of this study is to understand the ways in which housing rights are being exercised under a prolonged military occupation stemming from a settler colonial project in the making. Based on the synthesis of the current literature about settler colonialism and housing rights, several discussions with key informants, field observations and my personal experiences as a Palestinian scholar who lived and worked as an architect and social worker in Palestine, I found

that uncovering the roots of housing rights denial is essential to understanding the policies and actions that are operationalised and directed toward either the denial of housing rights by settler colonizers and/or exercising housing rights by indigenous communities. I found that the context of settler colonialism is vital in this study, as settler colonialism is the motive that informs the practice toward denying and/or exercising housing rights, while prolonged military occupation is the force that facilitates and/or constrains these actions on the ground.

In this sub-section, I explain the conceptual framework that informed this research and shaped my understanding of spatial oppression represented by housing rights denial, as well as the practices to secure housing rights within a settler colonial context. The conceptual framework that informed this study includes settler colonialism as the motive drives housing rights denial, and it is operationalized and enabled through military occupation arbitrariness. This oppression provokes acts of everyday resistance, in which the oppressed challenge the power of their oppressor. The overall framework is summarized in figure (3.1).

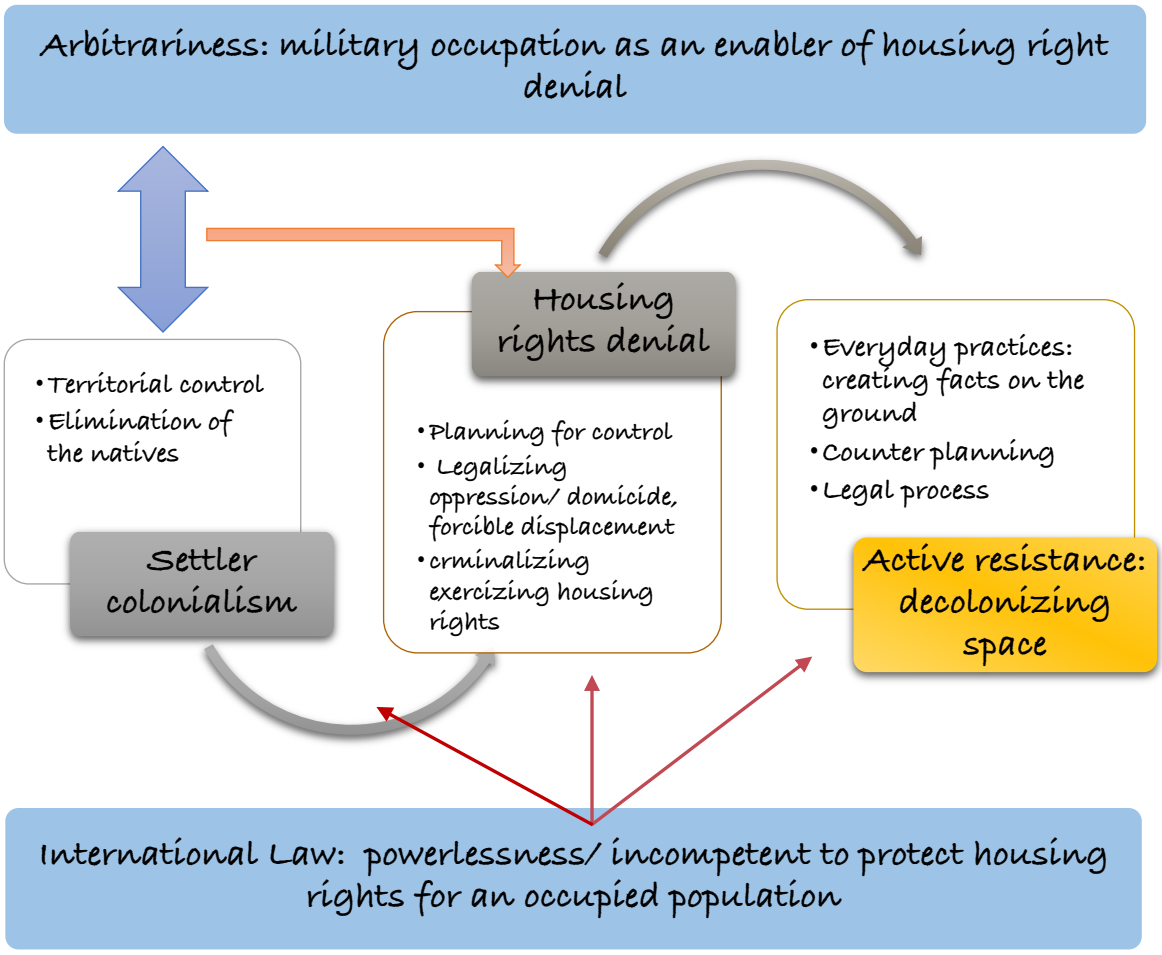


Figure 3.1: Setter Colonialism and Housing Rights Denial a Conceptual Framework

Settler colonialism: the roots of housing rights denial

Drawing from postcolonial theory, the concept of settler colonialism offers an understanding of the context of housing rights denial in so-called Area C, particularly in illustrating the territorial dimensions of housing rights denial and the attempts to secure housing rights. Since land is the core of any settler colonial project, settler colonizers aim to control land and territories of indigenous populations by limiting the developments of indigenous communities, then destroying and replacing them (Wolfe, 1999, 2006). Therefore, land control is the key element that connects settler colonialism and housing rights. When a home is built, it roots the humans to

the land and deepens their connection to their places and spaces. Therefore, a critique of the settler colonial paradigm offers a framework for understanding the roots of housing rights denial in Palestine and specifically in so-called Area C because of the tight connection between housing as a spatial practice that roots humans to the land and limiting territorial control, which is, as mentioned before, at the core of any settler colonial project. At the same time, it provides a framework for discussing Palestinians' practices in attempts to secure their right to housing, as an ongoing struggle against the settler colonial rule rather than merely a struggle to secure basic rights in a context where different groups' interests compete.

Settler colonialism implies spatial forms that in turn involve imagined geographies (Barker, 2012; Veracini, 2010a). Therefore—building on the analysis of Said (1979), "all the constitutive energies of Zionism were premised on the excluded presence, that is, the functional absence of 'native people' in Palestine" (p. 29)—I make explicit the connection between settler colonialism and the formation of space and the creation of new geography in Palestine that implies the elimination of the indigenous Palestinian population. Settler colonialism shapes and transforms Palestinian spaces and appropriates their places continually in a constant way, which has direct implications for Palestinian human rights in general with housing rights specifically being targeted.

An approach using settler colonial critique helps to identify the origins and motivations of Israeli polices in Palestine that impact housing rights for the indigenous population. Using the settler colonial paradigm explains the ongoing transformation of Palestinian spaces that drives housing rights denial and the settler colonial structure underpinning it. At the same time, it challenges attempts to legitimize human rights denial and normalize dispossession. Furthermore, the settler colonial paradigm offers a framework for understanding Palestinian encounters with

the military occupation in attempts to secure their right to housing as an ongoing struggle with colonial rule, rather than a conflict between two national groups.

Furthermore, understanding Israel as a settler colonial state, in its conception, helps overcome the fragmentation of the Palestinian people and territories, which was created as a deliberate result of the creation of the state of Israel in order to give space to the growth of the Israeli settler colonial project (Bhandar & Ziadeh, 2016). Consequently, studying the policies Israel is implementing in so-called Area C in the West Bank as part of the bigger ongoing settler colonial project helps situate so-called Area C within its proper context. Also, it helps us move beyond the narrative of the conflict between two equal sides to engage in deeper analysis of Israeli polices as part of the Zionist settler colonial project (Bhandar & Ziadeh, 2016). This understanding of the context of housing rights denial in so-called Area C, particularly in illustrating its territorial dimensions, helps properly situate Palestinian counter practices to challenge housing rights denial and secure their housing rights as attempts to decolonize their spaces.

Legalizing housing rights denial (domicide, forcible displacement): urban planning as a tool and military occupation violence as enabler

Drawing upon critical urban planning theory, which puts emphasis on power, inequality, and injustice, I developed an understanding of how urban planning is used as a tool for exclusion and control, as well as how it promotes certain policies and agendas, which is crucial to uncover the role of dominant power in constructing spatial injustice and denying housing rights for vulnerable groups. Using the four dimensions of Yiftachel's (1998) conceptualization of planning as social control and oppression will help to understand the process of housing rights denial within settler colonial contexts. It is useful in terms of uncovering the complex nature of

the process that utilizes colonial planning to facilitate housing rights denial, which stems from the core elements of settler colonialism: territorial control and elimination of the natives.

I argue that planning as control facilitates housing rights denial; urban planning provides the state with powerful tools to control all forms of development, such as public services and housing (Jabareen, 2006). Moreover, state planning policies directly affect land control and territoriality (Jabareen, 2006) and, therefore, have the power to shape peoples' lives through legitimization or, conversely, criminalization and destruction (Yiftachel, 2009b). Applying this logic in settler colonial states, the settler-colonizers who became the dominant power find, in planning, a very useful tool to achieve territorial control and to deny indigenous rights to the land. Therefore, the planning system often is designed by the settler colonizers: to legitimize the denial of indigenous peoples' housing rights; to criminalize indigenous people when they exercise their housing rights; and finally, to destroy their homes and livelihoods using the state's violent power. In the Palestinian context, military occupation violence is used as an enabler to enforce the settler colonizers' policies and practices to control land and space. In this context of settler colonialism, access to housing rights is political and has national dimensions.

Everyday Resistance: Decolonizing Space

Settler colonial states continue to hold power against indigenous inhabitants with little to no repercussions. Indigenous communities worldwide challenge their invaders through different forms of resistance, including 'everyday resistance'. In this research, I situate the Palestinian practices that challenge housing rights denial and their struggle to secure access to their housing rights within the larger indigenous communities' struggle against the ongoing settler colonial violence and the attempts to decolonize indigenous spaces. Through mostly unorganized covert everyday practices such as Sumūd, Palestinian people individually and collectively resist housing

rights denial. Using everyday resistance as a concept will help analyse the Palestinian practices related to exercising their housing rights in so-called Area C as a territory directly impacted by ongoing settler colonial violence.

4. RESEARCH METHODOLOGY

In this chapter I explain the research design and methodology I used to explore the ways in which housing rights are being exercised within the context of prolonged military occupation and settler colonialism. I explain my research methods, including research design, field visit one and field visit two, data collection and analysis methods and finally I discuss research quality and challenges. The purpose of my doctoral study is to examine housing-related initiatives for vulnerable Palestinian communities at acute risk of home demolition and forced displacement in so-called Area C/ Palestine, in order to understand of the complexity of exercising housing rights within the context of prolonged military occupation and ongoing settler colonial practices. Housing rights are defined as they are in key international instruments; thus, I use the United Nations definition of adequate housing, specifically, two of its key aspects—security of tenure and access to services and infrastructure—as specified in General Comment No 4.[86]

Through exploring Palestinian efforts to secure housing rights in so-called Area C—where the right to exist and continued residence in one's homeland is challenged—I aim to unpack the complexity of different strategies and tactics that have been used to promote housing rights and the contextual elements that influence these processes. A comprehensive perspective on housing-related initiatives in Palestine, as a place affected by prolonged military occupation and settler colonial processes, emphasizes how claiming housing rights interacts with multiple layers of the spatial-political aspects of Israel's settler colonial project in Palestine. Therefore, a qualitative study specifically exploring the complexity of exercising housing rights in areas

[86]Committee on Economic, Social and Cultural Rights, General Comment No.4, The right to adequate housing (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991). Available at http://www.refworld.org/docid/47a7079a1.html. Accessed September 15, 2019.

affected by prolonged occupation and settler colonialism is needed. Qualitative research is necessary to understand how housing rights are challenged and how these rights are claimed in cases of the hegemony of the occupying power and settler colonialism. In this context, an examination of housing-related initiatives and praxis that aim to challenge the spatial-political restrictions, in order to ensure housing rights, is vital for the right to have a secure home and thus protect the survival, well-being and dignity of Palestinians.

The initial research question on securing housing rights was first developed through informal discussions with key informants, and community members in so-called area C, as well as my personal experiences, exposure to media and political discourse in Palestine. The main research question guiding this study is, therefore:

How are housing rights being exercised within the complex context of prolonged occupation and ongoing settler colonial practices in so-called Area C/ Palestine?

In addition, the following four sub questions were examined:

a. What are the regulations and policy frameworks affecting housing rights for Palestinian communities in so-called Area C/Palestine?
b. What are the current contextual supports/constraints to realizing housing rights for Palestinians communities in Palestine/so-called Area C?
c. What are the different strategies that have been utilized to challenge these contextual constraints if any? What drives these strategies? And how do different agents affect them?
d. What factors do participants perceive as supporting/hindering these strategies?

To explain every aspect of the research methodology, this chapter is organized into the following six sections: section (4.1) I explore the research design, which is a qualitative case

study design; section (4.2) I introduce fieldwork I; section (4.3) fieldwork II; (4.4) data collection methods in turn; (4.5) methods of data analysis; and finally, section (4.6) presents research design quality and challenges.

4.1 Research Design

Exploring the complexity of the processes by which housing rights are approached and what drives these praxes, within contexts of prolonged military occupation and settler colonialism, requires a complete and holistic understanding of the experiences of those who are involved in such praxes in these contexts. The methodological design of this study was developed to effectively address the research question and to cover the contextual conditions highly relevant to exercising housing rights, as well as to collect data from diverse sources that reflect multiple perspectives. Also, this research design is guided by my personal research philosophy and assumptions about the nature of reality, truth, and knowledge that is best reflected in the constructivist paradigm, which is based on understanding the phenomenon from multiple perspectives by capturing subjective views and experiences. I strongly believe that people construct their own understanding and knowledge of the world through experiencing things –in a specific context and time– and reflecting on those experiences.

Fundamental Foundations of the Constructivist Paradigm: Ontology, Epistemology and Axiology

The ontological stance of the constructivist paradigm views social reality as subjective, socially constructed, which does not exist independently of human conceptions and interpretations. Therefore, reality is multiple and context-specific (Creswell, 2013; Patton, 2002). To capture this multiple reality and show different perspectives, I value using the words of participants 'quotes' to develop themes. The epistemological stance of the constructivist paradigm views knowledge as context- and time-dependent and therefore subjective to each

person; it is established through the meanings attached to the phenomena studied (Patton, 2002). So, I value gaining the knowledge of the participants' views on their realities. Finally, the axiological stance of the constructivist paradigm speaks to the impact of values in research. I believe that facts cannot be separated from the researcher's values. Therefore, things can't be described as they really are, but only how we perceive them. So, I recognize that my own background, personal and cultural experiences shape my interpretation of what I find. Within this study, my social positioning, being a Palestinian mother, scholar, and human rights advocate, informs the 'value-laden' nature of this research.

Therefore, qualitative methodology rooted in the constructivist paradigm best fit this study. Embracing the voices of research participants who are affected and involved in the struggle to secure housing rights through quotes and themes will help us to understand the ways in which housing rights are approached by capturing subjective views from different perspectives (Creswell, 2013). So, qualitative research allows studying the 'real world' as it is experienced by people, which is "the cornerstone of qualitative research" (Patton, 2005, p. 1633).

Why Qualitative Research?

Qualitative research design, in particular the case study approach, best fit my aims because the qualitative research method is frequently recommended when studying an activity or process (Berg, 2001; Creswell, 2013; Padgett, 2008; Patton, 2005). I chose a qualitative method over a quantitative method for this study because quantitative methods are insufficient to explore a phenomenon which involves multiple elements and has dynamic and symbolic components (Creswell, 2009). Therefore, qualitative research allows the construction of a holistic picture of the phenomenon that emerges within its context, it gives space for multiple perspectives, and identifies the different factors and their complex interactions in a situation from the perspective

of the people experiencing it (Creswell, 2013). Thus, qualitative methods generate detailed and rich information that will allow us to explore the complexities of the praxes by which housing rights are approached, and what drives and influence these praxes within a settler colonial context, as well as to develop in-depth understanding of this phenomenon and the structural factors that shape it (Creswell, 2013; Patton, 2002, 2005).

Why a Case Study Approach?

Yin (2003) defined a case study as "an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident" (p. 18). Creswell (2013) echoes and expands on Yin, describing the case study as "a qualitative approach in which the investigator explores a real-life, contemporary bounded system (a case) or multiple bounded systems (cases) over time, through detailed, in-depth data collection" (p. 97).

The case study design "is used in many situations to contribute to our knowledge of individual, group, organizational, social, political, and related phenomena" (Yin, 2003, p. 1). As a qualitative research strategy, the case study is particularly useful when the proposed research is exploratory and addresses a contemporary phenomenon over which the researcher has no control; as well as to address "how" and "why" questions (Creswell, 2013; Yin, 2003). Furthermore, it allows in-depth explorations of complex issues in the real-life contexts in which they happen and helps develop or refine theory (Crowe et al., 2011). So, case study design is well suited for the job when the contextual conditions are relevant to the phenomenon under study (Yin, 2003).

Based on these ideas, case study design is an appropriate tool to study the process of exercising housing rights –as a "contemporary phenomenon within its real-life context" (Yin,

2003, p. 18)– in areas affected by settler colonial practices and prolonged military occupation because the settler colonial context plays a vital role in shaping the praxes by which housing rights are approached and is highly relevant for understanding what drives these praxes.

This research is also exploratory as little is known about the process of exercising housing rights within a prolonged occupation and settler colonial context. At the same time, it addresses the ongoing struggle to secure housing rights within such a context—a contemporary phenomenon—that I have no control over as a researcher.

Multiple Case Study Design

Stake (2005) identified three types of case study: the intrinsic, when the aim of the study is to understand a particular case; the instrumental, when "a particular case is examined mainly to provide insight into an issue or to draw a generalization"; and the multiple, or collective, when "a number of cases may be studied jointly in order to investigate a phenomenon" (p. 445).

Based on these definitions, my study is a multiple case study done for exploratory purposes. My intention is not to focus on the specific cases involved, but rather on the insights they provide about the phenomenon of the process of exercising housing rights within a settler colonial context (Stake, 2005), the possibilities for analytical generalization[87] (Yin, 2003) and the identification of improved practices that promote human rights, specifically, housing rights for indigenous communities (Stake, 2005).

Thus, after consultations with key informants and multiple filed visits, I chose three housing rights related initiatives within so-called Area C, West Bank/ Palestine in the hope they would lead to a better understanding of the complexity of the process of exercising housing

[87]Analytical generalization is the generalization of "a particular set of results to some broader theory" Yin, R. (2003). Case study research: design and methods (3rd ed.). Sage Publications.

rights, and maybe better theorizing, of housing rights within settler colonial contexts (Stake, 2005, p. 446). The three cases— (1) building Al Fakhiet school in Masafer Yatta, (2) preparing master plans for Alzbidat, and (3) constructing family homes in Al Aqaba and Masafer Yatta villages—are within so-called Area C, a complex context of ongoing settler colonial practices and prolonged military occupation. Additionally, each case presents a different strategy that has been utilized to exercise housing rights, and therefore each contributes to uncovering different aspects of the phenomena and the way they intersect.

Finally, my study is exploratory because it aims to understand the processes by which housing rights are approached within the settler colonial context without having a pre-determined hypothesis. Very little research has been conducted about the processes of exercising housing rights within the settler colonial context including, in particular, about Israeli settler colonialism in Palestine.

Defining the Cases

In doing a multiple case study, each case should be predefined in terms of the nature of the study, the time period covered by the case and the relevant social group, organization or geographical area of interest to the investigator (Yin, 2003). However, it sometimes proves difficult to define a case beginning and end precisely (Crowe et al., 2011).

In this case study, a case is defined as an active housing-related initiative that aims to promote and support housing rights in a Palestinian community at acute risk of home demolition and displacement, located in so-called Area C. By "housing-related initiative," I am referring to 1) processes that contribute to building homes and basic infrastructure and services (such as an initiative to build a school and individual homes); 2) processes to facilitate the ability to construct homes and other structures, such as preparing master plans for the communities; 3) the

process to protect the structures that are built from being demolished, such as a legal aid initiative. The complex context of the case includes the contextual elements influencing the process of exercising housing rights, including planning laws and policies, land laws, the challenges specific to building permits, home demolition policy, colonial settlement, and the institutions of military occupation. All these elements contribute to the experience of exercising housing rights on the institutional, community and individual level. This definition is grounded in a research question that is informed by the literature, the theoretical framework and research conducted during fieldwork I (Stake, 1995).

4.2 Fieldwork phase I

For this thesis, data was collected during two field visits, each lasting for three months, in the summers of 2015 and 2016. The methods deployed in the field included informal conversations, participant observations, visits to the communities and in-depth interviews. The themes which emerged from stage one informed my research methodology and provided insights for the research design implemented in fieldwork II.

Since little is known about the process by which housing rights are approached in the context of prolonged military occupation and ongoing settler colonial practices, in order to develop and inform my research question and design, I conducted the first field visit in the summer of 2015 to explore the challenges of securing housing rights, as well as the efforts to secure housing rights in Palestine. For three months in the field (June-September 2015), I gathered preliminary information for my doctoral thesis as an active participant researcher and as an observer. I explored and observed an ongoing movement to challenge the restrictions and obstacles—such as extreme restrictions on building permits, home demolition, displacement and

land confiscations applied by the Israeli military occupation—that deprive Palestinian communities in so-called Area C of their basic human rights including housing rights.

Informal conversations and meetings with key informants

During the first visit to the field, I conducted informal conversations (Marshall, 1996; Tremblay, 2003) with 19 key informants who were identified based on their positions within governmental institutions, international and local NGOs that are directly involved in securing housing rights in so-called Area C. These governmental institutions, international and local NGOs included the Ministry of Public Works and Housing, the Ministry of Local Government, the Ministry of Planning, UN-Habitat, UNDP, Community Resilience and Development Programme (CRDP/UNDP), United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), Global Shelter Cluster and The Palestinian Housing Council. Also, I made field visits to several communities located in so-called Area C—Al Aqaba, Kan-Elahmar, Susia, Emnaizl, and Masafer Yatta: Al Fakheit, Um Elkher, Jenba—where I met with people from these communities.

After the first visits and a few meetings, I realized that using the term 'housing in so-called Area C' is misleading as it was understood by the research participants only in terms of regular housing programs and projects, which is a long way from reality and beyond what is possible in a context where it is almost impossible to get a permit to build a single room. One of the key informants, when I asked about housing in Area C, even said to me "There is no housing or housing rights in Area C" (Urban Planner 5). This left me with great frustration and uncertainty but with a valid question. There are without a doubt people who continue to live in so-called Area C, and they have a right to exist in their communities, to have a roof over their heads and they have the right to live in dignity. I was asking questions with the explicit intention

of pursuing people's sense of agency and not their sense of victimization: What do people in so-called Area C do to build their homes—despite their tough reality and the many restrictions imposed by Israel—and what support do they get to secure their housing rights?

Motivated by these questions, I continued to dig deeper and met other key informants who invited me to attend a few meetings discussing housing issues in so-called Area C.

Preliminary Observations

I participated as an observer in several meetings organized by the Ministry of Local Government and in cooperation with the local communities. One of the meetings that was held at the Al Fakheit community in Masafer Yatta was a turning point in my research.[88] It introduced me to an active and evolving effort that involves the communities, the Palestinian Authority, and several international and local organizations, who work together on different levels to challenge spatial oppression and the denial of housing rights in so-called Area C. The participants at the meeting included: Al Fakheit community representatives, the head of Masafer Yatta Local Council, the Ministry of Local Government representatives, the Norwegian Refugee Council (NRC),[89] Action Against Hunger (ACF), and UN-Habitat. In the meeting, participants discussed the need to expand the existing school in the community by adding extra classrooms, the risks associated with the construction process, the best ways to accomplish the project and avoid possible risks, as well as the best practices to avoid displacement in Masafer Yatta in general.

[88] This meeting was on September 1, 2015. I was invited to attend as an observer by the MLoG. I was introduced to the meeting participants as a Palestinian researcher conducting research about housing rights in so-called Area C. I felt welcomed by the participants and I did not feel my presence affected their discussions. I was fascinated by the participants' determination and keenness to secure their housing rights.

[89] Norwegian Refugee Council (NRC) provides legal counselling to promote access to human rights, shelter, water and sanitation, and quality education.

The data that emerged from these informal conversations and meetings enabled me to identify several areas and themes to explore in my research, including the intersection of housing rights, settler colonialism, spatial oppression, and everyday resistance. Using a settler colonialism framework to analyze the contextual conditions in relation to exercising housing rights helped me to understand how the denial of housing rights of the colonized are carried out through laws and policies such as planning laws, restrictions on building permits, deliberate home demolitions (domicide), displacement and land confiscations.

Furthermore, the data collected in the first stage revealed that the Palestinians' attempts to support and promote their housing rights is still about securing basic shelter (a roof over one's head) and basic services such as schools and clinics. Therefore, my research focuses only on these two aspects of housing rights.

However, the data shows that securing basic housing rights, in a place where the right to exist and to continue to be resident in one's own community is challenged, requires different approaches, which I explored in depth during the second stage of my research. The main approaches to exercising housing rights that emerged from the first stage of the research are: 1) claiming housing rights through *de facto* practices such as in the "Rebuilding to Remain Project" in Al Aqaba village, and building an elementary school in Masafer Yatta; 2) promoting housing rights through negotiating with the Israeli settler–colonial regime via the "Developing Master Plans Project" carried out in various communities in so-called Area C; and 3) protecting housing rights through legal advocacy. These different yet parallel strategies informed the selection of the case studies and the sampling of the research participants (Lincoln & Guba, 1985; Patton, 2002), which will be discussed in the next section.

Selecting the case studies

Selecting the case studies is crucial for the greatest understanding of the phenomenon under inquiry (Patton, 2002; Yin, 2003). Based on Yin (2003), who suggests selecting cases that have similar contexts and are likely to achieve similar results, in this study I selected three cases located in the same context, so-called Area C in Palestine, to understand the complexity of exercising housing rights within this specific context affected by ongoing settler colonial practices and military occupation.

Additionally, I used purposeful sampling—"the inquirer selects individuals and sites for study because they can purposefully inform an understanding of the research problem and central phenomenon in the study" (Creswell, 2013)—which is considered one of the most robust approaches in qualitative research (Shakir, 2002). Purposeful sampling strategies provided the methodological guideline for the case selection in my research (Patton, 2002, pp. 243-244). Thus, I selected cases through a combination of intensity and criterion sampling strategies, which include: 1) conversations with key informants working on issues related to housing in so-called Area C; and 2) field visits and observation conducted during field visit I in 2015[90] (Lincoln & Guba, 1985; Patton, 2002). In using intensity sampling, I asked key informants active in the field to identify for me cases that are information-rich and which offered an opportunity to learn intensely about the different approaches utilized to support and promote housing rights. With criterion sampling, I chose cases that met predetermined criteria, which included: an active collective housing-related initiative; located in a Palestinian community at acute risk of home demolition and displacement in so-called Area C; and it has been operating for the past 5 years.

[90] According to Guba, E. G., & Lincoln, Y. S. (1994). Competing paradigms in qualitative research. *Handbook of qualitative research*, *2*(163-194), 105. , 1985), choices about qualitative sampling are based on information collected by earlier observations.

The three cases that were selected— "Rebuilding to Remain" building homes, basic services, and infrastructure in Al- Aqaba village, "Building Al Fakheet School: Creating Hope" in Masafir Yata and "Alternative Outline Plans" in Al Zbidat, in Masafer Yatta and Al- Aqaba village— were mentioned repeatedly by different informants and recommended as valuable sources of information by different key informants.

The communities in Al Zbidat, Al-Aqaba and Masafer Yatta, in cooperation with NGOs and Palestinian governmental bodies, each engaged in an initiative to approve new outline plans for their community in order to respond to housing needs without being put under threat of home demolition policy. Al-Aqaba village—before and while waiting for their new community outline plan to be approved by the ICA—engaged in an initiative to build new homes that challenge the restrictions on building permits, as well as constructing services and infrastructure. In Massafer Yatta, the community took their case against land confiscation and displacement orders to Israeli court and at the same time built a new elementary school in Al Fakheit without waiting for a building permit. Choosing multiple sites and projects—that employ different strategies to support and promote housing rights—provided diverse examples of how housing rights are exercised within a settler colonial context where the struggle over space shapes every aspect of people's lives. A brief description of the case studies below defines each community, the project and the challenges to secure housing rights that exist in each setting. All three communities present a case where the right to continued residence in one's home is challenged.

Case 1: Al-Aqaba village[91]: "Rebuilding to Remain"

Located in the northern Jordan valley, 97% of Al Aqaba village is under demolition threats, including the village's mosque and kindergarten. I visited Al Aqaba village for the first

[91] For more details about Al-Aqaba, see: https://www.btselem.org/jordan_valley/al_aqabah

time on August 20, 2015, when I met Haj Sami Sadiq, the head of Al Aqaba village council. He provided me with documents and shared most of the information included in this description.

The entire area is a closed military zone and therefore only Palestinians who live there are allowed into that area.[92] After 1967, the Israeli military used Al Aqaba for live-fire training exercises, which caused the deaths of twelve people and the wounding of 38. As a result of this violence, more than 700 people were displaced. The people of Al Aqaba village took their case to the Israeli High Court of Justice (HCJ), which recommended (but did not require) in 2002 that the Israeli army remove its training camps from the village. In 2003, the military complied and, as a result, the people who were displaced started to come back to the village. Despite the threat of demolition, and with support mainly from various NGOs and the Palestinian Authority, the village council was able to implement many projects including infrastructure and services projects, such as a medical clinic, a sewing cooperative, an herb-packing factory, and a kindergarten.[93]

To support families who wanted to return to their community after the Israeli army removed its training camp from village land, and despite the demolition orders, Al Aqaba village council started a new initiative with the support of a non-governmental organization called Rebuilding Alliance[94], to build new homes in the village. Families invested their savings and got affordable construction loans to start their own housing program: "Rebuilding to Remain" (Alliance, 2020). Three homes have been built so far and families have moved in. Now more

[92] United Nations Office for the Coordination of Humanitarian Affairs, The Humanitarian Impact of Israeli-Declared "Firing Zones" in the West Bank 2 (Aug. 2012), accessed October 15, 2019. Available at https://www.ochaopt.org/documents/ocha_opt_firing_zone_factsheet_august_2012_english.pdf.
[93] All these buildings and most of the village have received notice for demolition.
[94] https://www.rebuildingalliance.org/

than 30 families are ready to build their homes in their own community despite the threat of demolition.

Figure 4.1: Al-Aqaba Park
Source: Photo by Nuha dwaikat-Shaer on July 19, 2016

Figure 4.2: Al-Aqaba main street

Source: Photo by Nuha dwaikat-Shaer on July 19, 2016

Figure 4.3: Al-Aqaba general view, shows part of the houses and fields.

Source: Photo by Nuha dwaikat-Shaer on July 19, 2016

Case 2 - Masafir Yatta "Building Al Fakheet School: Creating Hope"

Located to the south of Hebron, Masafir Yatta is the home of more than 1300 people living in 14 small communities (UNOCHA, 2015). My first visit to Masafer Yatta was on September 1, 2015. I met with the head of Masafer Yatta village council, Mr. Nidal Abu Arram, and attended a meeting that was held by several NGOs and the MoLG to address the challenges facing the community to continue living in their own lands, including adding an extension to the current school to accommodate the community's growing needs.

In the 1980s, the Israeli occupation authority considered the area a closed military zone for training and called it "Firing Zone 918."[95] The families there have been displaced many times, but they always insisted on returning to their communities. Now people are living under the threat of home demolition and continuous risk of forcible transfer out of their communities. Different Israeli policies and practices have undermined their physical security, increased their poverty levels, and severely affected their well-being.[96] According to the head of Masafir Yatta village council, the homes of many families were destroyed, and the communities were evicted many times by the Israeli military, but they always insisted on returning to their lands. The Israeli authorities transferred the lands of Masafir Yatta to the World Zionist Organization, which allocated them for building Israeli settlements. Masafir Yatta is therefore now surrounded by Israeli settlements (UNOCHA, 2015).

[95] http://www.ochaopt.org/documents/ocha_opt_massafer_yatta_case_study_2013_05_23_english.pdf accessed June18, 2020.
[96] http://www.ochaopt.org/documents/ocha_opt_massafer_yatta_case_study_2013_05_23_english.pdf accessed June 18, 2020.

Figure 4.4: Massafer Yatta, a Palestinian home and behind an illegal Israeli colony.

Source: Photo by Nuha dwaikat-Shaer on August 2, 2016

Figure 4.5: Al Fakheet School before the extension.

Source: Photo by Nuha dwaikat-Shaer on August 2, 2016

Figure 4.6: Al Fakheet School after building the extension.
Source: Photo by Nuha Dwaikat-Shaer on August 15, 2018

Case 3: Al-Zbaidat village, "Alternative Outline Plans"

Al-Zbaidat is located north of Jericho in the Jordan Valley. According to the Palestinian Central Bureau of Statistics (PCBS), the total population of Al-Zbaidat was around 1800 in 2020, with 49% of the population less than 15 years. Most of the workforce (97%) are engaged in the agriculture sector. Al-Zbaidat Village Council was founded in 1995 by the Ministry of Local Government to provide various services to its population, including infrastructure services. Based on the Oslo II Interim Agreement, Al-Zbaidat village was fragmented into Areas B and Area C: approximately 36 dunums (1% of the total village area) are classified Area B, and approximately 4,087 dunums (99% of the total village area) are classified Area C (ARIJ, 2012). Similar to other Palestinian villages located in Area C, it is almost impossible for Al-Zbaidat residents to obtain building permits and the people have no other option except building without Israeli-issued building permits in response to the population growth and to maintain their livelihood. Therefore, the people are faced

with stop-work orders to halt construction and demolition orders for any completed construction, including agricultural sheds and animal barns, which leaves them at risk of home and livelihood demolition. Also, the illegal colony 'Argaman' is built on Al-Zbaidat land that confiscated in 1970.

Figure 4.7: General landscape of Al-Zbaidat village

Source: Status Report and Action Plan – AL-Zbidat / May 2014. MoLG unpublished report.

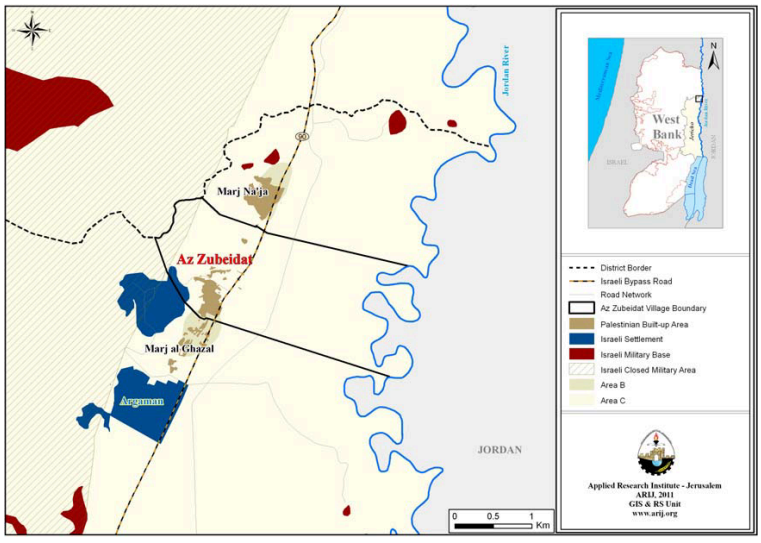


Figure 4.8: AL-Zbidat location and borders

Source: ARIJ – GIS Unit, 2010. Retrieved from (ARIJ, 2012)

4.3 Fieldwork phase II

The bulk of the data for this thesis was collected during fieldwork phase II in 2016. The first field visit in the summer of 2015 paved the way for fieldwork phase II of my research and helped me to develop a road map for the data collection. Thus, I re-entered the field after establishing connections in each community, as well as in the Ministry of Local Government (MoLG) and UN-Habitat. Engaging with key informants from MoLG and UN-Habitat gave me insights while developing my research plans. Even though I am a Palestinian, who was born and spent most of my life in Palestine, quite familiar with the context, discussing topics related to land and territory in Palestine remains sensitive. Therefore, during the field work, the key informants served as gatekeepers who helped me build trust and have access to the cases study communities (Norman, 2009). I worked closely with MoLG, who gave me permission to access their Spatial Information System (GEOMOLG), the reports and documents related to the counter-planning process. They also invited me to participate in professional and community meetings discussing the counter-planning process, which took place either at the MoLG offices in Ramallah city or in the communities themselves. After field visit II, I maintained my connections with MoLG and UN-Habitat and participated in follow up meetings through Skype. As well, I continued to follow the progress of the planning process and the home demolitions.

As the gatekeepers that I worked with are in positions of power and associated with either governmental bodies or with NGOs, and to minimize any influence of the gatekeepers on the research findings, I communicated with multiple gatekeepers and avoided being associated with one individual or organization. Also, being an insider, who worked as an architect and as a university professor for many years in Ramallah and Nablus, I used my personal connections to get introduced to different individuals and organizations working in the field of planning, housing, and humanitarian aid in so-called Area C. These connections helped me conduct a total

of 47 in-depth interviews in three months and facilitated, in particular, scheduling interviews with Palestinian governmental decision makers.

4.4 Methods of Data Collection

Case studies use different data sources and employ multiple perspectives to create meaningful and contextual understanding and interpretation of the phenomenon (Padgett, 2008). In this study, evidence comes from multiple sources of data (data triangulation) (Yin, 2003)—including: interviews with decisionmakers and key informants, documents and direct observations— to develop a holistic picture of each case and its context and, consequently, to develop a thorough understanding of the process of exercising housing rights and what drives it (Stake, 2005, 2006; Yin, 2003). Furthermore, using multiple sources of data (data triangulation) increases the trustworthiness of the study (Lincoln & Guba, 1985; Stake, 1995; Yin, 2003). In the sections below, I describe the data collection methods employed in this study.

Semi-structured interviews

In qualitative case study approach, semi-structured in-depth interview that ask open-ended questions based on participants' experiences of the phenomenon is a recommended and common data collection method (Creswell, 2013; Yin, 2003). In this research, I conducted semi-structured interviews with Palestinian decision makers and key informants from different international and organizations involved in securing housing rights in Area C, as well as community leaders from the three communities chosen as case studies. The following sub-sections explain the sampling procedure and size, as well as the recruitment process.

Sample size

Patton (2002) states that in qualitative inquiry there are no rules by which to determine the size of the sample. Rather, the sample size is determined by the purpose of the research, the time, and resources available, and what will be credible. Therefore, how purposeful a sample is, is judged based on the aim and rationality of the inquiry: "The validity, meaningfulness, and insights generated from qualitative inquiry have more to do with the information richness of the cases selected and the observation/analytical capabilities of the researcher than with sample size" (Patton, 2002, p. 245). Accordingly, I determined the number of participants while collecting the data. At the point when no new themes were being uncovered, I froze the sample size.

Recruiting interview participants

The decisionmakers and key informants were chosen through purposive sampling (Creswell, 2013), defined as "a deliberate process of selecting respondents based on their ability to provide the needed information" (Padgett, 2008). Therefore, the research questions and goals determine who to sample (Padgett, 2008). I targeted a specific population relevant to my research topic to purposefully inform an understanding of how housing rights are exercised in so-called Area C, making sure to include decisionmakers and key informants who would provide rich information for the study.

In particular, I used a snowball sampling strategy, as discussed by Patton (2002) and (Valentine, 2005), which is considered an effective tool to identify and access 'hidden populations' (Noy, 2008), as well as to access national and social elites (Moyser & Wagstaffe, 1987). Through snowball sampling "the researcher accesses informants through contact information that is provided by other informants" (Noy, 2008, p. 330). In using snowball sampling for Palestinian decisionmakers, I asked the key informants to suggest potential

participants who are (or were) involved in decision making and who might provide rich information about housing rights in so-called Area C. For key informants from each case, I asked the informants to suggest other likely informants for each case.

Based on this information, I identified an initial subset of decisionmakers and key informants. These respondents were then asked to provide a list of people they feel are influential in the field of housing rights in so-called Area C or who have been involved in the selected case studies. The process continued to the point when no new themes were being uncovered. In total I conducted 47 interviews, with 12 Palestinian decisionmakers and 35 key informants.

The decisionmakers and key informants were contacted by phone and/or by e-mail. The interviews with the decisionmakers were in their offices, while for key informants it was either in their offices or another place of their choice. I needed a few follow-up interviews after I returned to Montreal, and I conducted them using Skype. Also, I needed some documents, which were sent to me by the UN-Habitat urban planner who works directly with the MoLG.

Conducting the interviews: ethical considerations

Before conducting the interviews, I explained to the participants the focus and aim of this study, including any risks associated with their participation. Also, they were informed about the procedures I was following to maintain confidentiality, including using a special coding system to protect their identity, separating their names from the interviews, and keeping the interviews and participants' codes in separate locked files. Thus, I obtained their full and informed written consent before the interviews took place.

Each interview took approximately 60-90 minutes, except for a few interviews with decisionmakers. One of them took approximately half an hour—the participant's time was very tight. The interview was squeezed into their busy schedule, and it felt to me as if the participant

was giving a report about Palestinian government policy in so-called Area C for journalists. One of the first interviews took three hours, meandered in many directions, unfocused, as the participant expounded on issues not related to my research topic. It was challenging to steer this interview because the participant presented the desire to be in control. More personal reflections on power dynamics during the interview are discussed later in this chapter.

Semi-structured interviews with decisionmakers

The decisionmakers are mostly Palestinian national leaders who comprise the "most powerful persons in a society" (Moyser & Wagstaffe, 1987, p. 27). The decisionmakers served as informants and experts on the current policies that have the most impact on housing rights, as well as the potential future directions to address housing rights in so-called Area C. In total, I conducted 12 interviews with decision makers. Two of them were not audiotaped because the participants did not agree, so I took notes during these two interviews.

The interview guide included four sections. The first section focused on understanding current official and unspoken policies, as well as their context. The second section focused on understanding the different approaches utilized to realize housing rights, what drives them and the PA role in securing housing rights. The third section focused on the complexity it requires to exercise housing rights under Israeli settler colonialism, such as the many actors involved. The last section focused on participants' perceptions of housing rights and their reflections on their experiences in relation to securing housing rights.

Through these decisionmaker interviews, I gained insights related to the hidden elements of political action (Tansey, 2007) that affect the exercise of housing rights in so-called Area C. Additionally, through these interviews I grasped the underlying context that shape decision making regarding policies and regulations that affect housing rights from key participants in the

political process, who are directly involved in decision making, based on their own experiences. This helped me to understand the actions that take place in the exercise of housing rights—either formal or informal—in relation to the political process of decision making and how political violence within a settler colonial context shapes the whole process.

In general, the decision makers' interviews revealed the challenges associated with the political process when creating policies to protect and support the exercise of housing rights while living under the military occupation of a settler colonial state that considers the native population a threat, as well as the different elements that shape decision making regarding the political support needed to protect housing rights.

Semi-structured interviews with key informants

The key informants are community leaders from the three communities, as well as professionals from different relevant governmental bodies, planning consultation firms, local and international NGOs, and activists who have been involved in each case. The purpose of these interviews was to obtain data that describe in detail a housing-related initiative and what drives it, from a key informant who had been directly involved in the process of exercising housing rights, based on their own experiences, and based on their point of view.

Three key discussion themes guided the key informant interviews. In the first section, I wanted to gain a better understanding of the current context of exercising housing rights, including the current official and unspoken policies that have impacts on housing rights. The second section focused on describing and explaining current housing-related-initiatives; I sought to gain insight into how Palestinians challenge the denial of housing rights through these initiatives, focusing on their human agency. In particular, I was interested in learning about the different tactics used to secure housing rights, the circumstances that support or limit a given

initiative and how challenges are overcome, the actors involved and their relationships, the outcomes and consequences of a given initiative and what drives it. The last section was designed for the participants to reflect on their own experiences. I was interested to learn the perspectives of research participants regarding their experiences being involved in securing housing rights and what it meant for them, and if they have questions or anything to add. I felt that this part of the interview was very rich and emotional; it allowed the participants to express their feelings and elaborate on the meaning of being involved in the process of exercising housing rights. They talked about their aspirations, hopes, concerns and, in many cases, frustration. Finally, all the interviewees were given the option of receiving a copy of the transcript and were asked to go through it in case they needed to add or remove anything.

The key informants' interviews helped clarify the complexity of exercising housing rights and the different elements that affect this process. Early in field visit II, the interviews started to cluster around the emerging strategies used to exercise housing rights, which resulted in three sets of interviews: one focused on *de-facto* home building through everyday practices, the second was around counter-planning, and the third set of interviews was around the legal process. However, these three strategies are complementary and overlapped, so the three strategies were present in all three cases.

Documentary analysis

Documentary evidence is relevant to every case study (Yin, 2003), as "documents of all types can help the researcher uncover meaning, develop understanding, and discover insights relevant to the research problem" (Merriam, 1988, p. 118). Furthermore, this documentary information acts as a means of triangulation (Bowen, 2009) and a method to cross-validate information gathered from other sources (Yin, 2003). Documents can take many forms and include items

such as letters, agendas, written reports, minutes of meetings, administrative documents, formal studies or evaluations, articles in the media, agency brochures, and writings from the participants (Padgett, 2008; Yin, 2003).

For this study, documents came from a range of sources: fact sheets and maps retrieved from UNOCHA, which provided data on the context of each case study; planning laws and military orders, which were used to build a legal understanding for each case; monthly reports and meetings minutes between the MoLG, the community representatives, the consulting planning firms and the ICA[97] about counter-planning at Al Zbaidat, which provided insights about the dynamics of exercising housing rights through planning, and which also provide information about how cases evolved and, finally, press reports. All the documents were collected during field visits I and II from the different organizations and government bodies I visited, while the fact sheets were retrieved from the UNOCHA website. Also, after data collection in the field, I followed the media about housing rights in so-called Area C. Data that was included from these press reports will be annotated in the footnotes. Additionally, I kept close contact with UN Habitat and MoLG, who sent for me several documents and updates regarding the outline planes.

The main source of justification to deny building permits, conduct home demolitions and impose the denial of housing rights in so-called Area C is the lack of updated master plans for the Palestinian communities. Therefore, I examined the current master plans in comparison with suggested master plans for each case study. This comparison provided a means of tracking change and development of the built-up area in the selected communities. The data generated from these maps allows for the identification and description of the physical forms of exercising

[97] The MoLG and private planning firms meet usually with the ICA's planners to discuss the proposed master plans.

housing rights and what that entails.

Documents were selected purposively considering the research questions. I skimmed all the documents looking for data that would help answer the research questions. Then the selected documents were examined thoroughly and analyzed. Overall, the data derived from the documents was used to contextualize data gathered through interviews (Bowen, 2009). Also, these documents informed the content of the context chapter.

Direct and participant observations

Through participant observation, researchers may understand "the meanings of place and the contexts of everyday life" (Kearns, 2000, p. 108). Direct observation during the field visits to the three communities entailed the observation of the physical locations, informal conversations and discussions (Yin, 2003), as well as direct and participant observations of meetings that I attended both in the communities and at the MoLG. The observations included casual data collection: taking photographs at the case study sites, formal and informal discussions, and interactions with different actors involved in the case studies. I took notes regularly when in the field and elaborated upon them into daily analytic memos, where I reflected upon central conceptual themes and issues emerging during the research process.

4.5 Methods of Data Analysis

Data analysis in qualitative research is an evolving process that runs through the whole research course. According to Crang and Cook (2007), data analysis is "an ongoing critical and creative research process that takes place in another part of the project's 'expanded field'. It's not that separate a stage that takes place in a detached space. It's a connected and connective process" (p.133). Following my first fieldwork in 2015, I used notes from all the field visits and the meetings I conducted. The data which resulted informed the development of my research aims,

objectives and questions. Also, they informed the selection of key concepts to develop my conceptual framework. During fieldwork in 2016, data analysis was ongoing in the field as data collection progressed. I was constantly reflecting on every interview conducted and on my own observation in my research journal. Also, following each interview and field visit, I added emerging ideas, as well as the field notes, to the study database (Patton, 2002). The notes from the field were complementary to the other data sources and were revisited for insights through the process of analysis.

Creation of a case study database

The amount of data collected in the two field visits was huge. To manage and organize this amount of data, I followed the suggestions of Yin (2003) to create a case study database. Therefore, along with the data collection process, I developed a case study database for each case. This database included: 1) the case study notes such as the results of the interviews, observations, and document analysis; the notes were divided and classified based on the main subjects covered in the case study; 2) case study documents annotated with explanatory notes that connect them with different analytical categories. Having all the notes from the observations and documents for each case in a database provided a good foundation on which to thoroughly examine the data in relation to the data which emerged from the interviews. It allowed for thick description of the cases, their context, the agents involved and rich details about processes of exercising housing rights.

Transcriptions

All the interviews were fully transcribed verbatim. A research assistant transcribed the Arabic and mixed interviews, while I transcribed the English ones. To make sure that the transcription is

accurate, I trained the research assistant to transcribe audiotapes for qualitative research. I worked with her closely while she was transcribing the first interviews and maintained contact with her through the whole process, and I was available if she had questions (Logie et al., 2012). Finally, I listened to all the audiotapes in relation to the transcripts to ensure accuracy of the transcripts.

Multiple case analysis

Stake (2006) suggests that it is hard to anticipate what exactly a multiple case analysis process will look like until data collection begins. This is because within the multiple case study methodology, the researcher is free to continually refine the plan for the cross-case analysis as the researcher has a better sense of how the research project is unfolding. Therefore, I refined the plan for data collection and cross-case analysis based on emerging data in the field. At the beginning of data collection, the interviews with key informants were based on each case; as the research unfolded, the interviews crystallized around the strategies that were used to exercise housing rights.

I employed two levels of analysis. The case study context as "analyzing contextual conditions in relation to the case" is vital in case study design where the boundaries between the case and the context are not sharp (Yin, 2003). Understanding the different contextual elements—such as official and unspoken policies and practices—that affect housing rights allowed for deeper understanding of the counter practices that are often responses to—and are shaped by—these contextual elements (Chapter 5).

In the second level of analysis I applied 'within-case analysis' to each strategy emerging from the data, in which I first provided a detailed description for each case and themes within the

case, followed by a cross–case synthesis, in which I conducted a thematic analysis across the cases (Creswell, 2013; Stake, 2006; Yin, 2003), which is presented in (Chapter 6).

Within-case analysis

For within–case analysis, I chose thematic analysis, the search for and identification of themes emerging from the data being important to understanding the phenomenon studied (Braun & Clarke, 2006). Thematic analysis "provides a flexible and useful research tool that provide a rich and detailed, yet complex, account of data" (Braun & Clarke, 2006, p. 78), which suited my complex research context. For thematic analysis, Braun and Clarke (2006) suggest that "A theme captures something important about the data in relation to the research question and represents some level of patterned response or meaning within the data set" (p. 82). To develop these themes, I conducted "initial coding," a way of "breaking down, examining, comparing, conceptualizing, and categorizing data" (Corbin & Strauss, 2015, p. 6). So, I read the transcripts several times noting down initial ideas and developed initial codes.

Based on the initial coding process, I devised a preliminary coding tree that contained the main themes and served as a framework to organize the data and as an interpretation outline tool (Yin, 2003). The shape of this coding tree was guided by the salient issues that emerged from the initial coding process, the research questions and the theoretical framework (Attride-Stirling, 2001). The coding tree consisted of 13 main analytic coding categories that served as main headings under which I organized my data analysis. To manage the coding and analysis of the interviews and documents, I used NVivo qualitative research software.

Through NVivo, I organized the coded data under each main category identifying common and variable themes within each interview as well as across interviews, and then I printed out the coding reports for each theme. At this stage, the focus shifted from examining

individual statements and paragraphs to the relationships between them and generating a thematic 'map' of the analysis (Braun & Clarke, 2006). To examine these relationships, I read the coding reports and began to develop a list of secondary codes for each of these coding reports. Once my secondary coding list was compiled, I added this new level of coding detail to the coding tree and continued coding for the secondary categories as well.

Cross Case Analysis

I followed the within-case analysis by a thematic analysis across the cases, 'cross-case analysis' (Creswell, 2013; Yin, 2003). Using the main themes which emerged in the within-case analysis, I began "to read across the materials being used rather than solely within them" (Jackson, 2001, p. 199). The emergent themes from all cases suggested categories that formed broader concepts for consideration and were the beginning of the synthesis (Miles & Huberman, 1994). As such, it seemed appropriate to retain themes that cut across cases, rather than stand-alone themes. This was a very challenging process given the amount of data. The printed coding reports and color coding helped mitigate this challenge. I then created thematic 'map' of the analysis (Attride-Stirling, 2001; Braun & Clarke, 2006) to explore how the different categories related to one another, teasing out relationships between the main coding categories and the secondary ones. Through this process, I revisited my research questions to evaluate them (Cope, 2003). I also revisited my conceptual framework, adding in concepts on everyday resistance, the need for which was made clear through the data collection and analysis. This ongoing analysis allowed me "to refine the specifics of each theme, and the overall story the analysis tells" (Braun & Clarke, 2006, p. 78). Then I organized these themes under main headings for each chapter and constructed my thesis outline.

While going through the coding process I used 'theoretical notes' (Strauss, 1987), which served to record ideas and insights about the data, as well as the theoretical understandings of it. This provided an important document that was consulted to keep track of the connections and insights through the analytical process (Crang & Cook, 2007). Also, through this process I identified important quotes—vivid and compelling extracts—to support main arguments which emerged from the data.

4.6 Research Design Quality and Challenges

Establishing rigor in qualitative research is not a linear process and it is imbedded in the research process (Morse et al., 2002). Qualitative researchers developed different strategies for engaging in rigorous qualitative research (Padgett, 2008; Patton, 2002) and for achieving 'trustworthiness' (Lincoln & Guba, 1985). Validity and reliability are two factors that should be taken into consideration while designing a qualitative research study, analyzing the data and evaluating the research quality (Patton, 2002). In qualitative research, Stake (2005) asserts that a case study is "a part of scientific methodology" (p. 460). So, it incorporates rigor strategies such as data triangulation to construct validity and reliability.

Yin (2003) suggests three principles to be followed during data collection to strengthen validity and reliability including the use of multiple sources of evidence, creating a case study data base, and maintaining a chain of evidence (p. 97-106). As strategies to ensure rigor are integral to the research process itself (Morse et al., 2002), I used several strategies, which shaped and directed this research during its development and implementation. Beside creating a case study data base to strengthen validity and reliability (Yin, 2003), as explained earlier in data analysis sections, I used the following techniques to maintain the validity and reliability of findings and, thus, the rigor of the study.

Using multiple sources of evidence

In this research study, four types of triangulation were used to develop a comprehensive understanding of the process of exercising housing rights within a settler colonial context (Patton, 1999). Firstly, 'method triangulation' where I used multiple methods of data collection including semi-structured interviews, direct and participant observation, and documentary analysis (Patton, 1999; Yin, 2003). These data were analyzed and conclusions drawn were evaluated for consistency across data sources (Stake, 2005). Secondly, I employed 'triangulation across data sources,' in which I collected data from multiple data sources, including Palestinian decisionmakers, key informants from different organizations (local and international), and community leaders and activists. This helped to get a rich set of data and to gain insights from multiple perspectives and thus increased the reliability and validity of the research (Patton, 1999; Yin, 2003). The interviews with different types of people also provided a powerful tool for exploring and developing a more in-depth understanding of the process of exercising housing rights under threat of political and military violence (Patton, 1999; Yin, 2003). Thirdly, theory triangulation, where I used different theories to analyze and interpret data—including settler colonialism theory, critical planning theory and a human rights framework—which helped me in supporting or refuting research findings (Carter et al., 2014). Finally, I used triangulation across cases, which involved checking the findings from each individual case against findings from the other single case studies (Stake, 2005).

Using multiple sources of evidence resulted in a convergence of findings from among the case studies. Convergence occurs when multiple forms of data point to the same conclusion or interpretation (Yin, 2003). This convergence of evidence revealed how housing rights are exercised, and what motivates, supports, or limits these practices.

Research journal: Reflexivity

In qualitative research, the researcher is part of the research process and not separate from it (Krefting, 1991). As such, reflexivity is a central strategy used in qualitative research to enhance credibility (Dowling, 2006; Krefting, 1991). It represents the articulation of the researcher's social and political positions, personal views, experiences and insights through all the stages of the research project and how they shaped the research process and findings (Berger, 2015; Dowling, 2006; Krefting, 1991; Lincoln & Guba, 1985), and is a way to acknowledge that the researcher's positionality most likely affects the research and its findings (Pillow, 2003).

Through the whole research process, I kept a research journal to highlight how my own experience and biases influence the research design, data collection, analysis, and findings. This journal included three fields: a) my daily schedule and the logistics for the research, in particular, during data collection; b) description of the decisions I made about methods; and c) reflections on my positions, thoughts, insights, feelings, frustrations, and questions and my personal connections to the research topic and context (Berger, 2015; Dowling, 2006; Lincoln & Guba, 1985). Also, I used the research journal to record the data gathered during direct and participant observations. After each interview and field visit, I reflected upon my thoughts, ideas and questions generated by my interactions with the research participants.

Maintaining a research journal not only enabled me to obtain 'better data', but also, to do 'better research' (Pillow, 2003). Consulting the research journal during data gathering helped me to adjust interview questions and sometimes the way I went about conducting interviews.

Through consulting the research journal and continuing to write my reflections during data analysis, I intended to be explicit and aware of my biases. However, I was not sure how to deal with my emotions and frustrations at many moments, especially whenever I heard about a

new home demolition or a new policy promoting spatial oppression. Sometimes I felt defeated and could not see how my research would contribute to alleviating problems and benefit communities suffering from housing rights denial. Keeping the research journal allowed me not only to document real-time decision making throughout the research process, but also to understand how the research affected me both personally and as a researcher. Examining my notes and reflections in the research journal helped me first to acknowledge and accept my emotions. At the same time, it helped me to better understand how my positionality in the field and during data analysis shaped my awareness of the data, the research context and my role as a researcher (Heller et al., 2011, p. 79).

Prolonged engagement and varied field experiences

In a case study approach, Baxter and Jack (2008) recommend prolonged engagement in the research context or intense exposure to the phenomenon under study to enhance research validity. Prolonged engagement allows the researcher to build trust with the research participants and therefore increases the chances of discovering facts perhaps otherwise hidden (Krefting, 1991), and to check for distortion stemming from differences introduced by the researcher or the participants (Lincoln & Guba, 1985). As well, it allows for engagement of different perspectives in the research (Krefting, 1991).

For this research study, besides being familiar with the research context through my personal experiences as a Palestinian who was born and lived most of my life in Palestine, I spent a total of six months over a period of two years collecting data in the field where I engaged with several research participants daily. I have not only conducted interviews with research participants, but I was also engaged in field visits, meetings, and discussions regarding housing rights in so-called Area C. I maintained relationships with several key informants while I was in

Montreal, and I followed up on progress of the counter-planning process and participated in several meetings and discussions through Skype. Through this prolonged engagement, I built trust with the research participants, so they shared their thoughts, ideas and many times, frustrations with me. Also, it gave me access to documents and reports that allowed for a comprehensive and in-depth understanding of the complexity of exercising housing rights in so-called Area C.

Furthermore, being an insider (Palestinian) and an architect who worked in the field for about 10 years, where I built relationships with many planners, academics and decisionmakers, paved the way for me to interview many professional participants and Palestinian decision makers over the course of the field work. Additionally, being from a family that is well-known for its engagement in the national struggle for Palestinian human rights and against Israeli settler colonialism helped open doors and build community trust.

Member checking

Member checking is one strategy for establishing credibility in qualitative research (Turner & Coen, 2008). Member checking involves sharing the research data, interpretation and findings with research participants to validate the results and assess the credibility of the data interpretations (Berger, 2015; Krefting, 1991; Lincoln & Guba, 1985; Turner & Coen, 2008; Yin, 2003). Lincoln and Guba (1985) consider member checking to be "the most critical technique for establishing credibility" (p. 314), which is achieved when the research results are understood by, and sound valid to, participants and are understood by others.

Upon completion of data collection and analysis, I developed a summary of the analytical categories and themes which emerged from the data. This summary was shared with several research participants during my internship at the MoLG and UN-Habitat during the summer of

2018. In particular, I shared it with few decisionmakers, several NGOs officials, PA officials, urban planners and community leaders who were interested in reviewing research findings and they had the opportunity to discuss and clarify the emerging themes, as well as to contribute new or additional perspectives on the process of exercising housing rights in so-called Area C. This validation by research participants ensures that the essential facts and case results are presented properly, which increases the research validity (Yin, 2003). However, one limitation of this study was that I was not able to conduct member checking with all research participants, and I focused on those who were most interested in the follow up.

Also, in the summer of 2018, I did a two-month internship at the Ministry of Local Government in close collaboration with UN-Habitat/ Palestine. I worked under the framework of an EU-funded project entitled: "Fostering Tenure Security and Resilience of Palestinian Communities through Spatial-Economic Planning Interventions in Area C". This project is being implemented in several communities, which are at acute risk of home demolition and forcible displacement. During the internship, I visited the research sites again and met with several research participants, allowing me to discuss my findings.

Finally, several oral presentations about the research findings were given in Montreal and Toronto in academic settings for peers and groups interested in the topic. My preliminary findings offered a starting point for discussions about the topic, where I got feedback that provided insights used to adjust, expand, and enrich the data analysis. Furthermore, I presented some policy recommendations around housing rights and the participants could comment on the usefulness of these recommendations and add suggestions for policies that promote housing rights and assist to create real-work effects that enhance the well-being of people living in settler colonial contexts.

Conducting research in multiple languages

The interviews were either in Arabic, English or mixed. In total, 18 interviews were in Arabic, 12 interviews were in English, and 17 interviews were mixed (English and Arabic). In the interviews, many terms were used which might be significant within the particular context and culture, as the Arabic language is rich with proverbs and metaphors. According to Padgett (2008) interviewing in a different language risks distortion since methods of qualitative analysis depend on deriving meaning from text. Padgett (2008) suggested including bilingual interviewers as members of the research team to reduce distortion. Being fluently bilingual in both Arabic and English, I conducted all the interviews myself and there was no need for a professional translator.

Conducting research under settler colonial occupation

One of the limitations of this study was that it was only possible to conduct interviews with Palestinian decisionmakers and a few Israeli key informants active in promoting human rights in so-called Area C. I tried to reach out to Israeli key informants from the ICA but, in the end, I chose not to interview them. The key informants at the Ministry of Local Government were open to having me as an observer during the meetings held at the ICA to discuss the master plans. However, to be able to attend such meetings at the ICA, I needed special permission from the Israeli authorities. The application process goes through the Palestinian coordination office. I applied but the Palestinian coordination office did not allow the application to go through and did not provide any justifications.

There was a suggestion made to contact the ICA officials myself for permission and an interview with them. This requires going to the ICA offices—which is on a military base located at Bit Eil colony near Ramallah—alone. There was a safety concern here, as this entails many

risks, such as drawing Israeli army attention to myself and my research, which risks the confiscation of research martial and interrogation at the borders. Additionally, I might be denied the right to leave Palestine or to come back after having left. In this case, each researcher knows to what extent they are comfortable taking risks and therefore decides 'where to draw the line' (Romano, 2006, p. 439).

However, on the first field trip, I had with me some hard copies of reports, maps, and brochures from the different organizations that I visited, and, at the border, an Israeli border guard looked through all of them and I was asked to explain them and the reason why I had them with me. To minimize the risk for research participants and for myself, I made sure in the future to hide all my research materials on my laptop while crossing the Jordanian/Israeli border and to keep copies of everything online (Romano, 2006).

At the same time, I would not have felt safe or comfortable going to a military base in an Israeli colony built on confiscated Palestinian land. Having had personal experiences where I was humiliated by Israeli soldiers created another barrier to my wanting to meet them for interviews, as I felt by doing so, I normalized their colonization, humiliation, and dehumanization of my people.

What I found early on was that settler colonial practices, military violence and the Palestinian national struggle against colonization were imbedded, very present and common threads across almost all the research interviews, meetings, and discussions I had. Some scholars, such as Harker (2009), point out that research tends to represent Palestinian spaces through the Israeli occupation lens and he called for studying Palestinian spaces using new approaches that integrate socio-cultural aspects of space. While being open to these insights and taking into consideration earlier notes about the importance of making a distinction between academic

inquiry and political activism, in working on this research topic I feel that I am walking a thin line.

Over the course of this research and through the process I faced two key challenges. First, there was the challenge of discussing a critical topic that is related to the core of the Palestine/ Israel question. Despite being careful to be true to the data, I became aware of the challenging reality in term of freedom of speech (Dwyer & Buckle, 2009) in the academy (Chatterjee & Maira, 2014) and the attempts to silence researchers criticizing the Israeli discourse within the North American academic context (Abraham, 2014), and therefore feeling all the time that I am not free to express my thoughts, ideas and insights about the topic. I personally struggled to free my voice as a serious and legitimate researcher before I could give voice to my research participants.

Throughout the research, I grappled a great deal with my positionality and the challenges this posed to the ethics of the research. I am a Palestinian woman born and raised in the West Bank. I witnessed the first and second Intifada (Palestinian uprising) and like all Palestinians, I suffered from the oppression of the Israeli military occupation and settler colonialism. My roots are imbedded deep in the Palestinian land, and I carry a deep commitment to justice in Palestine. Therefore, in this research I faced the tension between being both an insider (Palestinian) and outsider (not involved directly in securing housing rights). This positionality created some challenges. Although being an insider helped me to gain trust, connect easily with the research participants and opened doors for me to attend and participate in critical discussions (Dwyer & Buckle, 2009), taking a step back to be the neutral outsider researcher was challenging. The qualitative research process—including the data analysis—is not an objective one (Valentine, 2005). Social processes are embedded in the context, and they are affected by power relations

and dynamics, so “science offers no final truth, no certainties, but exists in a state of continual revision” (Burawoy, 1998, p. 16). As such, social inquiry is deeply connected with and motivated by the context, and by the researcher’s social and political positions, views, experiences, and emotions, which play a critical role in shaping and directing research projects. So, I was fully aware there is no absolute truth but only relative ones.

Furthermore, conducting research in a context in which military violence shapes everyday life poses a big challenge in protecting participants’ security and safety. I was aware of the danger of my research results revealing information that might harm research participants’ work and open the Israeli army's eyes to Palestinian resistance strategies. Therefore, I checked all the time with key informants. I was being careful to avoid revealing information that might harm the Palestinian communities and their strategies to secure their housing rights.

Finally, it is important at this point to acknowledge that this research is influenced by the context, my views as a researcher and as a Palestinian who is affected by and engaged in the collective struggle against settler colonialism. Therefore, this research for me serves as a platform from which to resist oppression and to promote human rights and justice, and I hope the insights from this research will contribute to this end.

5. "IT'S A ZERO-SUM GAME": POLICY AS A MATRIX OF RIGHTS DENIAL

In this chapter, I address my first research objective to better understand the policies and practices – both Palestinian and Israeli – that impact housing rights in so called Area C. Drawing from the qualitative data collected, I present an analysis of the current contextual constraints to housing maintenance and development for Palestinian communities living in so called Area C. I will not, however, merely describe the current official and unspoken policies and practices that impact Palestinian's housing rights as they emerged from the data, since they parallel what was described in this study's contextual chapter. Rather, I will delve deeper into discussing the main themes that emerged related to the operationalization of these policies and practices in order to enforce dispossession and denial of housing rights.

The data shows there are two main official actors' interest and policies that appear to have direct impact on Palestinian housing rights in so called Area C, which are : (1) official and unspoken Israeli government policies, operationalized by the Israeli Civil Administration (ICA)[98] and the Israeli judicial system; and (2) official and unspoken Palestinian Authority (PA) polices, operationalized by the Ministry of Local Government (MoLG)[99] and with the direct and indirect support of NGOs (Palestinian and international).

Accordingly, this chapter is organized around these two main actors whose policies shape Palestinians' access to housing rights and its interpretation. The first section discusses three levels of the structural process that emerged from analysing the Israeli government's official and

[98] The ICA established based on Israel Military Order No. 947 (Establishment of a Civilian Administration (Judea and Samaria), 5742-1981, represents the settler colonizers' interest and has full authority in so called Area C. The ICA uses the Israeli judicial system to legitimize their actions.
[99] The MoLG was established to represent the Palestinian interest and has no authority in so called Area C, therefore they claim the need for NGOs to support their work.

unspoken polices: (1) policy motivation (the political aspects of housing rights); (2) policy design (the process of legalizing the denial of housing rights); and (3) policy application (implementing housing rights denial through military violence/arbitrariness). The second section presents the main themes that emerged from analysing Palestinian Authority policies and practices, which is divided into two phases: the period between 1995-200 includes (1) negligence and de facto abandonment; (2) lack of territorial integration and increased disparities; and (3) shifting the responsibility onto the people. The period after 2008-2021: (1) emerging political vision; (2) lack of political will; and finally (3) lack of clear policy, fragmented, disconnected, and discontinued efforts.

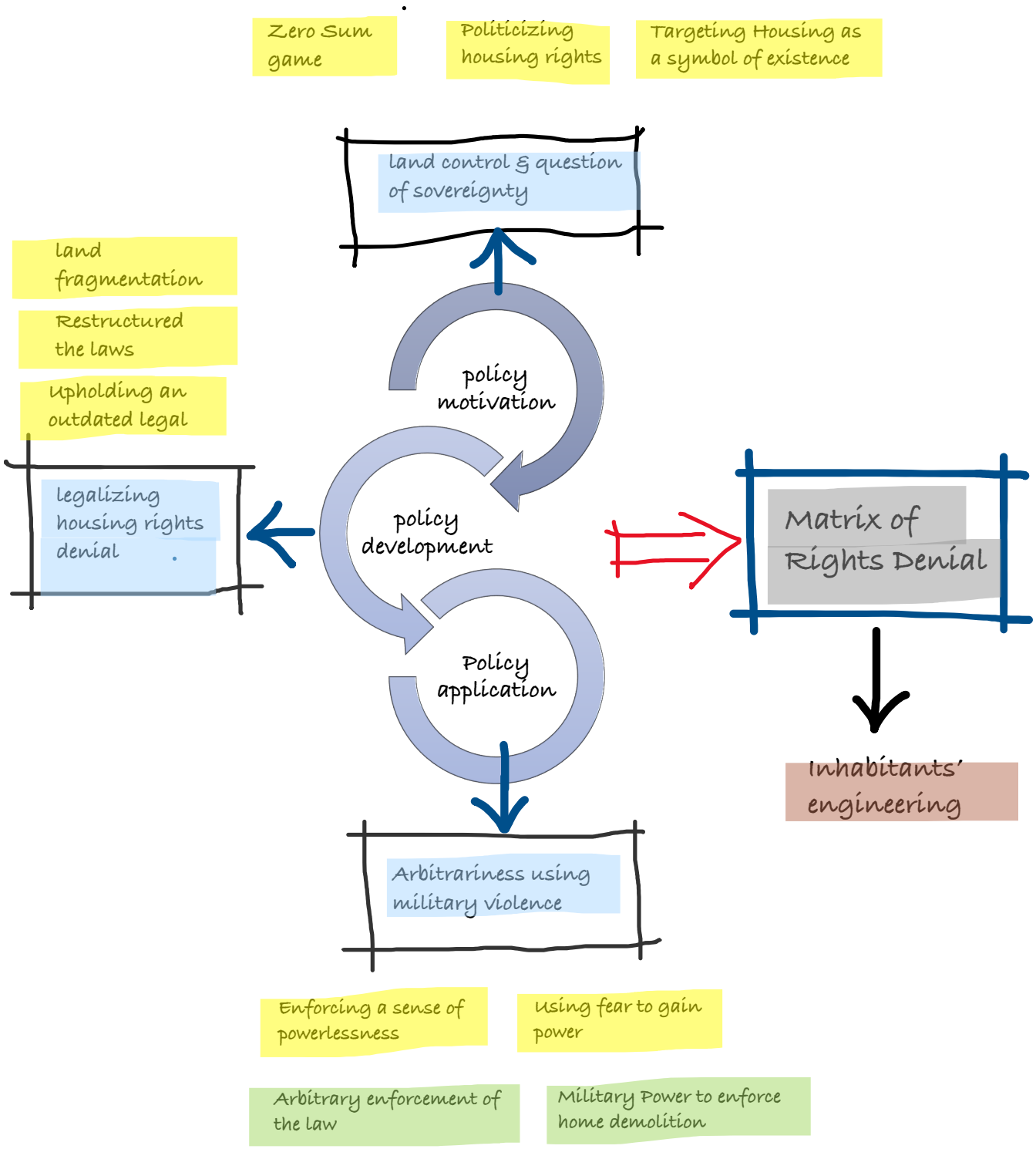
5.1 Israeli Policies and Practices

Throughout the research interviews, the discussions around Israeli government policies and practices affecting Palestinian housing rights often went beyond just a simple description of these policies to reveal a structural process at three levels. This process helps explain how Israeli policy in so called Area C renders Palestinian spaces inhabitable, demonstrating the complexity of utilizing policy as a tool for housing rights denial. The three levels of this process are:

- **Level 1 – Policy motivation:** the motivations that drive the Israeli policies, namely land control and questions of sovereignty, result in in the politicizing of housing rights
- **Level 2 – Policy design:** Normalizing the policy; legalizing housing rights denial. The Israeli Civil Administration (ICA), in cooperation with the Israeli Army, uses the Israeli judicial system to legalize a situation that contributes to housing rights denial in oPt. and criminalizes building homes.
- **Level 3 – Policy implementation:** the ways in which these polices are implemented on the ground, using arbitrary military violence; and enforcing a sense of powerlessness.

These three levels are demonstrated in (diagram 5.1).

Figure (5.1): Policy as a Matrix of Rights Denial- Israeli policies and practices



Motivations for Policies Affecting Housing Rights: "It's a demographic and geographic struggle"

In this section, I argue that, in so called Area C, the process of building homes and constructing necessary infrastructure and services is treated by Israeli authorities as a political issue rather than a basic human right, necessary for human survival. Instead, the construction process is considered a threat by Israeli authorities and an obstacle to their territorial expansion plans in the West Bank. My data indicates that denying housing rights seems to be a tool to control and to dispossess Palestinians of their land. In contrast, the construction of housing and community infrastructure is seen by Palestinians as a mean of survival and a tool to protect their presence and existence in their land. Therefore, building homes, despite the ongoing threat of home demolition, seems to be one tool of Palestinian everyday resistance in the face of Israeli settler colonial plans.

Many of the research participants, when asked about the policies that impact access to housing rights, described policies related to land allocation, urban planning and building regulations, which were discussed in the context chapter. However, it was notable that many participants went beyond describing these policies and practices to describe what drives and motivates the development and implementation of these polices.

One of the most common motivations cited by participants was the ideology of "empty land" that underpins settler colonial projects. For example, an Urban Planner indicates *"there is a vision of this area, but not a Palestinian vision [……] I don't know if it is public in Israel, but the Palestinians are of course not presented, not consulted. They're totally ignored"* (Urban Planner 2). When Urban Planner 2 was asked to explain this vision, they said *"it's to limit the demography from expansion on the geography. Because it's a demographic and geographic struggle. And they want to have less demography inhabiting these lands."*

This imaginary vision of empty land was expressed by several other participants. A lawyer who has been involved in many cases that attempt to protect Palestinians' homes from demolition asserts that:

> After 1967, it was clear that the Israeli occupation plan is based on squeezing the Palestinians into specific areas, and to keep most of the land in the West Bank uninhabited. For them (the Israelis), the best way to achieve this goal was through spatial planning. They excluded the Palestinians from the planning process. Also, they did not develop any new masterplans for any existing Palestinian community until the beginning of the eighties. The new masterplans keep the areas allocated for construction as they were during the Jordanian era without any expansion. Above that, they made the process of obtaining a building permit in rural areas outside the masterplans very complicated. (Human Rights Lawyer 1)

This vision of imaginary spaces, without the existence of the natives, drives the development of policies that shape Palestinian spaces. Also, it serves as a guideline for the ICA to enforce its spatial practices that limit or permit access to housing rights. For example, when an Urban Planner 1 who has been working on developing masterplans for Palestinian communities in Area C and East Jerusalem was asked about developing masterplans and their impact on housing rights, they echoed the lawyer's perspective above by asserting that the whole planning process is political:

> The whole issue is political. Even if the masterplans we develop are technically sound, always the laws are designed against our best interest as Palestinians, and it is used to prevent us from any form of development. This is political, there is nothing to do. We should keep chasing them, but whatever we do, they [the Israelis] want to restrict our presence in specific areas…. The end goal of the occupation is the land, there is no Palestinian that I know here (Area C and East Jerusalem) who did not lose a piece of their land through confiscation. Therefore, people here become closely attached to their land. (Urban Planner 1)

Urban Planner 1 has been working on developing masterplans in cooperation with Palestinian communities and with the support of UN-Habitat and the MoLG for many years. In the interview, Urban Planner 1 expressed their frustration with the whole planning process. Urban Planner 1 felt the discussion of the master plans with ICA officers is not a professional

process that aims for development based on planning standards. Rather, the discussion was focused on limiting the development and expansion of Palestinian communities as much as possible and squeezing Palestinians into small enclaves.

In support of this view, a group of neutral international planning experts were invited to review the masterplans that were developed by Palestinian planning firms for Palestinian communities in Area C —with the support of UN-Habitat and the MoLG—to provide their professional opinions on them. The international planners found that the master plans are technically sound and they believed the only reason for keeping these plans in the review phase for so long without giving a final decision about them is political (UN-Habitat, 2015).

A final example comes from a former Palestinian policymaker and academic, who described Israel's vision and their strategies to achieve it as follows:

> Israel wants the land empty from its inhabitants. So, their main problem here is that the land is not empty, and they can't expel people like what they did in 1948 when they had several months to do so. In 1967, the war was only 6 days. They did not have enough time to expel people… They started expelling people from Tulkarm and Qalqilia. By the time they reached Nablus, the war was over, and they lost the opportunity to expel the people. Now, they can't simply put people on trucks and displace them. The solution then became to make the Palestinians' life unbearable by not allowing any kind of development, to push them to the areas with high population density. As a result, if you look carefully, you will see internal migration over the years from the edges to the center and from Area C to Areas A and B. (Policy Maker 2)

These are but a few examples from among many that were shared with me by research participants. In almost every interview, the participants referred to this imaginary vision of the Palestinian land.

In the coming sub-section, I will elaborate further how this imaginary vison guides Israeli policies while explaining how it relates to housing rights through these three concepts: politicizing housing rights, housing as a zero-sum game, targeting housing because it is a symbol of existence.

Politicizing Housing Rights

Across so called Area C, all the policies and practices that have direct impact on housing rights are concentrated in Israeli authority hands. Thus, these authorities use all the means available to control the growth of the Palestinians towns, villages, and rural communities, directing their efforts to demographically engineer the whole of Area C. Limiting access to housing rights serves the Israeli imaginary vision of Palestinian land, politicizing housing rights as a tool to achieve Israeli sovereignty, territorial and land control. A Palestinian Policy Maker (Policy Maker 1) emphasises this clearly:

> We know Israel won't give permissions to build in Area C. We are fully aware, this policy of not issuing building permits is because of political reasons. We are forbidden from building in Area C, or it takes them forever to review the building permits applications, because if they allow us to work in Area C, it is indirect consent of our sovereignty in this area. Therefore, we ask for the EU and the USAID intervention. In this case, it is if they are giving approval for the EU or the USAID but not for the PA so they can't claim any rights. (Policy Maker 1)

Similarly, International Organization Official 1 —who worked many years for the UN in the field of human rights— mentioned the political atmosphere is an important factor that shapes Palestinian access to housing rights in Area C:

> So, it really does depend on the political atmosphere. As we know now, the political atmosphere is so strained and it's going on the opposite side, towards the annexation of all Area C, not allowing to get any plan and rights for the Palestinians, and not only that but demolishing as much as they want. (Intranational Org. official1)

Throughout the interviews, several urban planners agreed with this assessment:

> All the discussion (of the master plans) between us and the ICA is a political discussion, the technical aspects of the master plans is not the issue, we manage to find reasonable solutions to it. But, since they (ICA) do have a decision from the political level (Israeli government), they are stalling, they do not want to reach the final stages of the process. However, when Ehud Barak[100] was in power, the process was faster, they approved a few plans. (Urban Panner 4)

[100] Ehud Barak is an Israeli general and one of leaders of the Labor Party who served as Israel tenth prime minister from 1999 to 2001. He held the posts of defense minister and deputy prime minister from 2007 to 2013.

It is obvious that Palestinian housing rights are controlled at a high political level in Israel, and they depend on who is in power and their ideology. From the many conversations that I had with the people who are active on the ground, it was notable that the state of Palestinians' rights change based on who is in power in Israel, without Palestinians having any right to choose these politicians who made decisions that impact their everyday existence.

Similarly, an Israeli Human Rights Lawyer emphasized that the Israeli government considered housing a political issue rather than a basic human right essential for human survival, which is, according to the 1907 Hague Regulations (articles 42-56)[101] and the Fourth Geneva Convention (GC IV, articles 47-78),[102] an obligation of Israel as the occupation power.

> They [Israel] considered changing the structure of the planning situation in Area C as a political issue in term of negotiations between Israel and the PA, so they didn't look at housing as a human rights issue, they looked at housing as a political issue. (Human Rights Lawyer 2)

The Israeli occupation authorities restructured the planning system in the Palestinian territories occupied in 1967. While upholding the outdated Ottoman and British Mandate land and planning laws, they amended it in a selective way using military orders to achieve control over land and development (Abdelhamid, 2006; Abdulhadi, 1990; Coon, 1992). Under the Oslo Accords, Israel acquiesced some authority to Palestinians to manage planning and land development in so called Areas A and B (about 21% of the land/ mostly built up and with high population density), while maintaining control over the rest of the Palestinian territories as Area C. By maintaining ultimate control of planning and land laws, Israeli occupation authorities can

[101] International Peace Conferences (The Hague), *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, 18 October 1907, available at: https://www.refworld.org/docid/4374cae64.html [accessed 21 June 2021]
[102] https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AE2D398352C5B028C12563CD002D6B5C&action=openDocument [accessed 21 June 2021]

limit housing development and facilitate demographic engineering based on their settler colonial imaginary vision of Palestine. (Human Rights Lawyer 2) confirmed that the planning system in Area C is considered a political issue that is utilized as a political mechanism to limit land development for Palestinian population and to facilitate ethnic cleansing and land control.

Human Rights Lawyer 2 also tells us about how the Israeli Supreme Court is politicized when adjudicating cases related to housing and planning in Area C and acts in complicity with the ICA and the Israeli government plans to further occupy Palestinian land:

> In the Israeli Supreme Court (Israel's High Court of Justice), they made housing and planning a political issue. It's against all of Israel's obligations, international obligations. It is politicizing the Israeli Supreme Court; I think its politicizing human rights. It reflects the fact that every Palestinian is looked at as a ticking bomb from a demographic perspective and every piece of land in Area C is seen as potential expansion of Israel further deep into the West Bank.

These are some examples that shed light on how housing rights become a political issue related to land control and the question of sovereignty. It demonstrates how the ICA, in cooperation with the Israeli army supported by the Israeli legal system (Israeli Supreme Court), promote a de-facto situation by creating facts on the ground to capture the Palestinian land.

The Struggle is Over Land Control: "It is a Zero-Sum Game"

In Area C, the struggle is over the land; there is a "*race*" between Israeli settler colonizers (backed by the Israeli government) and the Palestinian people to control the land. A Palestinian Policy Maker 3 described this struggle as a "*zero-sum game*", in which whoever controls the land first gains it and it becomes a loss for the other side:

> The division of the Land to Area A, B and C according to Oslo accords, with the planning and zoning in the hand of Israelis in Area C, left everything in Area C a target for the Israeli colonizing and settlement project. As a result, there is nothing such housing projects in Area C; all the communities located in area C such as Susia, Massafer Yatta, and all the communities there became targets because the struggle between Israel and the Palestinians is over land control. This struggle is a "zero-sum game" Meaning, every square km Israel capture, I lose it as Palestinian; therefore, it is a zero-sum game as in

> economics and math - whatever they take is exactly equal to what I lose; then everything they take, they take it from me. (Policy Maker 3)

This struggle over land control was reflected in other interviews. For example, an Urban Planner who works on the developing masterplans for Palestinian communities in Area C confirmed:

> In developing the masterplans, we must deal with reality; facts on the ground such as the separation wall and the Israeli colonies. This ties our hands and limits our ability to develop. However, this reality does not mean that we should not dream to of the future. In one case, we developed the plans as if there is no Israeli occupation and we kept it. Yes, we can dream, but do not submit it to the ICA. We always encourage people to build inside and outside the masterplans borders because there is a race with time between us [the Palestinians] and them [Israel]. We race for who will control more land. (Urban Planner 1)

It seems the Israeli occupation has created facts on the ground such as the Separation Wall[103] (Btselem, 2017), the illegal colonies[104] (Btselem, 2021) and the infrastructure that sustain them as a mechanism to capture territory and gain sovereignty over the land. Urban Planner 1 views these as obstacles that limit the Palestinian ability to plan their spaces for the future. According to him, this constructed reality, decided by the colonizers, and based on its imaginary vision of the space, ignores the existence of the indigenous people. This reality, imposed on Palestinians, makes it so that planning for their dreams for their space is an act they must hide from Israel. The Palestinians in my study consider it a race to control the land. However, it is the settler colonizer regime that has the balance of power.

Urban Planner 2 echoed Urban Planner 4's observations. They pointed out that the outcomes of the planning process in Area C are guided by the settler colonizer's political agenda, which is to limit Palestinian expansion. Therefore, the most important factor when they discuss

[103] For more details see: https://www.btselem.org/separation_barrier

[104] "Two million dunams [1 dunam = 1,000 square meters] of Palestinian land were stolen, by official and unofficial means (p.1). For more details see: https://www.btselem.org/publications/202103_this_is_ours_and_this_too

the masterplans with the ICA, in their effort to get necessary approval, is the outside borders of the plan:

> The planning for the ICA is completely political and it is not based on any reasonable and technical standards. The most important and critical thing for them is the masterplans' border. As far as the masterplans' border is according to their requirements, request, and politics, they do not care about the details inside it. The masterplans' border is their main concern because it is related to the land, so the strategy they are using is to minimize the land included in masterplan's border as much as possible. (Urban Planner 2)

The next sub-section sheds light on building homes as related to territorial control, which will clarify why the masterplans boundaries are an important factor in the struggle over land control.

Securing Territorial Control: Targeting Housing as a Symbol of Existence

The concept of "home" holds several meanings, including sense of identity, belonging and existence (Marcus, 2006). Also, home construction is considered a way of promoting existence on one's land (Naficy, 2013). However, developing infrastructure and building homes, essential elements to secure housing rights, has been either heavily limited or/and prohibited by Israeli authorities in about 98% of Area C (NRC, 2012; UN-Habitat, 2015; UNOCHA, 2015).

Speaking to research participants who live in Area C gave me insights to better understand the connections between housing and securing territorial control in settler colonial contexts. Palestinians see the home as a symbol of existence and as a means that connects them to the land. They felt that the Israeli settler regime is trying to uproot them from the land by demolishing their homes and prohibiting them from constructing new home on their land, provoking memories of the 1948 Nakba. A Community Leader (3) told me:

> Even before I built my home in Al-Aqaba, I spent all my time in Al-Aqaba. I only went to sleep in Tayaseer, my land is here, my olive trees and my sheep are here. Building on our land is the only option for us to stay here. The Israeli army declared this area a firing zone. They asked the families many times to leave their homes, my father refused to leave despite the danger of staying in a fire zone. He knew that the moment we leave the house, they will deliberately fire on it and demolish it, which will make it easier to expel

> us. My father witnessed that happening to other families in Yarza—the community close to us— who left their homes based on the army orders for military training, and then they fired on it and demolished the homes. After that, Israel told the families 'Go to Tayaseer or to Tubass, you do not have anything here… leave.' (Community Leader 3)

Community Leader (3)'s story reflects this strong connection between the home and the ability to keep existing on one's land. His story also brings to our attention that the connection between the home and the land expands to include livelihoods as they emphasized its importance for him and his family when they stated, "*I spent all my time in Al-Aqaba, I only went to sleep in Tayaseer, my land is here, my olive trees and my sheep are here".*

On the other hand, the Israeli authorities also understood this connection between housing and rooting people to the land, so since developing infra-structure is relatively permanent and roots people to the land, it is forbidden. Therefore, without viable infrastructure, the environment become inhabitable, and the people leave their communities "voluntarily". Palestinian Government Official 1 told me about a conversation that happened between him and Israeli officer while trying to gain approval for an infrastructure project, they said:

> We worked on a project funded by the EU to install electric poles in a rural community in the Jordan Valley, but our work was stopped by the ICA. After the EU intervention to continue the project, an officer in the ICA planning unit told us verbally, "You can continue the project on one condition: install the electric poles using cement cubes as bases, which should stay above the ground." We were told that if we dig in the ground to install the poles the ICA will stop the project again. It was clear they do not want us to root the poles in the ground. Anything rooted in the ground is forbidden because they consider it permanent. It must be above the ground so it will be easier for them to remove it — as it is considered temporary structures—whenever it serves their plans. (Palestinian Government Official 1)

Similarly, Policy Maker 1 confirmed that both the Palestinians and Israel are aware of this strong connection between building homes, constructing infrastructure and land control:

> Israel is aware that housing is a reason for remaining; the human may leave his car, his work and flee, but the human does not leave his home because it's for him protection and security from outside dangers. Home is a symbol of existence and staying in one's home is considered Sumud (steadfastness in Arabic); therefore, my recommendation for the

> PA, NGOs and the international community was (and is) to support people to stay in their homes. (Policy Maker 1)

Several research participants emphasized the importance of home for human survival, as well as its role in connecting the humans to the place. For example, Policy Maker 1, like other research participants, spoke of the connections between *Sumud* and staying in one's home and community.

Legalizing the Denial of Housing Rights: Law as a Tool of Oppression

It is notable the extent to which the data indicate that Israel's process of space transformation and slow demographic engineering is obscured by a legal framework by which a state of illegality was and is established within Palestinian spaces. Participants often spoke of how this state of illegality presents the unauthorised Palestinian building[105], "legalizing" the denial of housing rights. The coming sub-sections present three aspects of a sophisticated process described by research participants that creates the state of illegality and enables housing rights denial in Area C: 1) upholding an outdated legal system[106]; 2) restructuring the legal system in a selective way; 3) irrationality in the application of the legal system.

Upholding an outdated legal system

Israel's occupation of the West Bank, including East Jerusalem, and the Gaza Strip in 1967 created a new reality and added another layer of the complexity to the legal system applied in the West Bank. According to the Norwegian Refugee Council report (2012), there is a complex system of multilayered legislation governing all activities in Area C. These layers of legislation applied in Area C are: (1) the Ottoman Land Code of 1858, which includes the basic level of the

[105] Refer to the context chapter for details regarding authorized buildings and building permits in Area C.
[106] The legal system used in this chapter to refer to the planning system and land laws (land ownership, land registration, land usage) as it is directly related and impact housing rights in Area C. See the context chapter for more details.

land laws and "its basic definitions have remained intact to this day" (p. 22); (2) British Mandate[107] legislation that amended the Ottoman Land Code; (3) the Jordanian Planning Law (nr. 79/1966); and (4) the military legislation in the form of military orders such as MO 418.

Research participants repeatedly cited the outdated complex system of laws and the Israeli juridical system, applied in Area C, as tools to legitimize housing rights denial:

> The legal background is composed of the law applicable in the occupied territories and Israeli obligations based on the Israeli administrative law. Because the Israeli military commander in the West Bank is an Israeli official and this position must follow the Israeli constitutional and administrative law. The legal background is composed of a fragmented out of date set of laws. So, regarding the substantive right or limitations we have, Israeli interpretation of what's the applicable law in the West Bank and Area C. Israel has restructured or selectively reconstructed the applicable laws in the West Bank. (Human rights lawyer 2)

Human rights lawyer. 2 represented many cases related to home demolition and forcible displacement in Area C. Based on their experience with the Israeli juridical system, having fragmented and outdated laws amended by military authorities is a key factor that limits their abilities to defend Palestinians' housing rights, and limits Palestinian communities' ability to grow, expand, and respond to their basic needs such as housing, services, and infrastructure. However, this outdated legal system is applied only to Palestinian communities and is not applied to the Israeli colonies illegally built in the West Bank:

> The legal system applied [in Area C] is an old system; it was there before the creation of the state of Israel. The current planning and building regulations either the Jordanian or the Israeli military laws, are originally from the Ottoman era [land code 1858] and it was updated during the British mandate, then Israel amended it through military orders. All these laws, regulations complete each other. These laws are only implemented strictly on the Palestinians, but it is not applied on the Israeli illegal colonies. For example, when Israeli settlers squat on agricultural land and establish a colony, the ICA changes its land use from agriculture to residential in a matter of days, but when Palestinians apply to change land use from agriculture to residential, it might take 15 years and they usually do not get an answer. As you see, the application of law is selective and discriminatory in Area C, and we have no control over it. (Policy Maker 1)

[107] The British Mandate period (1920-1948)

Not only is the Ottoman Land code of 1858 still in use, but the Regional Outline Plans — developed and approved under the British Mandate in the 1930s-40s— are also still applied selectively to most of Area C. When asked about the regulations that impact housing development in Area C, Urban Planner 5 and Urban Planner 2 referred to these outdated Regional Outline Plans as being used as the base for approving (and refusing) any Palestinian development in Area C. In addition to mentioning the military regime's comprehensive and strict control of the planning process in Area C, they also cited the Jordanian Planning Law (nr. 79/1966), which has been fundamentally modified by Israeli Military Order No. 418 as a basis for issuing building permits in Area C:

> The military order that I mentioned [MO 418] regulates the vast area of area C as off limit for Palestinians, either military zones or what they call natural reserves or Israeli settlement or bypass roads. We still have many old laws in Area C. You have the British mandate; Ottoman laws are more on the land issue. For planning more, we have plans from the mandatory Regional Outline Plans RJ/5 [108]and R/6[109] that are still used by the Israeli civil administration to Jordanian planning law and the Israeli military orders. So, it's a mix of all of these. (Urban Planner 5)

Similarly, Urban Planner 2, cited the Jordanian Planning Law (nr. 79/1966) and Military Order No. 418 —which gave exclusive powers to the ICA to control the planning process by abolishing the local planning committees— as outdated regulations that do not address and respond to people's needs in Area C:

> The Jordanian law of 1966 is still working now and there are the military orders that modify this law. So basically, there is the Jordanian law and the military orders. The most important military order is the Military Order No. 418. It was issued in 1970s and it cancelled the local planning committee and gave the planning powers to the ICA or the Israeli military at that time. After the Oslo agreement, in the areas A and B the powers were reclaimed to the PA and Area C remained under the full authority or full mandate of the ICA. (Urban Planner 2)

[108] Plan RJ/5 for the Jerusalem district, approved in 1942. *Palestine Gazette – Supplement 2 No. 1188*, 16 April 1942, p. 569, as cited in (NRC, 2012, p.61). Also see the study context chapter.
[109] Plan R/6 for the Mandatory Lydda district, approved in 1942. *Palestine Gazette – Supplement 2 No. 1180, 26 March 1942, p.* 550, as cited in (NRC, 2012, p.61)

Participants asserted that using masterplans that were developed in the 1930s and 40s as reference to determine development and where people can build in the 21st century is not logical. They argued that the planning process is a dynamic process that should be reviewed and revised based on current situations and future needs. It is not likely to achieve development and sustain livelihood of communities by keeping outdated land and planning regulations.

Selective application of the International Law to the occupied Palestinian territories

According to the Law of Belligerent Occupation[110], the occupying power [Israel] is not entitled to run the territory, exercise its power or its effective control politically. The occupying power must conserve the existing order to the greatest extent possible. Any changes that it introduces to the existing order must be only for the benefit of the protected persons [Palestinians], not for its own benefit or the benefit of its nationals or not for any of their interests. The occupying power has its own self-interest that it may protect, which is the safety and security of its own forces, but its main responsibility is ensuring the safety of public order and the welfare of the occupied population. Even though the Law of Belligerent Occupation should be applied in the West Bank, according to the UN Security Council resolution 242 (1967) of 22 November 1967[111], Israel has its own interpretation of its applicability in the occupied Palestinian territories. Human Rights Lawyer 3, an International Law expert, explained the scope of the legal framework applied to

[110] From the perspective of international law and the international community, the West Bank, including East Jerusalem, and the Gaza Strip are considered territories occupied by Israel. The two main fields of international law that apply in this case are: international humanitarian law and international human rights law. NRC, t. N. R. C. (2012). *A Guide to Housing, Land and Property Law in Area C of the West Bank*.
International humanitarian law applies in situations of war and armed conflict, including occupation, in particular the law of belligerent occupation according to1907 Hague Regulations (articles 42-56) and the Fourth Geneva Convention (GC IV, articles 47-78). It sets down rules for the specific exceptional situation of the military occupation, where control passes to military authorities of a state that does not have the sovereign status over the territory.

[111] Mideast situation/Withdrawal of Israeli forces, termination of states of belligerency – Resolution 242 – SecCo resolution. Resolution 242 (1967) of 22 November 1967. Available at: https://www.un.org/unispal/document/auto-insert-184858/

Area C and its connection to housing rights as a systematic violation of the law of belligerent occupation by Israel:

> The station in area C, the problem that results in violations of rights of housing. But the source of violation is not any neglect of the right holder's rights simply; it's a systematic violation by the occupying power [Israel] of the limitations imposed on it. So, the problem is that Israel treats the occupied territories as territories that are legitimately subject to its sovereign political will and authority. They [Israeli government] do see it as occupation but an occupation that is not the occupation of non-sovereign because they say there was no sovereign, so they try to say that the Geneva Convention is not applicable de jure for that purpose. But they observed the so-called its humanitarian of provision ex gratia out of the goodness of their heart. (Human Rights Lawyer 3)

Israel recognizes its occupation of the West Bank as belligerent occupation. Yet, they do not acknowledge the applicability of either the fourth Geneva Convention or the Hague Regulations in the West Bank. However, Israel accepts the application of the Fourth Geneva Convention humanitarian clauses, which they leave ambiguous and subject to their interpretations. Human Rights Lawyer 2 explains this by stating:

> Israel doesn't recognize the applicability of the fourth Geneva Convention, except its humanitarian clauses which it never elaborated what they are. It doesn't really recognize the fact that, I mean legally, they do recognize it as belligerent occupation, but politically they don't recognize it. So, legally they do recognize it as belligerent occupation. They just saying that the specific circumstances of this particular occupation do not bring it to the applicability of the fourth Geneva Convention in full, it rather only adopts part of it which is humanitarian clauses. (Human Rights Lawyer 2)

It was a big challenge for Human Rights Lawyer 2 to defend Palestinian land rights, as well as to protect homes and livelihood from being demolished because the Israeli High Court rejected several petitions based on this claim that Hague Regulations and the Fourth Geneva Convention do not apply fully in the West Bank

Based on this Israeli legislation, they extended their sovereignty to the West Bank. Human Rights Lawyer 3 reflected on Israel's interpretation of its occupation of the Palestinian territories, as well as the international community views:

> The only problem is Israel has a funny component of its own domestic legislation. Its own basic legislation for 1948 defined its relationship with the entire territory of Mandatory Palestine as a sovereign that can exercises sole and exclusive discretion over how any part of that territory is governed, simply by force of its own forces establishing effective control. So, this domestic legislation that defines the state of Israel's relationship to the entire territory of Mandatory Palestine in a way that is not accepted by the rest of the world. So, the rest of world says, "This is a belligerent occupation. Israeli's forces occupied territory that is not part of the territory of the State of Israel. (Human Rights Lawyer 3)

In this quote, Human Rights Lawyer 3 refers to the Israeli law *Area of Jurisdiction and Powers Ordinance, 5708-1948 article 1*. The first article in this legislation states "Any law applying to the whole of the State of Israel shall be deemed to apply to the whole of the area including both the area of the State of Israel and any part of Palestine which the Minister of Defence has defined by proclamation as being held by the Defence Army of Israel." This law extends the realm of Israeli jurisdictions to all areas of Mandate Palestine (Qandeel, 2018).

As a result of the multi-layered and outdated legal system that exists in Area C, as well as the lack of power to act in their own interest, Palestinians in this study found themselves trapped in this structure that is imposed on them. Due to all the complexity necessary to navigate this structure, Palestinians are forced to build without a permit if they wish to continue existing on their land, which puts them in permanent insecurity, fear of home demolition and forcible displacement. All this oppression is possible due to the multi-layered and outdated legal system. Participants explained that this system is beneficial for Israel as it creates a state of illegality, which justifies the violation of Palestinians housing rights. In the following pages, I share how participants assess the reformation of this multi-layered outdated legal framework by Israel as a mean to serve settler colonial plans in the West Bank, and the ambiguities in international humanitarian law to get away with its violations of Palestinian basic human rights.

Restructuring the Law System: Creating a State of Illegality (oppressive laws)

This sub-section continues to explain the process of normalizing and legitimizing housing rights denial through the creation of illegality in Area C of the West Bank. The first step, as explained earlier, was one in which Israel operationalized a complex and outdated legal system and introduced extensive military regulations to facilitate its expansion plans in the West Bank, while limiting Palestinian existence in Area C. However, the ICA restructured these laws and legislation through many military orders in a selective way that had negative impact on Palestinians living in Area C. This is the second step in the process to create the state of illegality in Area C, when it comes to Palestinian housing rights, which will be explained below.

The law governing land use and planning legislations, the Jordanian Planning Law (nr. 79/1966), was changed dramatically by Military Order No. 418 in 1971, without taking in consideration the rights of the occupied people [Palestinians], and in many cases without a reasonable military need. For instance, Human Rights Lawyer 1 tells us that what is left from the 1966 Jordanian Planning Law that existed in 1967 is "its name", because Military Order No. 418 amended it in a way that made it almost impossible for Palestinians in so called Area C to obtain building permits:

> The laws in place in Area C are military legislation. The laws are modified to serve the Israeli colonization and to complicate the objection process against it... They [the ICA] claim that they are still using the Jordanian Planning Law (nr. 79/1966), but in fact all that is left from the law is its name. Every now and then the building and land-use conditions are complicated to the extent that it is impossible today for any Palestinian to obtain a building permit in Area C according to the Israeli military legislation. (Human Rights Lawyer 1)

Examining and analysing Military Order No. 418 reveals that by changing the structure of the planning hierarchy, such as cancelling the level of District Planning Committees and transferring their powers to the Higher Planning Council, Israel excludes the local communities and denies their right to participate in the planning process. Furthermore, Military Order No. 418

gives the Israeli commander of the area the authority to appoint the Higher Planning Council and grants the Council absolute jurisdictional power over other committees. In so called Area C, all council members are Israelis, including settlers, without any Palestinian representation.

To further understand the impact of the changes to the Jordanian Planning Law (nr. 79/1966), many documents address the impact on Palestinian people ability to exercise their housing rights, such as a strategic action plan[112] to provide planning support for Palestinian communities in Area C. Specifically, this plan aims to make planning "more effective in preventing displacement and creating development opportunities in Area C" (p.1):

> The applicable legal planning framework in Area C (Jordanian Planning Law (nr. 79/1966) has been fundamentally modified by the Israeli Military Order No. 418. Military Order No. 418 has practically excluded Palestinians from the planning process (ex. through the abolishment of the Local and District Planning Committees). The interpretation of the de-facto planning framework is restrictive[113]. This is compounded by the difficulty to prove formal landownership (no systematic land-registration since1967. (Ministry of Local Government, unpublished document, 2014, p. 2/9)

This quote focuses on Military Order No. 418, creating a de-facto planning system that centralizes the planning process in the hands of the ICA and excludes Palestinians from participating in planning their communities. Most of the interviewees — when they were asked about the policies impacting housing rights in Area C— referred to this military order as one of the main military legislations that violate Palestinian housing rights. By law and logically, to build a home, any Palestinian should obtain a building permit; building permits are issued based on the community master plan —which is supposed to be dynamic and developed with the community's participation, based on future needs— as well as land ownership. But, in so called

[112] "The Strategic Action Plan was prepared by the MoLG with support of UN-HABITAT and is the result of extensive consultations through the Ad Hoc Planning Task Force, co-chaired by the Ministry of Local Government and UN-HABITAT, operating under the OCHA-led Displacement Working Group. Roundtables were organized (26 August 2010, 10 October 2011) to collect feedback from a wide range of actors." (Unpunished document, Ministry of Local Government-Strategic Action Plan, 2012 – 2014, p.1/9).

[113] Articles 14,19 and 23 of the Jordanian Planning Law define the requirements (footnote 4 in the original document)

Area C, the few master-plans available were developed in the 1980s based on the Britch Mandate District Plans and involved the ICA drawing a tight line around the built-up area called the blue-line[114]. Proving ownership is also hard to achieve, as Israel froze the land registration process in 1967. Therefore, participants explain, Palestinians are trapped in this de-facto structure that prevents them from exercising their housing rights. And if they do build their homes without a building permit, permits that are almost impossible to obtain, these homes are labeled as "illegal" and come under the threat of home demolition.

The current planning system that facilitates the denial of their housing rights is described by many participants in this study as a "de-facto" system because it is imposed on them by military force and involves many unwritten elements. Participants say their communities are aware that they are trapped by this system, and they want to be part of the planning process through reclaiming their right to be part of the planning process. For example, Al-Aqaba village petition to the Israeli High Court of Justice to reconsider the Local and District Planning Committees was rejected. Human Rights Lawyer 2 tell us about this petition and how housing rights and planning were politicized:

> Palestinians don't have any housing rights because of the structure. Because this change [cancelling the Local and District Planning Committees by MO 418] was introduced in a petition to the Israeli High Court of Justice to reinstall the Local and District Planning Committees for the Palestinian villages in area C. It [the petition] was dismissed by the Israeli High Court of Justice. In the court, they made housing and planning a political issue. (Human Rights Lawyer 2)

According to B'Tselem (2013) the Israeli High Court of Justice did not consider any of the petitions submitted to it against the ICA violation of the Palestinian housing rights worthy of its intervention. In the view of most participants, therefore, the Israeli High Court of Justice

[114] Refer to the context chapter for more details.

became a tool to enable harmful policies and to sustain the state of illegality that violates Palestinians' rights.

International Organization Official 2 sheds light even further on this de-facto planning system and described it as a conscious structured process for ethnic cleansing that started before the administrative fragmentation of the West Bank into Areas A, B and C:

> Planning is selective, intended for ethnic cleansing and demographic engineering. They amended some of the laws and they've been [the Israelis] very generative, very fruitful in the field of land and planning there [in Area C]. What they did is they expanded their power so much as to deny all Palestinian control over planning, spatial planning in Area C, I mean before Area C, before it was Area C. So, the major changes in the field of housing, land property, actually took place in the eighties. (International Organization Official 2)

The modifications of the planning and building legislation left Palestinian access to housing rights under full Israeli control. According to participants, denying access to housing rights is an essential component in the Israeli covert policy of "ethnic cleansing". However, the application of this covert policy of "ethnic cleansing" is done by creating a state of illegality, in which the occupying power decides what is legal and what is illegal based on their own best interest instead of the occupied population's needs and rights.

Several participants emphasized the changes of the planning and building legislation that was in effect in the West Bank in 1967 were made to serve the occupying power's best interest rather than that of the occupied population. This was done by creating a state of illegality to facilitate land control, ethnic cleansing, and demographic engineering. Restructuring the planning law is considered by many participants as a violation of international humanitarian law because most often these changes were not for military needs and violate Palestinians basic rights. However, several participants mentioned that Israel has never been held accountable to comply to international law.

Irrationality in the Application of the Legal System

As discussed earlier, there is a complex system of laws and regulations applied in so called Area C. This complexity provides room for confusion and ambiguity in its application. Urban Planner 5 —who has been involved in Planning in the West Bank since the 1980s, before the invention of so-called Area C— raised the issue of misperception of these laws, which impacts how they are applied:

> What is lacking here are not laws and regulations. There are a lot of laws and regulations from the previous occupation powers, whether it's Israeli, Jordanian, or Turkish. There are laws in place. The problem is that there is a huge amount of confusion about how to apply these laws appropriately. (Urban Planner 5)

Urban Planner 5 is referring in this quote to the planning system applied in so called Area C. As discussed in the previous section, the Israeli occupation authorities kept the outdated planning legislation that were developed and amended by different authorities who ruled Palestine in the past, starting from the Ottomans to the British Mandate to the Jordanians and finally the Israeli occupation regime that amended the rules by military orders whenever it served their interest. This created an obstacle for Palestinian urban planners due to the lack of clarity in the application of these legislations. Urban Planner 4 shared their frustration with the ambiguity of the planning processes:

> Whenever we met the ICA's planning officers to discuss the master plans for the Palestinian communities in Area C[115], they [ICA's planning officers] used to focus and draw upon some aspects of the law that serve their interest and ignore the parts that does not serve it. We tried to do the same to find a middle ground and reach a compromise. What was obvious in these discussions was that there were no clear laws and regulations, and no clear system that the ICA follows in Area C. There is nothing clear at the ICA; they try to keep it [planning requirements and procedures] vague and ambiguous, which allows them to pick and choose which parts of the law to use and which parts to ignore based on their interest. For example, they say most of the land in Area C is classified as agricultural land based on the British Mandaite district plans, so we might give you only

[115] The Palestinians started an initiative in 2008 to develop master plans for their communities in so called Area C. Further details about this initiative will be discuss in chapter 5 as part of the Palestinians tactics to secure their housing rights.

> permission for agricultural housing, other times they say about similar cases, we have new plan and we do not want to follow the Mandate Plans. (Urban Planner 4)

Urban Planner 4 pointed out the selective and unsystematic application of the planning and land laws in so called Area C to serve the Israelis' plans in the area. This situation leaves the Palestinian planners who are involved in the planning process in Area C powerless. Urban Planner 4 gave an example from Massfer Yatta in the southern Hebron hills that illustrates this chaotic process:

> In Massfer Yatta, there is the 'Firing Zone 918.'[116] It is declared a military zone and the Palestinian communities inhabiting the area are at acute risk of forcible displacement. They [the ICA] told them they do not have the right to develop master plans for their communities in the area because it's a closed military zone, even though the ICA modified the boundaries of the area multiple times to build or expand Israeli colonies in the area. But when it comes to the Palestinians, they [the ICA] do not change anything. This an example of the way they manipulate the law; sometimes they make changes and other times they say this is a military order and we cannot change it. (Urban Planner 4)

It is noticeable the planners do not have any control over either the planning process or its outcomes. This created a non-institutional system, which gradually became informal arrangements between people from different institutions involved in Area C.

This selective application of the law is not limited to the planning legislations, lands law and military orders; it also relates to the application of international humanitarian law, in particular the law of occupation. Human Rights Lawyer 3, an expert in international law, said, "in Area C, the irrationality and application of the Occupation Law in a selective way result in violations of housing rights." It is apparent the source of housing rights violation is not simply the neglect of individual landholder's rights; it is a systematic violation by the occupying power of the limitations imposed on it. Study participants argue that Israel treats the occupied

[116] Firing Zone 918' is the number assigned to a live-fire zone in Massafer Yatta by the Israeli army. This area was declared a restricted military zone in the 1970s, which consider the Palestinian communities living in the area as illegal residence.

Palestinian territories as though they are legitimately subject to its sovereign political will and authority without taking in consideration the human rights of the Palestinians or international Occupation Law.

Several participants, when asked about Israeli polices impacting housing in Area C, descried Israeli policy as neither institutional nor systematic. During their work on internationally funded infrastructure and service development projects in Area C, the application of Israeli polices were not clear for them. One example, based on the experiences of an international organization official, is:

> But, you know, it is a very private system because it is becoming an interpersonal system. I have a contact with Mr. X there, at the ICA. I told him I want to fund an additional classroom in this village. "Please, give me an approval." And we discussed together, and he finally gave me the approval. It's not an institutional system. It became gradually like informal arrangements between people from different institutions. Because the policy of Israel is not systematic, they have no clear policy. In some areas, they give approval for all investments. In other areas, you don't know why they refuse. With some partners, they easily give an approval and other partners they don't give. It's not clear, …you don't know the system of giving or refusing these from the Israeli side. It's absolutely not an institutional approach […] Nobody can describe their real policy regarding that area. (International Organization Official 2)

Throughout the interviews, participants mentioned that some projects funded by the international community as humanitarian aid survived the demolition. However, in some cases, even if the project comes under humanitarian aid, it is at risk of being demolished. Several participants from international organizations and from Palestinian organizations and government bodies alike described cases when the projects are funded by the international community, the application of the regulations becomes selective based on the donor funding the project. For some donors such as the USAID and the UK, some building approvals are given and no demolitions take place in relation to these projects, while for others there were no approvals. So,

the system applied in Area C has become an interpersonal system that does not take Palestinians needs and rights in consecration.

The next section will shed more light on the Israeli policy implementation in so called Area C including the arbitrary implementation of the policies, military violence and using power to create facts on the ground.

Policy Implementation: Arbitrary Control Regime & Military Violence

In this section I will shed light on the ICA practices applying Israel's polices in the context of housing rights. Several participants indicated that the Israeli settler colonial regime applied its sophisticated polices that impact Palestinians' housing rights using its military power. Data analysis revealed two-fold power exploitation toward Palestinians. The first type of power is invisible, and it involves using indirect violence to enforce a sense of powerlessness and a position of inferiority among Palestinians; the second is visible, operationalized through military power that implies a threat to life during the demolition of homes and infrastructure. These two manifestations of power exploitation throughout policy implementation are presented in the next two sub-sections.

"Whoever has the power decides": Enforcing a Sense of Powerlessness

Research participants repeatedly cited a sense of powerlessness confronting Israel's oppressive practices in their attempts to exercise their housing rights. Participants from the local communities, policy makers, international organization official and Palestinian government officials alike made observations such as: "They [Israel] have the power and they [Israel] decide" (Urban Planner 8) and "They impose [Israel] a set of irrational and impossible conditions, simply because they can" (policy Maker 5) or "They do not say yes or no[…] They do not give an answer; they control the whole process" (Urban Planner 6), when they were asked to describe

the processes obtaining building permits and/or master plans approvals. Also, many participants spoke of unjust and arbitrary consequences when challenging Israeli policies such as prison sentences, confiscation of equipment and construction materials, as well as the confiscation of personal IDs. Palestinian Government Official 6 spoke of the Israeli military presence and its impact on Palestinian's everyday life:

> The Israeli army is present in Area C all the time. This is a form of terrorism. People are afraid to be punished. Anything people do relating to improving their homes' conditions or expanding them causes penalties. It could be confiscation of the equipment and construction materials, confiscation of their personal IDs, high fines, even prison sentences. They made peoples' life unbearable[..] They try to scare people by these actions. You know, it is like a deterrence policy. (Palestinian Government Official 6)

Several participants described the army presence in Area C and the strict application of homes demolitions as part of Israel 'deterrence policy'. They described the fear of punishments such as confiscating their IDs[117], which would limit their mobility due to the many checkpoints spread throughout Area C. Also, they talked about how the confiscation of equipment, especially heavy equipment, and construction material results in big economic losses.

Likewise, several participants pointed out that many people are devastated, living in constant fear of home demolition and the consequences, implemented by armed soldiers, of building without permit. International Organization Official 3 described the challenges while working to install a water line to serve Al-Zbidat community:

> I worked on a project to provide the water line that serves [xx] community. This area is surrounded by Israeli colonies, fire zones and close to the Jordanian border. The army is present everywhere. The colonies and their guards, the security towers are around us. It is a high-risk area because anyone caught working on the project will be highly fined, his equipment will be confiscated, or will be imprisoned. It is hard to get a contractor to do the work due to the high risk. People there are overwhelmed, they do not trust anyone,

[117] Personal IDs refers to "the color -coded identification system issued by the Israeli military and reinforced in 1981 through the ICA. Palestinians in the occupied West Bank and the Gaza Strip have green IDs – generally issued once they turn 16 – while Palestinians in East Jerusalem and Israel have blue IDs". Palestinians must carry their IDs on them everywhere they go. Retrieved on September 28, 2021, from https://www.aljazeera.com/news/2017/11/18/the-colour-coded-israeli-id-system-for-palestinians

> they suffer from high levels of psychological damage. They only want their homes not to be demolished. When they hear there is a home demolition in the community next to them and the one next to it, it is hard. They are just waiting for their turn. They ask us, what are you doing here? They are just waiting for their turn. They ask us, what are you doing here? Many organizations and the PA come to help but with no real results. They [the community] make us feel as we are part of a corrupted system. Many times, I feel I am part of the corrupted international system. (International Organization Official 3)

The community member participants spoke negatively about their experiences with the ICA in their attempts to obtain building permits. An interview with a Palestinian man from Al-Aqaba village illustrates the sense of powerlessness and insecurity that many participants experienced in their many attempts to secure a building permit for their homes:

> We needed a building permit, so we were sent to Salim[118] to apply for the permit; at Salim they made us go back and forth seven to eight times in hopes of getting our permits, which ultimately did not receive any approval. Despite knowing that they were not going to give us the permits, they kept stalling, they gave us no answer. This is draining us, our money, our energy, and our mental well-being. We do not know when the soldiers will come with the bulldozers to demolish our homes. (Community Leader 3)

Similarly, another Community Leader expressed a sense of powerlessness, anger, and frustration while sharing his community experience to obtain building permits:

> Several people in the community applied to obtain building permits before and after receiving demolition orders. They applied individually and collectively, they paid 5000 INS[119] as fees for each application. We have been applying since 1998, they accepted all the applications and took the fees, but they never give us an answer. They did not give any building permits; at the same time, they did not deny it. When we ask about the status of the applications, they do not give an answer; people live in fear of losing their homes. They want us to give up and leave, but no one will leave. (Community Leader 1).

Throughout this research, community leaders in particular made repeated reference to living in constant fear of home demolition and displacement, as well as powerlessness because of the policy of neither approving nor denying building permits. Participants pointed to connections

[118] Salim is an Israeli army cantonment and checkpoint located in the northern West Bank in Jenin. It has the headquarters of the Israeli Civil Administration for the Jenin area and its villages. It has Israeli military and intelligence headquarters and a shooting range. Also, it has a military court for Palestinian political prisoners and a land registration office.

[119] 5000 INS converts to 1300$. The minimum monthly wage in the West Bank is 1400 INS.

between leaving people to live in permanent fear of losing their homes and creating an environment that force people to voluntarily leave their land. However, many participants confirmed despite this sense of powerlessness before the Israeli colonial regime, they will continue the struggle to secure their housing rights. The Palestinian communities in Area C are determined to protect their homes and land, they show agency resist the oppressive power practices through employing innovative survival tactics which will be discussed in chapter five.

Urban planners, especially, drew links between the Israeli arbitrary control regime and the process of dehumanization they experience during the process of discussing the master plans. The urban planners, community leaders and Palestinian government officials must go to the ICA headquarters in Beit Eel to discuss the master plans. They described the dehumanizing process they must undergo each time they go to the ICA headquarters:

> By name, it is called the civil administration, but in reality, it is not. It is a military arm of the Israeli government. Like, you enter a military base. It is responsible for all the oppression and disparities in Area C. When we discuss the proposed master plans for the communities in Area C, we need a special permit to inter the ICA headquarters. The planning unit in Beit Eel is part of a colony and it has a military cantonment. We must get a permit first, then we must go through strict physical security checks to get inside. Once the soldiers at the doors were very aggressive during the security check and we had to cancel the meeting to protest their oppressive actions. (Palestinian Government Official 2)

Throughout the interviews, research participants – urban planners, community leaders, NGOs workers and Palestinian government officials alike – repeatedly cited undergoing a process of dehumanization each time they have to interact with the ICA. They first need to get a special permit from the ICA—which might be approved or denied based on the Israel Security Agency (Shabak or the Shin Bet) assessment. Then, after receiving the permits, they go through the physical security checks, to be able to inter the ICA headquarters to discuss the master plans.

Moreover, several participants referred to the power imbalance and the sense of inferiority that is imposed on them during both the process of obtaining building permits and negotiating the master plans. Urban Planner 6, who has been involved in urban planning in the West Bank many years before the invention of so-called Area C, told me that all the West Bank was like Area C before Oslo Accords, in which the most populated cities were given the right to plan their space only if they stayed within what today is referred to as so called Area A and B. They mentioned Israeli authorities using fear as one of the tactics to gain power over the Palestinian planners:

> I worked since the eighties in planning. All the West Bank was like Area C, all the land and planning issues had to go through the ICA. After Oslo, they gave some power over planning and land registrations inside the big cities, only naming them Area A and B with tight borders. If we were inside these boundaries, it was okay. If we needed to expand, we couldn't because all Area A and B is surrounded by Area C; we are like trapped in separate islands […] In the eighties, each time we went to the ICA to discuss the master plans, the military officer responsible for the planning unit put his M16 rifle and the master plan on the same table. They want to make us afraid to gain power in the process. They want to pass a message to us: "We, here, have the power, and we decide." […] Now at least they do not put the M16 rifle on the same table, but we know it is there somewhere in the room. (Urban Planner 6)

Having the M16 rifle on the same table where the master plans are discussed reflects the power imbalance in the dynamic of the process. On one side is the powerful, the ICA planner with his gun ready on the table representing the Israeli colonial oppressive regime. On the other side is the powerless, the Palestinian planner with his plans, representing the subjugated colonized. Similarly, Palestinian government officials referred to the power imbalance even in the implementation of the few projects that got approvals and were funded internationally:

> They give nothing […] For the Israelis, even the United Nations' resolution is nothing. So, I don't think that our protection plan[120] is something for them [ICA]. Sometimes they [ICA] do some activities and if it's to their benefit, they bring the national protection plan [proposed by the PA] to court and say: "Yes, it is protected here… It's only to their

[120] The National Protection Plan was completed in 2014 and designated areas of restricted development and other protective elements.

> benefit." But they cannot see it, or they don't like to see it, when it's for Palestinians' benefit. (Palestinian Government Official 5)

Also, research participants repeatedly pointed out the connections between Palestinians' sense of powerlessness versus Israeli settlers' influence on ICA actions to impose their exclusive vision of the area, while ignoring the Palestinians' needs, rights and even presence on the land:

> We [MoLG] got approvals from the ICA to build a wastewater treatment plant funded by the Germans to serve several Palestinian communities. We started the project and invested more than $800,000 in the project infrastructure. But the settlers from Ariel colony[121] stopped the project through an order from the Israeli judicial system. So more than $800,000 was gone and the project stopped. This is one example among many in Area C. The settlers influence all the decisions, they [Israeli settlers] even does not want to see anything Palestinian around them. (Palestinian Government Official 2)

Several participants spoke of settlers' violence and settlers' influence on Israel's policies in the West Bank. They pointed out the cooperation between the settlers, the ICA, and the Israeli judicial system to control Palestinian land. Even though the wastewater treatment plant was funded by an EU member country as part of international commitment, according to international law, to provide humanitarian aid for populations under military occupation—still, the settlers were able to stop the project, despite the economic loss and the dire need for an essential infrastructure project. Several similar examples were shared with me during the research.

From a humanitarian law perspective, several human rights lawyers (Israeli and Palestinians participants), also spoke of the power imbalance that occurs when the powerful impose their agendas, violating human rights, while denying their violence and dispossession. Human Rights Lawyer 2 spoke about their experiences with the Israeli judicial system trying to defend Palestinians' housing and land rights in Area C:

> So, it's like they change the laws and when the people ask to put the laws back so they can have some control over their land, they, Israel, deny the dispossession. There's no

[121] Ariel, the fourth-largest Israeli colony in the occupied Palestinian territories, was built in 1978 on Palestinian villages' cultivated farmland—including Salfit, Marda and Iskaka— that was seized for military needs, and on Amiri lands that were declared Israeli state land.

> violence. There's no violation and there's no violence. Let's take it out of the human rights framework or the humanitarian law framework or the rights discourse completely and make it a political issue which is all about power balance and let the power balance decide. Of course, Israel is the stronger because they have the effective military control and that's the point of being the occupying power. Israel is always the stronger side in this equation. (Human Rights Lawyer 2)

Likewise, Palestinian policy makers mentioned the state of powerlessness in front of the Israeli colonial regime:

> The main problem that we are living under military occupation, therefore, it is difficult to plan anything because this military occupation diminishes all our plans. Whoever has the power (Israeli occupation army) forces his views. The weak party (the Palestinians) begs the powerful to give them their rights, but the powerful did not give anything [....] nothing, nothing. (Policy Maker 1)

Finally, a senior international organization official, who worked many years in Area C and has had many interactions with the Palestinians and the Israeli regime, when they were asked about policies impacting Palestinians' housing rights in Area C, summarised it as follows:

> Firstly, they [Israel] refused all kind of investments in infrastructure. Secondly, they [Israel] gradually capture more and more territory to develop their colonies or their settlements and gradually increased the control by their roads, check points. All those things allowed them to control all movements on the territory and migration also. When they control migration on the territory, you have the power. You have the full power and the agenda – from my perspective, not my organization – the Israeli agenda is to find a way to decide when officially that Area C will become Israeli territory. This is the agenda of Netanyahu, which is to simply annex Area C. (International Organization Official 2)

The whole situation in Area C presents an illustration of well-known settler colonial practices to control land and eliminate the indigenous populations. These examples emphasize that policy implementation in so called Area C is framed by institutional and structural colonial oppression, which reflects Israel's domination and superiority, and at the same time enforces the suppression and inferiority of the indigenous.

The Arbitrary enforcement of the law: "The bulldozers and the soldiers could come anytime to demolish our homes":

This sub-section presents the arbitrary enforcement of the laws and regulations as related to housing rights. Also, I delve into the ways in which policy implementation is rooted in colonial violence and the power exploitation embedded therein. Research participants, particularly those in positions of policy development or intervention implementation, described both the development and enforcement of the laws and regulations in Area C as being arbitrary: "Israel has all the power, they can force you to comply to their military laws. It is arbitrary policy; it is a policy of coercion." (Policy Maker 2)

Along with community leaders, key informant research participants reflected on how the overall processes of home demolition had facilitated a sense of powerlessness and thus, a heightened vulnerability among the various actors involved in the process aiming to enable Palestinians to exercise their housing rights:

> It is more than security, and I'm not sure if it was conscious, I'm not sure. But, in fact, it was so organized [through Oslo Accords], one side to give the Palestinian a makeup gains to build their institutions hoping for independent state. On the other side was giving to Israel the possibility to take the full control of the territory for security reasons. But Israel went further. They [Israel] went much further. They [Israel] use their power in rea C to, on the one side, gradually capture the territory and, on the other, avoid any kind of Palestinian development on that territory. Because most of the time, they never approve any investment. Even for a humanitarian reason, it can happen to approve it, but most of the time, generally they refuse everything, everything. They're also destroying temporary humanitarian stuff, like tents for Bedouin. They are also regularly destroying temporary installations. They've put the international community in front of a challenge. The international community started to think about how they can protect some investment, to protect the citizens living in this area. (International Organization Official 2)

Similarly, another Palestinian Government Official referred to the power imbalance on the ground and the arbitrary application of the Israeli colonizers' vision in the area, despite the needs and human rights of the Palestinians:

> By looking at the implementation of our projects in Area C,[122] you will see many stories, many irrational things. Their action on the ground has nothing to do with security, as they claim. It is obvious that it is all about making a point that they have sovereignty on the ground, and they decide. It is about telling us: "This land is under our control." There is no logic; people's needs, and rights are the last thing that they care about. (Palestinian Government Official 1)

A community leader also described a multiple-home demolition that took place in his community in Massafer Yatta on February 2, 2016. The demolition took place very early in the morning, and the families watched their homes being demolished:

> They [ICA officers, the soldiers, and the bulldozers] arrived in the early morning. before the sun rises, at around 5:00 am. The demolition took place in two communities Khirbet Jenbah and Khirbet Alhala. The soldiers surrounded the area and brought three bulldozers for each community. People were still asleep. By 9:00 am, 25 homes were demolished; 25 families became homeless. The families dragged the children from their beds. There was a panic; they did not have time to move their stuff out […] the families were standing there [pointed out to an area next the school] watching their homes being demolished, surrounded by soldiers. After the demolition, some of them stayed with their relatives, some went to live in caves in the area, other families-built tents and stayed on the rubble of their homes. (Community Leader 2)

This multiple home demolition took place even though the communities had a dispute at the Israeli courts, which was supposed to protect their homes from demolition until a decision was made at the court about their case. Community Leader 2 told me that the demolition took place very early in the morning, before the courts open at 9:00 am, to prevent the Palestinians from stopping this demolition through a court decision to freeze the homes destruction. However, they told me, that they were able to save few homes when the courts were open.

[122] It is important to note that most of the projects in Area C are funded by the international community in cooperation with the Palestinian Authority.

Figure (5.2): Home demolition in Khirbet Jenbah that was cited earlier.
Photo by: Nasser Nawaj'ah, B'Tselem, 2 Feb. 2016.
Picture source: https://www.btselem.org/south_hebron_hills/20160202_demolitions_in_firing_zone_918 retrieved on September 25, 2021

Figure (5.3): A family, like many others in Masafer Yatta, has taken refuge in a cave.
Picture source: (Middle East Eye news /Shatha Hammad) retrieved on September 25, 2021, from https://www.middleeasteye.net/news/israel-palestine-masafer-yatta-community-pressure

Arbitrary application of the laws is not only limited to home demolition and structures related to livelihood, but also humanitarian projects such as schools and basic infrastructure (roads, water pipelines, electricity solar panels, etc.) funded by the international community are also subject to it. based on the interviews with international organizations' officials and Palestinian officials who were involved in implementing these projects, the ICA application of building regulations is not institutional or systematic, it is applied based on having control and power on the ground. Several research participants used the term arbitrary use of power:

> It's not institutional. It's not a policy. It's a fact. You don't know why… Generally, they send you a letter: "We are going to demolish." But sometimes, now, they even come to destroy without sending any letter. Two months ago, they destroyed a kindergarten playground funded by us in [xx]. They came without any prior information. The whole kindergarten playground became rubble. They came to us with two bulldozers and destroyed everything and it was without any building. No building, it was just a kindergarten playground for children in the middle of Palestinian houses. It was not near a military camp. It was not near their wall. It was in the middle of a small village with only Palestinian people. Just to show they're the master of the game. It was like a message; this is arbitrary violence. (International Organization Official 2)

Similarly, a Palestinian official told me that the ICA has bulldozed a rural road in Qrawet Bani Hassan four times. Each time they paved it, the ICA came and bulldozed it:

> In certain zones, there's no way for roads to be done. However, there are a few roads that we're allowed, or they turn a blind eye on it. We once tried to pave a rural road in a village called [xx], they bulldozed it four times. Each time we rebuild it, they come and bulldoze it. The last time we named it 'peace path', hoping they might be ashamed to bulldoze it. Yet, they still bulldozed it. (Palestinian Official 7)

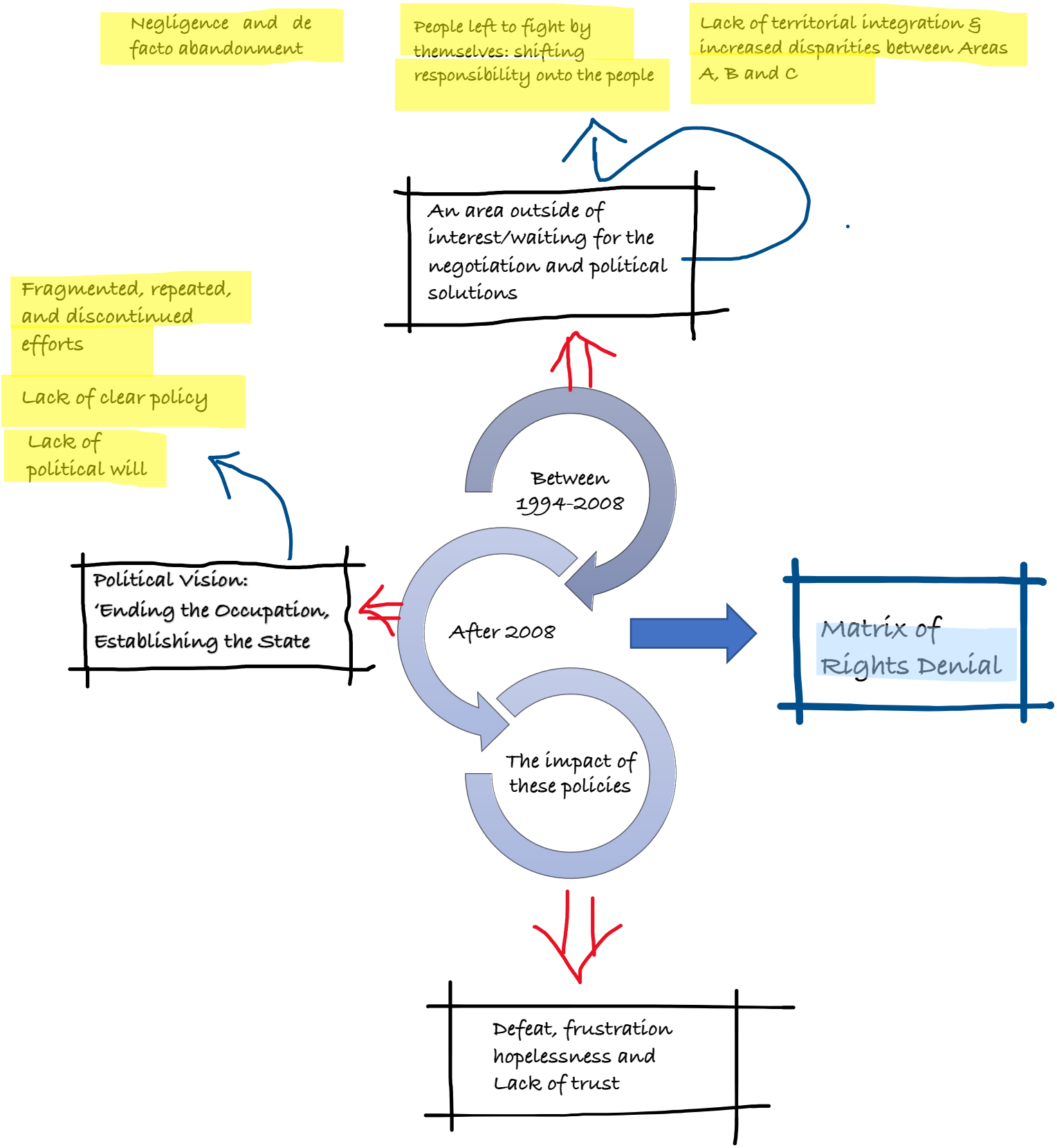
There is persistence by Israel to keep their plans going in Area C. Several research participants told me that in certain areas there is no tolerance toward building anything without a permit: "There are areas we identify as high risk, such as areas close to the Israeli illegal colonies, the bypass road, their Separation Wall, and the Jordan Valley" (International Organization Worker 3). Also, many participants pointed out that if the construction is in an area that will impact Israeli plans in that area, they will demolish without even any notice.

5.2 Palestinian Authority policies and practices

In the previous section, I presented spoken and unspoken Israeli government policies and their impact on Palestinians' housing rights in so called Area C. In this section I present spoken, and unspoken Palestinian Authority (PA) polices – operationalized by the Ministry of Local Government (MoLG) with the direct and indirect support of NGOs (Palestinian and international) – that have direct impact on Palestinian housing rights in so called Area C. Here, I draw from research interviews, particularly those with community leaders, international organizations officials, human rights lawyers, and Palestinian Authority officials, to explore the role of such policies and practices in shaping Palestinians' access to housing rights.

Throughout the research interviews, the participants cited two explicit periods of PA activity that shaped Palestinians' access to housing right in Area C. The first period is from 1994 to 2008, in which the PA barely had any activity in so called Area C. The second period is from 2008 to present, when the PA has made modest efforts to respond to people's needs combating home demolitions and forcible displacement. These efforts grew over time with NGO support. The first sub-section presents the PA policies and practices between 1994 and 2008. Data analysis reveals three intersecting themes that shape Palestinians' access to housing rights: (1) Negligence and de facto abandonment; (2) Lack of territorial integration and increased disparities between Areas A, B and C; and (3) Shifting responsibility onto the people. The second sub-section presents the period since 2008 and it also includes three themes: (1) emerging political vision; (2) lack of political will; and (3) lack of clear policy, fragmented, disconnected, and discontinued efforts. The following diagram illustrate these findings and their contribution to the matrix of rights denial.

Figure (5.4): Policy as a Matrix of Rights Denial- Palestinian Authority policies and practices



The period between 1995-2008

I start this section with clarifying the role of the PA and the legal status of Palestinian territories according to the Oslo Accords. Many participants, when asked about policies influencing housing rights in so called Area C, mentioned the PA's limited role in so called Area C between 1995-2008. Also, several research participants spoke to the legal framework within which the PA was founded and functions. In particular, they made connections between the PA's existence because of the Oslo Accords' legal framework, the PA holding onto the Oslo Accords —even though it is an interim agreement that officially ended in 1999— and the PA's limited role in providing support for Palestinians living in Area C.

In terms of the legal framework, the PA was established based on the 1993–1995 Oslo Accords as a five-year interim body with regulated control in the most populated Palestinian areas called Area A and B. The Oslo Accords grant the PA no control on the rest of the land called Area C, which remain under Israel full control. Based on the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II)[123] ARTICLE XI.2.c[124], which identified the legal status of the parts of the West Bank that became called Area C in 1995, the powers and responsibilities relating to territory remained under Israel jurisdiction. However, based on ARTICLE XI.2. e[125] the powers and responsibilities relating to territory were supposed

[123] Interim Agreement (Oslo II): "This agreement seeks to implement the Oslo I Agreement of 13 September 1993. It defines the security, electoral, public administration and economic arrangements during the interim period of five years from the date of the Agreement on the Gaza Strip and the Jericho Area of 4 May 1994 until permanent settlement in accordance with Security Council Resolution 242 and 338." Retrieved on sept. 29, 2021 from https://peacemaker.un.org/israelopt-osloII95

[124] ARTICLE XI.2.c "In Area C, during the first phase of redeployment Israel will transfer to the Council civil powers and responsibilities not relating to territory, as set out in Annex III" UN document: A/51/889, S/1997/357 (p.17). IL PS_950928_InterimAgreementWestBankGazaStrip(OsloII).pdf

[125] ARTICLE XI.2.e "During the further redeployment phases to be completed within 18 months from the date of the inauguration of the Council, powers and responsibilities relating to territory will be transferred gradually to Palestinian jurisdiction that will cover West Bank and Gaza Strip territory, except for the issues that will be negotiated in the permanent status negotiations." UN document: A/51/889, S/1997/357 (p.17). IL PS_950928_InterimAgreementWestBankGazaStrip(OsloII).pdf

to be transferred to Palestinian jurisdiction within 18 months from the date of the inauguration of the Palestinian Council. However, the powers and responsibilities relating to territory were not transferred to Palestinian's jurisdiction and, instead, the territory in Area C remained under Israel jurisdiction. The research participants cited that the PA had hardly any development activity in so called Area C between 1995 and 2008, barely investing in public projects. Also, research participants felt that the PA hesitated to work in Area C because they were waiting for progress in political negotiations, hoping for the powers and responsibilities relating to territory in Area C to be transferred to them:

> We [the PA] hesitated and delayed working in Area C because of our commitments in the Oslo Accords. The Israeli occupation put many obstacles. We realized that we made a big mistake between 1994-1999. The absence of strategic plans to work in Area C was a big mistake. There was hesitation on our end. (Palestinian Government Official 3)

A policy maker who worked at the Palestinian Ministry of Spatial planning for many years and oversaw its policies, told me that the PA chose to hold onto the Oslo Accords, despite the fact it was an interim agreement that ended in 1999, following its legal framework to govern their activity in Area C. As a result, the PA was hardly active in Area C between 1995-2008:

> The PA did not do anything, and they could not do anything in Area C, they signed an agreement [Oslo Accords]. It is an interim agreement that was supposed to end in 1999 but it continues as de facto. The PA didn't challenge it, so it is a de facto acceptance. (Policy Maker 2)

After clarifying the de facto legal framework in Area C, in the following sections I will present the main themes related to the PA polices and their impact on housing rights as emerged from the data analysis: (1) Negligence and de facto abandonment; (2) Lack of territorial integration and increased disparities between Areas A, B and C; (3) Shifting the responsibility onto the people.

Negligence and De Facto Abandonment

As I illustrated in in previous chapters, Palestinian communities living in so called Area C are at acute risk of home demolition and forcible displacement, and they are in dire need of basic services and infrastructure. Many research participants, as well as my observation during multiple field visits to communities in Area C, such as Massafer Yatta, revealed that most of the communities located in Area C do not have access to running water, electricity, sanitary systems, or paved roads. Many of them also do not have schools and clinics. Children walk for long distances to go to schools in neighbouring communities and, in case of health emergencies, people must go to the nearest towns, which takes a long time given the insufficient roads and the lack of a transportation system. Many research participants mentioned that the PA, as a representative of the Palestinian people, is supposed to provide these basic services and infrastructure to meet the people's needs and to protect their rights and dignity. Yet, several research participants, including PA officials, NGO officials and human rights lawyers alike, cited the limited role of the PA in providing basic needs in Area C.

For example, one international organization official showed their deep frustration with PA decisions regarding intervention in Area C and they described it as a de facto abandonment. Also, they referred to the Oslo Accords as an obstacle to Palestinian development in Area C:

> Thanks to the system implemented by Oslo, it gradually put Area C at a disadvantage; the Palestinians have de facto abandoned Area C. They have totally abandoned it, and Israel, who was supposed to develop this territory because this territory is under their sovereignty, they control it even more. You have Israeli sovereignty on Palestinian territory. Clearly nothing has been done. From Oslo until some years ago, the Palestinian Authority was nearly out of this scope for the development of area C. So, instead, you have some development partners and also all kind of NGOs. (International Organization Official 2)

Likewise, other Palestinian government officials pointed out the absence of the PA in playing its role as government in Area C until 2008. They indicated that the few governmental

interventions providing basic services in Area C were individual efforts and not institutional or systematic:

> Until 2008, on the political and governmental level, there were barely any interventions related to spatial planning and local governance in Area C. We did not initiate masterplans or development schemes to support the local communities in Area C. (Palestinian government official 2)

> Let's be honest, it is not the PA as government who worked in Area C. It was individual initiatives of a few government officials who tried to work in these areas. There were groups from the PA who were opposing them. (Palestinian government Official 7)

Additionally, several research participants pointed out the divide within the PA regarding the PA's involvement in Area C as involving two groups. The first group supported and encouraged working in Area C. This group built their argument on two pillars: (a) because it is the PA's duty and responsibility to support Palestinian people everywhere, not only in Area A and B, the Palestinian people in Area C should be empowered and not be left alone to face their harsh reality and settler colonial violence; (b) Israel is not willing to approve any development in the territory, so the PA should not wait for their approvals but rather create facts on the ground.

The second group that opposed PA intervention in Area C because they were afraid of the economic and political consequences of any intervention. They built their argument on: (a) because any interventions that lead to territorial development in Area C, including basic services and infrastructure, will not get an approval from Israel and will most likely be demolished, the money invested in Area C is a waste; and (b) the PA should comply with the Oslo Accords and wait for the political negotiations known as the 'peace process', in the hope that Israel would grant increasing authority to the Palestinian Authority, allowing them to work in Area C:

> There were multiple point views. The opposing group argument was that investing in Area C is a waste of money; it is like throwing money to the ground. Our argument was even though the projects might be demolished, we are changing an existing reality. This reality will not change without paying a price. We should not look at the 200k or 300k that were invested in the road [Peace Road in Qarawt Bani Hassan], which was bulldozed

> as a waste. We tried to change the people's reality, we supported and empowered the humans. We must work there [Area C]; it is our duty. We should not say, 'We cannot, and we do not want to work unless we get the approval from Israel.' The political situation is not the people's problem. It is not their fault, and they should not bear the consequences of the Oslo Accords. They did not sign the Oslo Accords, they did not negotiate; they are entitled to basic human rights such as housing, clean water, education, and health services. (Palestinian government Official 7)

Palestinian government Official 7 called for an active role and persistent action in Area C to create a better reality for the people who live there as they deserve to have their basic needs met. Also, they stated that the people have rights, and it is the PA responsibility to meet their needs and to empower them despite the political situation. They see that PA interventions is necessary, even though it might be bulldozed, to empower the people in Area C.

Several Palestinian government officials, when I asked about the obstacles that prevented them from working in Area C during 1995-2008, explained that they tried to get approvals from Israel to work, but it was rejected, so they were waiting for Israel's permission.

> Around 1999-2000, we had intentions to start working in Area C. But during our meetings with the Israeli authorities, whenever we suggested starting a few housing projects in Area C, most of the time our suggestions were totally rejected. We were even asked not to suggest this at all. (Palestinian Government Official 6)

Likewise, a senior Palestinian government official who has direct input into the PA policies and practices in Area C, confirmed that the PA did not work in Area C between 1994-1999. They presented the views of the group that opposed working in Area C without Israeli approval, citing reasons such as respecting the signed agreements [Oslo Accords] and avoiding tensions with Israel and the international community:

> From 1994 to 1999 - the year when the interim agreement [Oslo Accords I&II] was supposed to end, and when it was supposed to establish a Palestinian state and end the Israeli occupation – on the one hand, the Palestinian National Authority did not engage in any interference and did not have a clear political presence in this zone [Area C] out of respect for signed conventions and because we did not want to raise any problems with the Israeli side. Also, the PA did not want to cause any tension that might negatively impact its relationship with the international community. Consequently, the PA did not

> have any vision or a clear strategy to work in Area C. In fact, all that the PA had in Area C was a few fragmented individual interventions in coordination with the Israeli authorities. (Palestinian Government Official 3)

Finally, a human rights lawyer explained the reality in Area C between 1994-2008, in which the people living in Area C were neglected by both Israel as the occupying power according to the international law and the PA as a representative of the Palestinian people.

> Until about 10 years ago, Area C was totally outside the PA's interest. According to the Oslo Accords, the PA does not have any authority in Area C. Meeting the needs of the population, in accordance with international law, is the duty of the occupying power. The occupying power did not do its duties, nor was the PA able to work there." (Human Rights Lawyer 1)

Many research participants pointed out the negative impact of these practices on the territorial integration and the strongly increased disparities between different areas in the West Bank. As well, the Palestinian population in Area C was left to struggle to meet its basic needs for survival. These will be presented in the following next sub-sections.

Territorial Fragmentation and Increased Disparities between Areas A, B and C

As discussed in the previous section and as reflected in my interviews with research participants, the PA did not work in Area C from its establishment in 1994 until around 2008, when their position toward Area C shifted away from hesitation to intervene, waiting for the political negotiations, and worrying about Israel's reactions to a new strategy that aimed to support development effort in Area C. However, several research participants stated that during these many years of PA's neglect of Area C, disparities between Area C and Areas A and B strongly increased. Research participants pointed out that land fragmentation and inequitable development efforts in different zones led to fragmentation of Palestinian territory and weakened connections and integration between the different Palestinian communities based on their place of residence:

> Because, from the moment we started Oslo with this regulation of Area C, the Palestinian authority didn't take care at all of its citizens. They didn't take care of anything. For 25 years, they didn't invest. They didn't do anything. So, at the end of this process, it has strongly increased the disparities in Palestine between A and C. This was in the interest of Israel because the more you increase the disparities, the more you fragment the territory, the less you can control it, and the less you can build up a state. Because if you have two big disparities, it's automatically leading to a fragmentation, to the explosion of the society. The most important thing to the territory is the territorial integration. (International Organization Official 2)

International organization official 2 cited a strong connection between the increased disparities, territorial fragmentation, and loss of control over the territory. Similarly, lack of territorial integration, disparities and deprivation were reflected in some policy makers' interviews, where they gave examples about the huge differences between Palestinian communities:

> Housing, clean water, education and adequate infrastructure are basic human rights. The Palestinian population in Area C are deprived of these basic rights. There are not any kind of development in Area C. Look around us, we are here in Ramallah in Area A. It is a booming and a major economic development area. But Ramallah's surrounding areas are classified as Area C, if you live five meters outside Ramallah borders, you cannot build a home or have running water. (Policy maker 1)

Similarly, the increased disparities are reflected in the NGO worker's 3 description of a short trip driving between Palestinian cities and town. They described it as "moving from a developed place to areas that live in the Middle Ages". They also raised the connection between the increased disparities and internal migration:

> If you drive in your car 20 minutes from Ramallah city center toward Abu Dees [the areas between Ramallah and Abu Dees are Area C], within this 20 minutes' drive you see a huge difference as moving from a developed place to areas that live in the Middle Ages. This reality caused internal migration from the local communities in Area C to Areas A and B. (NGO worker 3)

Likewise, several government officials confirmed the negative impact of the limited PA intervention in Area C and related it to the limitations imposed by the Oslo Accords. They spoke

to the concentration of PA efforts in Areas A, which make up only about 18% of the West Bank. This implies neglecting about 82% of the West Bank:

> I was the projects general manager in the [xxxx] since its establishment in 1995. Most of its work was concentrated in the main cities and towns, which are in Area A. However, any project outside Area A needed Israel's approval, as it is under their control. All the time it was very difficult to get their approval. This situation lasted until the beginning of 2000, when we started realizing that we are working only in 18% of the West Bank and the rest is abandoned. The Oslo interim agreement was supposed to end in 1999 so, we started thinking 'Why do we hold on to it? It has ended.' We were late; concentrating the development efforts in Areas A created a big gap between Palestinian cities and villages and between Areas A, B and C) (Palestinian Government Official 7)

These practices left the people in Area C struggling alone with little support from the PA and their fellow Palestinian citizens, which will be illustrated in the next section.

'We were left to fight alone': Shifting the Responsibility onto the People

The PA's lack of involvement in Area C between 1994-2008 left the people there to face their tough reality by themselves. A few policy makers revealed that the policy trend during this time was that the PA, through its different official bodies and organizations, wanted to support the population in Area C to have decent living conditions, but it remained the people's responsibility to obtain the 'almost impossible to get' building permits from the ICA. If they managed against the odds to obtain the permit, then the PA would support them to meet their needs. This shift in responsibility into the people was reflected in several interviews with Palestinian policy makers and government senior officials:

> Our point of view was that, from a political perspective, we as PA cannot apply to Israel asking to approve the masterplans. Therefore, the solution was that the local communities apply by themselves, and we support them from behind. For clarification, as a PA, we cannot do it because of political constraints. (Policy Maker 5)

Similarly, Policy Maker 6 confirmed this shift of responsibility from the PA onto the community by asking the people to face the ICA's oppressive systems by themselves, supporting them if they managed to succeed:

> One of our policies in the [xxx] is to provide support to any community in Area C in the housing sector but it is their responsibility to bring to us the necessary approvals from the ICA because as a Palestinian governmental body we cannot get these approvals. We tried to get approvals to work in Area C but they [ICA] procrastinate, they [ICA] do not give an answer. So, we thought the individuals might have better chances to get these approvals. We told them if they get the necessary approvals, we are willing to support any housing projects in Area C. (Policy maker 1)

Community leaders, urban planners, and a few international organizations officials alike who support the spatial planning process in Area C spoke to the notion of responsibility shifting. Several community leaders and urban planners told me that they suggested to the MoLG and the PA prime minister's office that they should endorse the proposed masterplans in Area C and to authorize the local village councils in Area C to issue building permits based on these masterplans. However, the MolG and the PA prime minister's office did not support these suggestions because they are tied by the political leadership position that is committed to the Oslo Accords.

> At [xxx] village council, we decided to exercise our rights to issue building permits for construction in on our village, like any other city, town and village in Areas A and B. We suggested to the PA to support us in this initiative by endorsing these building permits. Their response at the MolG was negative; they said they cannot authorize these building permits and if we chose to go in this direction, we have to bear the consequences in case of demolition. We were left to fight alone with little support. Also, we asked them multiple time to endorse the communities' masterplans since Israel is not moving anywhere with them. The same, they said they cannot endorse the plans as it is under Israeli jurisdiction according to the Oslo Accords, and they are not permitted to do anything that contradicts with the PA commitments; they do not want to challenge the status quo. Unfortunately, they [PA] are still hesitant to engage fully in Area C, they [PA] do not want to challenge the Israeli government policies. (Community leader 1)

Another finding, related to the notion of responsibility shift onto the people who live in Area C, is the stereotypical views related to Area C and its population. Several Palestinian research participants described the shift in their views toward area C after engaging with the people live there. For some of them it was eye opening:

> Working on the masterplans in Area C opened my eyes and created a strong bond with its people. The people being isolated in Area C prevents us [Palestinians live in Area A] from seeing them and from seeing their suffering. (Urban Planner 3)

Similarly, Urban Planner 1 shared their experience preparing communities' master plans, describing how this process made them better understand the hard reality on the ground, rather than hearing about it only in the news:

> We always hear about their harsh reality in the news, but we never saw it on the ground. Their harsh reality is much more than what we see on the news. I learned a lot from the people who live in Area C. I learned how to protect our land. What they achieve by themselves usually needs a state to achieve it. I saw these people have done much more than the government [the PA]. (Urban Planner 1)

Some of the policy makers and PA governmental officers also referred to working with the people in Area C as eye opening. Palestinian Policy Maker 6 described their stereotypical imagination whenever Area C is mentioned:

> Some of us used to look at these communities [Palestinian communities in Area C], I mean in a different way than how I see them now. I did not understand it well, I used to say these are a few families living on a hill, why they keep asking for services […] they only want aid, always asking about aid. They live better than us. Unfortunately, I used to use this language, but now after meeting and working with them, this discourse has shifted. Really, these people are at the frontline, their presence protects the land, prevents building a new colony. They are suffering with their families. In some cases, their children walk more than 7 km in the cold winters and hot summers to go to school, this is a big challenge. Therefore, we should not leave them fighting alone. Developing these areas should be our priority. It changed my beliefs. Now we have projects in Area C. It becomes a priority. (Palestinian Policy Maker 6)

For Palestinian Policy Maker 6, this experience made them realize the importance of the presence of these communities on the land to protect it. Also, they understood the difficulties and the hard circumstances these people with their families are facing on daily basis. This new understanding shaped their decisions to put Area C as a priority in their development plans.

The next section will discuss the PA policies and practices after 2008 and its impact Palestinians housing rights in Area C.

The Period After 2008-2021

As mentioned earlier, there was a shift in the PA polices toward Area C after 2008, which has explicit and implicit impacts on Palestinians' housing rights. Data analysis revealed three main themes that intersect to shape Palestinians' access to housing rights: 1) emerging political vision; 2) lack of political will; 3) lack of clear policy, fragmented, disconnected, and discontinued efforts.

In 2009, Palestinian Prime Minister Dr. Salam Fayyad, announced his 'detailed plan' entitled "Ending the Occupation, Establishing the State,"[126] for the reform and establishment of Palestinian institutions as a step toward building the Palestinian state. One of the premises of this plan was that land fragmentation is an obstacle and there would not be a viable Palestinian state without Area C. His vision was that Areas A, B and C are Palestinian territories and should be treated as one unit without fragmentation. The administrative divisions between Areas A, B and C are an invention of the Oslo Accords meant only for a short time (18 months from the date of the inauguration of the Palestinian Council)[127], and Palestinians should not normalize these imaginary boundaries. He called for a new approach that included Area C in future development

[126] Dr. Fayyad's plan "Ending the Occupation, Establishing the State" aimed to build Palestinian institutions, strengthen governance, and create a strong economy. By doing so, his vision was to create facts on the ground that will lead to Palestinian state that is recognized by the international community.

[127] Oslo II [the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip in1995] article XI.2 stats "The two sides agree that West Bank and Gaza Strip territory, except for issues that will be negotiated in the permanent status negotiations, will come under the jurisdiction of the Palestinian Council in a phased manner, to be completed within 18 months from the date of the inauguration of the Council". Available at the United Nations peace maker website: https://peacemaker.un.org/israelopt-osloII95. The first Palestinian Council meeting was on 7 March 1996. Also, Oslo II, Article 27.2 of Annex III states: "In Area C, powers and responsibilities related to the sphere of Planning and Zoning will be transferred gradually to Palestinian jurisdiction that will cover West Bank and Gaza Strip territory except for the issues that will be negotiated in the permanent status negotiations, during the further redeployment phases, to be completed within 18 months from the date of the inauguration of the Council." Available at : https://www.peaceagreements.org/wview/985/Annex%20III,%20Concerning%20Civil%20Affairs,%20Israeli%C2%AD%20Palestinian%20Interim%20Agreement%20on%20The%20West%20Bank%20and%20the%20Gaza%20Strip%20(Oslo%20II)

strategies and to create facts on the ground. Several participants referred to 2008 and Dr. Fayyad's plan as a turning point for PA policies related to housing rights in Area C:

> Around 2008-2009 was a change in the PA policies toward Area C. The prime minster Dr. Salam Fayyad's plan, that included building the state institutions as a step toward building a Palestinian state, considered the fragmentation of the West Bank into Areas A, B and C as a major obstacle in this process. Therefore, it suggested to work in all the Areas A, B and Area C as one territory. That was when we started expanding our work to include the communities in Area C. (Palestinian Government Official 2)

The following sub-sections present the main themes emerged from the data analysis related to PA policies and Practices and how it shaped Palestinian access to housing rights since 2008.

'Ending the Occupation, Establishing the State': a Political Vision

During data collection, I interviewed Dr. Fayyad to understand how his vision might impact Palestinian's housing rights in so called Area C:

> We [the PA when Dr. Fayyad was in office between 15 June 2007 – 6 June 2013] implemented more than 800 projects in Area C. Most of them were without Israeli permission. Many were bulldozed and destroyed, and many were demolished. Honestly, I do not have any hope to improve this reality, unless we exercise our right to life everywhere despite the Israeli occupation, starting with exercising our basic rights until the total dismantling of this arbitrary regime. (Dr. Salam Fayyad, informal conversation, and interview in his office in Ramallah on August 15, 2016)

Dr. Fayyad followed the implementation of his strategic plan 'Ending the Occupation, Establishing the State' on the ground while in office. During that time, the PA supported infrastructure and service projects through to implementation in Area C without Israeli permission. His approach was that exercising the right to life is a must and the Palestinians should not wait for permission from the colonizer to exercise their rights.

Based on Dr. Fayyad's 'detailed plan', the PA's Ministry of Local Government started taking steps to include Area C within its responsibilities. The MoLG created a unit within the ministry that focuses its efforts on effective spatial planning in Area C as a requirement for any development initiatives. Throughout the research interviews, several participants specified the

shift in the PA policies towards Area C in 2008-2009 as being significant. They spoke to cooperation between the PA, NGOs, and international organizations to develop strategic plans for development in Area C:

> The PA did not have any interventions in Area C until 2008-2009, but now there is a shift in the PA government position toward working in these marginalized communities in Area C. By the end of 2014 we had strategic and operational plans to guides all the partners' [NGOs and the international community] work. Before 2014, there was no mention of Area C in the PA's different ministries' strategic plans. Now we are informed of our partner ministries', who oversee the work in Area C, strategic and action plans that were developed to include Area C. (International organization official 6)

Similarly, international organization official 6, mentioned that Area C was absent from the different ministries' action plans until the government shared its vision and priorities for Area C. They expected the presence of Area C as one of the PA's priorities would have a positive impact on the donors and encourage their involvement in development efforts:

> After the government started to share a vision and priorities for development in Area C, I started to see the presence of Area C in the ministerial operational plans. Before this, Area C did not exist at all in the ministerial operational plans. Now, I started to see working in Area C as one of their goals. Whether this is notional and just written on paper or whether they are actually working on developing basic services in area C, at least Area C is now mentioned and present in their plans. This has a positive impact on the donors and encouraged them to support development efforts there. (International Organization Official 6)

Additionally, several research participants, mainly Palestinian government officials, confirmed developing a strategy to address the special planning needs in Area C as a base for any future development. Also, the participants mentioned that this strategy was developed in cooperation with the local communities in Area C, different PA bodies, Palestinian NGOs, and international organizations such as UN-Habitat, UNDP and the EU, and human rights lawyers:

> A strategy to support spatial planning and zoning in Area C had been developed and included within the MoLG responsibilities. Between 2008-2010 a policy scheme and the strategy were prepared, agreed upon and adopted at the national level and in cooperation with the donors. This strategy included a main component to support and strengthen the resilience of local communities in Area C by providing alternative spatial planning

> schemes instead of the colonial spatial plans imposed by the ICA that only covered the built-up areas. (Palestinian Official 3)

The political vision, establishing a Palestinian state within the 1967 borders, that considers the Palestinian territories as one unit and dismisses the Oslo administrative zoning of Areas A, B and C, continued to direct the work in Area C. One of the main topics that participants highlighted was 'creating facts on the ground' to protect the land and to counter Israeli practices, which also create facts on the ground.

> Our analysis of the situation in Area C stems from a political understanding of it, in the sense of Israel wants to destroy the possibility of establishment of a Palestinian state on the1967 borders [….] For Israel, Area C is seen as strategic zone for settlement expansion. So, Israel does not give building permits at all in Area C. The people build without a permit, then Israel demolishes the homes. So, Israel creates facts on the ground, and we try to do the same. From this understanding of the Israeli motives and our concern and diagnosis of what Israel wants, we proceed from this point of view in order to preserve the rights of our people. On the one hand protecting our land, on the other providing permanent pillars for the establishment of a future Palestinian State. (Policy Maker 3)

As mentioned earlier, there was no agreement among the PA leadership on the implementation of this vision. One group supported this approach, creating facts on the ground in Area C despite expired Oslo accords and the occupation. Another group did not want to provoke Israeli reactions and wanted to follow the Oslo accords while waiting for political negotiations with Israel. The next sections present the implementation of this vision.

'Talking the Talk without Walking the Walk': Lack of political will

Research participants, specifically human rights lawyers, international organizations officials and community leaders, recurrently spoke of lack of political will as a serious constraint to implementing the vision of dismissing the administrative zoning of A, B, C fully in Area C.

Several research participants stated that some PA leaders, policy makers and senior government officials were afraid to challenge Israel's interpretation of the Oslo interim agreement:

> …Nobody wants to pay the price. The Palestinian leadership doesn't want to pay the price of going full scale. So, for this petition that [was] filed, it was very hard to convince them [PA] that they should actually be supporting this rather than saying 'No, it's against Oslo', to give back the local planning committees. I had major discussions with them: 'It's not harmful, it's good for you. It's not against Oslo; Oslo didn't say that Israelis should continue ruling, should continue having their own structure, you know.' Somebody says that it will gradually transfer the planning powers to the PA. So, somebody doesn't know how to read Oslo, or somebody does not want to interfere with the Israeli perspective of Oslo. (Human rights Lawyer 2)

There was hesitation on the part of Palestinian government officials to openly support not only land reclamations in Area C, but even the reclamation of the local planning committees that were omitted by MO 418, for fear of Israeli reprisal. Urban Planner 6 said "They are not willing to take a step like this [fully supporting development in Area C] because they think the Israelis will get mad. It's very silly. Nobody will believe that. That's such silly notion." Also, they expressed their frustration with the PA after many efforts along with their partners to explain the need to endorse the master plans openly without any success.

> The Palestinian government is still hesitant to approve… a hypothetical plan which would help the donor community in their decisions to finance specific projects within these communities. When I meet with the ICA officers to discuss the masterplans, they put in front of me plans with the Israeli government logo and authorization stamps. I present the counter masterplans with my company logo and stamp. See the paradox? An individual in front of a state. I need my plans to have the PA logo and authorization to have legitimacy and some power balance." (Urban Planner 6).

Likewise, Human Rights Lawyer 2 shared their frustration with the PA practices that do not reflect their policy claims. They believe this is because the PA officials are worried about the consequences:

> As I understand, and as I was told, the policy [PA policy] is that, wherever they demolish, we rebuild three times as much. It doesn't look like it. It does not look like where they demolish, they've rebuilt. The Palestinians have not rebuilt three times as much, you know. In general, they don't build a lot. They're scared [..] to do anything because they're scared of retaliation. (Human Rights Lawyer 2)

Other research participants were explicit in their views that Palestinian leadership doesn't want to pay the price of going full scale in Area C. When Palestinian Government Official 5 was asked to share their experience working with the PA to support access to housing rights, they said:

> They [PA] are doing very little in Area C because they can't. They do not have the will to challenge Israeli practices in Area C. Unfortunately, the national interest became more like personal interest, unfortunately… Maybe not all of them but most of them. They like to have the BMC[128] or they like to have VIP[129] to travel with their own cars and have a new house and so on. So, most of them. Not all of them, of course. (Palestinian Government Official 5)

Correspondingly, Urban Planner 5, who used to work as a PA official, referred to the PA leadership's lack of political will to work in Area C as contributing to maintaining the current situation in which people are not supported to exercise their housing rights in the face of Israel's oppressive policies and practices in Area C:

> Well, what we have now is not only the responsibility of the occupation. It's ours also, if it's only 20% or 5% or 1%, it is partially our responsibility. We don't have that leadership that could help. They don't have the decision to work in Area C. I know that. It could help to move the Palestinians and Palestinian conditions from what we have now towards something better. So unfortunately, this is the reality and that was one of the big issues that made me stop working with the government. (Urban Planner 5)

Finally, through the research interviews, several Palestinian government officials spoke of alternatives used to support the people in Area C without challenging Israeli policies directly, such as relying on international donors to get approvals for different development projects:

> We try to work through the international community, which decided to support projects in Area C. On the one hand, we set goals, targets, and projects as priorities for development interventions that needs support by donors. On the other hand, we ask the donors to help us by putting pressure on Israel to approve the project or not to demolish them. (Palestinian government official 3)

[128] BMC stands for 'Businessman Card', special permits given by Israel to businessmen to enter Israel and cross the checkpoints in the West Bank.
[129] VIP stands for 'Very Important Person', special permits given by Israel to high-ranking Palestinian government officials and political leadership, to enter Israel and cross the checkpoints in the West Bank.

Similarly, a senior Palestinian government official, who worked at one of the leading Palestinian ministries for many years and oversaw their projects, was frustrated by the PA policies in Area C, specifically the relying on NGOs and the international community to provide basic services and infrastructure projects in Area C:

> Even if you tell me there is a school or a clinic in Area C, you search and you will find an NGO or an international community fund behind it, not the Palestinian government. The PA did nothing in Area C. (Palestinian government Official 5)

These alternatives, used to support the people in Area C without challenging Israeli policies directly, such as relying on international donors, are illustrated through the notion of increasing dependency on international donors to protect the development projects from being demolished. Reliance on international support and humanitarian aid were the two main types of housing rights assistance to the communities in Area C raised in the research interviews. These forms of dependency leave people vulnerable in the face of policy change within the donor community, which depends on the political atmosphere.

'Reinventing the Wheel': Lack of Clear Policy, Fragmented, Disconnected, and Discontinued Efforts

Despite the shift in the PA vision toward Area C since 2008, several research participants still spoke of factors that prevented reaching an inclusive and/or tangible impact on access to housing rights, such as lack of clear policy, working on fragmented issues, weak and fragmented coordination between the different stake holders and discontinued initiatives and projects.

One senior Palestinian Government Official states that the PA's different bodies cooperated to prepare a comprehensive development strategy for Area C. However, there were constraints that prevented the PA from adopting it as a legitimate strategy, so it remained fragmented, and it was adopted as a set of development priorities in Area C:

> After a certain period of preparation of sectoral strategies and individual policies by each sector, there was preparation of a comprehensive national-level study combining sectoral policies and strategies into what was called a comprehensive national strategy for Area C. But during the preparation period of the study, it was found that there is no balance in the size of the objectives and the vision of each sector, and another issue is an implementation mechanism in the post-projects and development policies proposed in this area. So, you cannot adopt a strategy, while you are aware that you're not capable and do not have the means to implement it. Thus, the content of the strategy has remained only analysis, proposals, vision, and objectives. However, it has been adopted, approved, and announced by the Ministers' Council under the name Priorities for Development Interventions in Area C. (Palestinian Government Official 3)

When I asked the Palestinian Government Official 3 why the PA cannot implement the proposed development policies, they referred to the PA leadership position from Oslo Accords, which does not want to challenge Israel interpretation of the agreement. They said, "the PLO signed Oslo Accords and we repect the agreement".

However, the factors, related to the PA, that shaped the access to housing rights in so called Area C are explained in the next sub-sections.

Lack of clear policy

As discussed earlier, the PA put together a policy to support development in Area C, which was supposed to create an enabling environment for people to exercise their housing rights. According to several research participants, this policy remained on paper due to the absence of implementation strategy and tools. When the policy was adopted by the PA's Ministers' Council as a set of 'Priorities for Development Interventions in Area C', it created a state of ambiguity that was an obstacle for the different actors involved in Area C. For instance, International Organization Official 7 could not find clear directions based on the proposed PA policy to guide his organization's intervention, which limited their work to individual interventions in humanitarian aid, but not as part of a comprehensive development plan:

> We [international organization xxx] worked on individual cases based on a compassion and humanitarian basis, but there was not an actual and clear strategy for Area C. For instance, we worked on a program that targeted the Bedouin communities in Area C, but we could not find a clear strategy by the PA to guide our work. There are not clear

> strategies for the PA's presence and actions in Area C. (International Organization Official 7)

During a field visit in August 2016, I participated in a meeting in Massafer Yatta, in which several actors, such as UN-Habitat, NRC, a private sector urban planning team, UNDP, MoLG and the community representatives, attended to discuss the possibilities to support the people facing immediate threats of home demolitions and displacement. My observation confirmed the lack of clear direction that would allow effective cooperation between the different actors.

At the beginning of the meeting, I noticed there was not a clear agenda to direct the discussion, also, there was not a meeting moderator. There were disagreements among the community representatives themselves as, it seemed to me that they were not aware of the various aspects of the intervention plan. Also, there were disagreements between the different partners not only regarding the ways in which they should intervene, but also on the whole approach they should take. For example, few community leaders were for working with an Israeli Jewish lawyer, with the hope they will help them, based on their previous experience working with them, when the PA was totally absent. Nevertheless, there were documents that prove this lawyer is trying to make individual agreements between the community members and the ICA, which will protect their homes on the short term. However, should the community members sign these individual agreements with the ICA, it would give the ICA consent to evict the families when there is a military need.

The Participants from the community, the PA, international organizations, and human rights lawyer, pointed that signing such agreements is dangerous, as it gives the ICA a legal document to evict the families whenever they want without any clear time frame. However, I noticed that this was not communicated clearly to the people and the discussion was going in all direction without a clear focus or coordination.

Similarly, International Organization Official 2 referred to the absence of a policy for many years so that, by the time the PA decided to intervene in Area C, its policy was unclear and vague.

> The problem is that until two years ago, the Palestinian Authority did not have a policy regarding that area [Area C]. And they started to think having a policy about area C three or four years ago, you imagine! All these years since Oslo signature, it's incredible. And now it's very late and what they developed still vague. (International Organization Official 2)

Similarly, International Organization Official 3 recognized the importance of the PA role to lead a comprehensive development process. But they mentioned the absence of clear policy to direct their organization work in Area C as an obstacle for real development on the ground, describing the work in Area C as 'project based' initiatives. However, they clarified that for their work to be efficient they need clear and concise implementation strategies from the PA:

> The role of the PA is important to leading effective development efforts in Area C. However, they [PA] do not have comprehensive strategies to work in Area C; it is more project based. To support our organization's work in Area C, we need to have policies that are concise and clear. I noticed they [PA] have may policy papers, many publications but all of this won't change anything on the ground unless we have a clear strategy that I can implement on the ground and follow up in its implementation. Policies are not about the number of papers and workshops; it is about the implementation on the ground. (International Organization Official 3)

Likewise, Human Rights Lawyer 2 stated that the PA policy is Area C is unclear and fragmented. Based on their experience, they claimed that the policy is not translated into legal strategies that give priority to certain sectors such as farming and farmers, given the fact that most Area C is agricultural land and farming is necessary for the people's livelihood:

> It's very much a fragmented policy. I don't think there's a very clear national strategy which takes over resources and gives them to the farmers, for example. Through my work with them, I didn't see there's any priority given to the farmers to cultivate land. I think, many times, the legal strategies are just not there. (Human Rights Lawyer 2)

Fragmented efforts, weak coordination between the actors in Area C

The research participants, including community leaders, international organization officials, and urban planners alike, cited lack of a wholistic approach, different actors working on fragmented issues without guidance, and weak coordination between the PA and the different actors to be a serious challenge to exercising housing rights in Area C.

Fragmented efforts were mentioned several times by research participants when they were asked about the internal factors that constrains access to housing rights in Area C. Urban Planner 5 referred to the international organizations' and donors' fragmented intervention efforts when working in Area C. They recommended rethinking the priorities and to have a comprehensive intervention plan:

> The internal factors would include some kind of weak or lack of a clear vision for the government of Palestine-related institutions and fragmented efforts from the UN and donor community as well. Targeting essential needs and rethinking priorities in a comprehensive way are necessary for intervention in Area C. (Urban Planner 5)

Research participants also referred to lack of coordination and lack of efficient communication between the PA and the different actors in Area C as a serious problem that impacts access to housing rights. For example, International Organization Official 2 cited a lack of communication with local communities regarding the development policies that affect them. They stated that the local communities are even unaware that a policy draft exists:

> For these communities, they [PA] should say that they have a clear policy, because it's not the case at the moment. Even though the Palestinian Authority has a draft of the policy, the citizens in Area C are not aware of that. They don't even know there's a drafted policy. The Palestinian Authority doesn't communicate well with either the community or with the donors. (International Organization Official 2)

Also, throughout the research interviews, the research participants cited weak coordination between the different PA bodies, as well as between the PA and other actors, to also be obstacles to exercising housing rights in Area C.

> In my work, I felt there is not clear coordination between the different PA ministries. For example, the MoLG goes to a community and provides support, then the Ministry of Social Affairs, then the Prime Minister's office. To be honest, I did not see any clear coordination among the different PA bodies to organize their work together. There is supposed to be a system that controls the work. However, what we have now is controlled by individuals. On the ground, we have individuals and ministries that have their own visions. So, what happens now that the work of each new government official does not fit with a system? He or she starts all over to create a system. They do not build on previous initiatives; each time they reinvent the wheel. (International organization official 3)

Palestinian Government Official 10 confirmed the fragmentation of efforts and weak coordination as constraints to exercising housing rights. In particular, they noted the absence of a system focal point for collaboration and information exchange between the PA, international organizations, donors, and local communities, which created confusion and redundancy as the multiple stakeholders do not build on previous achievements:

> At this stage there is no government entity that has a snapshot of who does what in Area C. There's no one focal point in this, which is the ABC of planning. So, we embarked on mapping the current intervention in Area C and then this information would allow us to direct new funds in area C. (Palestinian Government Official 10)

As a result, the stakeholders' interventions often do not build on previous work and repeat the same work over and over without concrete results and tangible change on the ground. During my field work, a Palestinian policy maker who had worked with the PA since 1994 in many leadership positions, told me that they were involved in preparing regional plans for the Palestinian territories, West Bank and Gaza that were completed in 1999. Similarly, another PA government official told me that a national spatial plan was developed and completed in 2015. When I asked how they built on or benefited from the previous reginal plans, I was told that the regional plans were not approved by some of the PA ministries, and "they are now on the shelf collecting dust like many other strategies and projects that did not come to life" (Palestinian Government Official 5). Likewise, an international organization official shared their and others'

frustration with repeated and fragmented effort. They noted that a lot of donor money went into the same initiatives over and over without creating a real change on the ground:

> My conclusion, after working many years with international organizations, donors, the PA, and local actors, is that it is an endless process. We start with workshops, over and over, lots of disagreements even at the wording. Instead of finishing the initiative in two months, it takes nine months and sometimes one and even two years to come to an agreement. By then, the issue we are discussing is not valid anymore and no funds left. We wasted time, money and added another report to the shelf. This is frustrating on many levels. It is not only me; many of those who work in this system can't stand these endless processes anymore, that do not achieve results on the ground. Today, if anyone invites me to participate in a workshop, I say, 'I do not want to attend any more workshops. Do not waste my time unless you have something serious with specific outcomes. Don't come to me and waste my time.' I need a specific timeline. Each party commits to it and then moves to implementation on the ground. But to participate in preparing a strategy, I will not join. I have worked on so many strategies, attended many workshops, and then what happened on the ground? Nothing! The strategy went to sit on the shelf. (International Organization Official 4)

Several research participants mentioned the many consultancy reports, many different policies and strategies that stayed on paper and never come into life. This creates a state of frustration and hopelessness that the situation will never change. To my surprise, one research participant told me that after many years working with international organizations and donors, they started to believe that there are some actors involved in the system of providing aid, assistance, and development support to the Palestinian people living under occupation, who do not want the occupation to end. On the contrary, they maintain and sustain the occupation. They mentioned "the occupation became a successful a business for some. Imagine how many jobs will be cancelled if the occupation ends!" (International Organization Official 2).

However, the PA has started working on improving the coordination between the different actors. In 2016, the PA initiated the Area C National Coordination Office that is connected directly to the prime mister's office:

> But now the establishment of Area C National Coordination Office, for example, is a very strategic government decision, an organizational decision to align these actors'

> operation in area C and enhance the coordination among them to reflect not only a strategy but also sectoral plans developed by the Palestinian government […] This will pave the way for more effectiveness of aid in area C, more obvious impact and more recognition by Palestinians that these efforts are actually government-led efforts. (Palestinian Government Official 10)

A concluding remark regarding the current situation in Area C is that the tough reality created a sense of defeat, frustration, and hopelessness among the people and the research participants who shared their feelings after many years working on humanitarian aid, development, and planning in Area C:

> The situation is deteriorating. There is mixed feelings of defeat and hopelessness. The ability to implement projects in Area C is very limited. People are condemned to live in despair and all manner of frustration and there is nothing in our hand for them. Since we do not have power to implement projects on the ground, in our strategy for 2017-2022 we aim for our efforts to be within an empowerment framework. (Palestinian Government Official 6)

An international organization official also expressed their feeling of frustration and hopelessness from the situation:

> I worked more than 10 years in humanitarian aid in Area C. At times, I was frustrated. Not by the people, but by the feeling that I cannot do anything tangible that will have lasting impact. It is like putting a bandage on a deep wound without cleaning it. (International Organization official 3)

Furthermore, human rights lawyer pointed out the lack of trust because of many years of being marginalized:

> The people in living in Area C felt marginalized and neglected by the PA. Therefore, they lost trust in everything and started looking for solutions to survive by themselves. (Human Rights Lawyer, 1)

6 THE EVERYDAY STRUGGLE TO EXERCISE HOUSING RIGHTS IN SO-CALLED AREA C

We, the people of Palestine, stand before you in the fullness of our pain, our pride, and our anticipation, for we long harbored a yearning for peace and a dream of justice and freedom. For too long, the Palestinian people have gone unheeded, silenced, and denied. Our identity negated by political expediency; our rightful struggle against injustice maligned; and our present existence subdued by the past tragedy of another people. For the greater part of this century, we have been victimized by the myth of a land without a people and described with impunity as the invisible Palestinians. Before such willful blindness, we refused to disappear or to accept a distorted identity. (Abd Al-Shafi, 1992, p. 133)

I start this chapter with a quote from Dr. Haidar Abdul-Shafi's speech at the Madrid Peace Conference on 31 October 1991, in which he confirmed the right of the people of Palestine to exist on their land, as well as their ongoing struggle against injustice and settler colonialism. This quote expresses my research findings presented in this chapter, which directly address my research objective, understanding Palestinians' struggle to exercise their housing rights in so-called Area C. Specifically, it covers the third and fourth research sub-questions:

- *What are the different strategies that have been utilized to access housing rights in so-called Area C if any? What drives these strategies?*
- *How have these strategies been utilized and how do different actors affect them? What factors might participants perceive as supporting/hindering these strategies?*

To answer these questions, I draw on my data related to housing-related initiatives in order to highlight the dynamic strategies and tactics contributing to securing housing rights, as well as the socio-political complexity behind them. These tactics were voiced by the research participants when they were asked to walk me through their experiences either in building their homes (community leaders) or supporting individuals and communities securing their housing

right (urban planners, government officials, NGOs officials and policy makers). In particular, I analyzed the role of surveillance and military violence in shaping these tactics, as well as their connections to survival notions and everydayness. Also, I considered the factors motivating these tactics and maintaining them, and the ways in which they contribute to exercising housing rights.

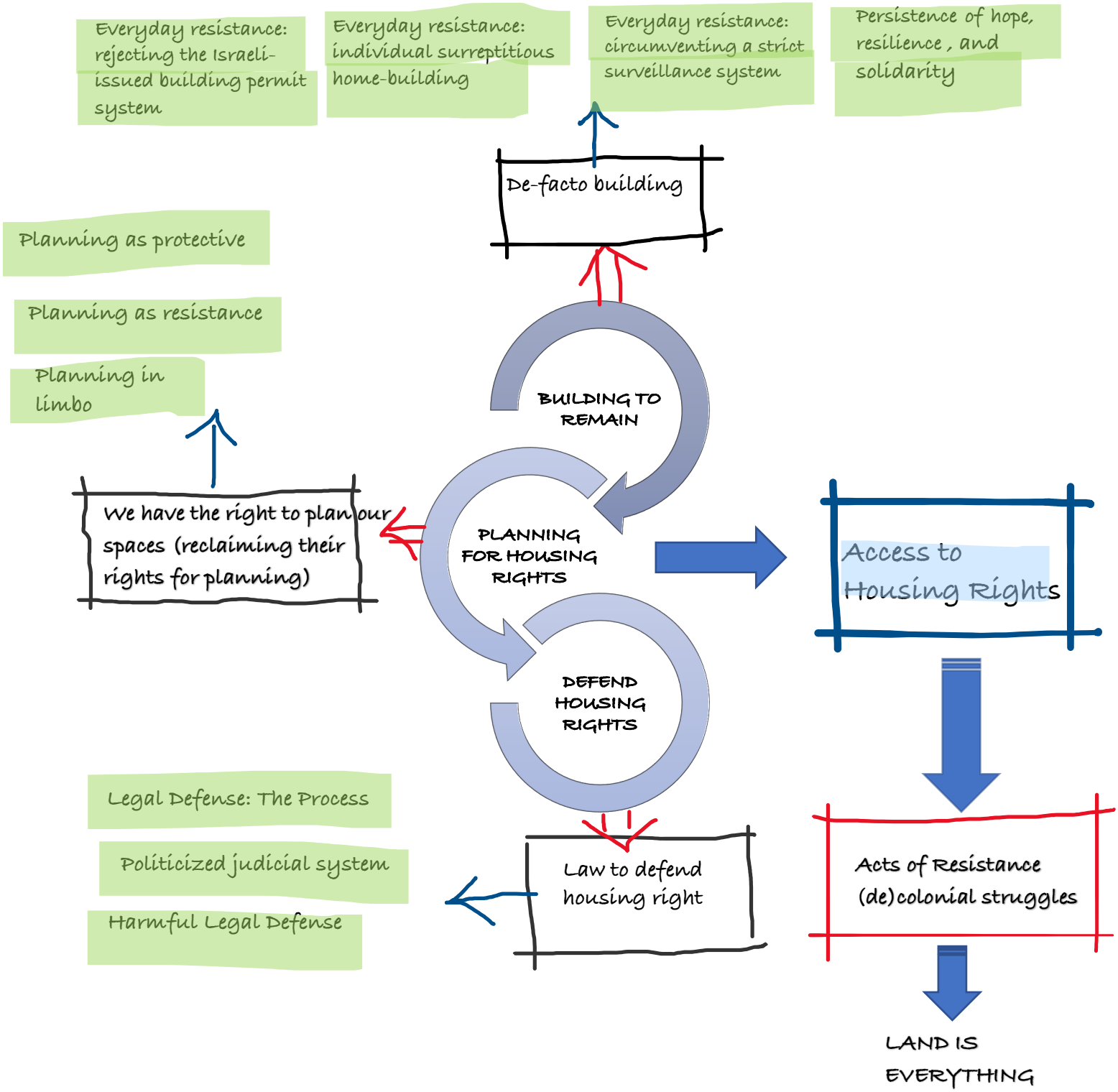
Data analysis uncovered three main strategies that are being used to exercise housing rights in the so-called Area C. These three strategies are: 1) circumventing the oppressive power system through acts of 'everyday resistance' such as *sumud* (steadfastness) and individual surreptitious home-building; 2) negotiating the oppressive power system through an emerging Palestinian spatial-planning process; and finally, 3) engaging with the oppressive power system through a legal process (legal defense, aid, and advocacy).

Accordingly, this chapter is structured around these strategies and includes three main sections. Section one, *Building to remain: circumventing the oppressive power system through acts of everyday resistance*, presents the everyday practices of ordinary Palestinians in their struggle to survive and continue existing in their communities despite the everyday hardships.

Section two, *Planning for housing rights*, focuses on an emerging planning initiative to support Palestinians in their struggle to exercise their housing rights and protect their homes from being demolished. Section three, *Defending housing rights,* addresses using legal instruments to protect Palestinians' home from being demolished. These three strategies are illustrated in figure (6.1).

The chapter concludes with a discussion on how these three strategies intersect to support housing rights. At the same time, I indicate the ways in which these strategies contribute to the general Palestinian struggle to combat injustice and oppression in Palestine.

Figure (6.1): Access to Housing Rights in so-called Area C



6.1 "Building to Remain": Circumventing the Oppressive Power System Through Acts of 'Everyday Resistance

In this section, I illuminate the ways in which vulnerable communities in Area C, in their everyday practices, are challenging and resisting spatial oppression, while making and remaking places for themselves and others. This, despite military occupation and the settler colonial regime that shape their spaces and prohibit access to housing rights. In this context, I discuss the Palestinians' multilayered struggle to secure their housing rights, which is demonstrated through circumventing the oppressive power system through acts of 'everyday resistance' such as *sumud* (steadfastness) and individual surreptitious home-building.

As discussed in the context chapter, it is almost impossible to obtain Israel-issued building permits in Area C because of the settler colonial regime, such as the restrictive planning system, the halt of land registration, which make it impossible to prove land ownership, and the strict building permission policies. Consequently, Palestinians are left with no option other than building their homes on their land without Israel-issued permits. This practice has become one of the main forms of everyday struggle to exercise Palestinian housing rights, despite the knowledge that building without a permit will leave them vulnerable, living under constant threat of home demolition and displacement. Data analysis indicated that most Palestinians who build homes on their land in Area C do not apply for building permit. Some apply and are rejected or never receive an answer regarding their applications. Additionally, several themes related to the survival tactics to navigate this oppressive system and continue (re)building homes and communities emerged from the data analysis, including: (1) no longer applying for building permits; (2) circumventing a strict surveillance system; (3) individual surreptitious home-building; (4) persistence of hope and solidarity.

"We do not have a choice; they will never approve the building permits": Building without Israel-issued construction permits

Based on the data analysis, it is notable that most Palestinians build their homes in so-called Area C without Israel-issued construction permits. I asked research participants, in particular the community leaders, why people build without a construction permits, knowing that it will be demolished. Several participants referred how the ambiguous and strict permit regime allows the ICA issue hardly any building permits in Area C, pushing people to build without Israel-issued permits if they are to meet their needs.

> Many people applied for construction permits several times, but it was all either denied or stayed for many years under review with no decision about it. The permit regime is ambiguous and very strict, it works against us, they want to push us to leave. But we will never leave. They demolish a home; we build it again. (Community Leader 2)

Similarly, Human Rights Lawyer 1 spoke about how the ICA aims to normalize their own actions and criminalize the Palestinian reaction to the restrictive permits system: "Israel claims that there is a mess of construction and aggression, which are false claims. People were pushed to build without a permit." Urban planners also mentioned that families are forced into building without a permit and therefore live-in constant fear that their homes will be demolished:

> The Israeli authorities didn't provide an enabling environment for at least these Palestinian initiatives to be concretized. Because of that, unfortunately, Palestinians don't have a choice. They just do what is in their hands and build without the Israeli full approval, which is making the whole of these initiatives under the threat of demolitions. (Urban Planner 5)

> The current policies create a harsh environment for Area C inhabitants, but people are challenging these policies and building their homes, even if they are subjected to demolition, harassment, and arrest, which is common in many places where there are lots of suffering. (Urban Planner 10)

Additionally, several research participants, including community leaders, urban planners, and human rights lawyers alike, cited that many Palestinians know from past experience that it is

almost impossible[130] to obtain a building permit from the ICA. In response, they stopped applying for building permits and continued building their homes without a permit, despite the threat of demolition, because they are eager to stay on their land and live a normal life:

> We know we do not have a choice; they [ICA] will never approve the building permits. People couldn't stand their families' daily suffering, living in small, crowded inadequate homes. Our families are growing, new couples need homes, our needs have changed from those of our parents and grandparents. So, we are forced to build without Israeli-issued permits. We know that it will be demolished sometime. However, we take the risk because, simply, it is the only available option. Life must go on! (Community Leader 1).

Despite Palestinians being aware that it is impossible to get a building permit, many take the risk and move ahead in their lives. Urban Planner 7 tells us that, in Area C, the authority responsible for welfare and development [Israeli occupation authorities according to the international law] is working against Palestinian communities' basic needs; this pushed the people to challenge this authority and its regulations, and to take the responsibility to meet their needs, despite the negative consequences.

> The Palestinian communities that I work with do not have sovereignty over land to develop their spaces. At the same time, the military occupation is not complying with international law towards them as the occupying power; on the contrary, they (ICA) prevent development. So, they [Palestinians in area C] found themselves in a situation where they have to take the responsibility for development into their own hands. To do so, they challenge the occupation policies; they do not pay attention to the regulations of the political system that oppresses them. They are aware that the system will never give them anything. So, people [Palestinians in area C] feel that they are responsible for themselves and create their own regulations to meet their needs despite the consequences. (Urban Planner 7)

Throughout several interviews, research participants mentioned that Palestinians learned from past experience that following the construction requirements and regulations in Area C will not result in getting their needs met. Therefore, they start to believe that applying for building permits is risky and is an obstacle to realizing their housing rights. International Organization

[130] The possibility to obtain a building permit is less than 1% (OCHA, 2020, UN-Habitat, 2015).

official (3) shared their experience of how they were successful in installing a main water supply for Al-Zbidat community until a few members of the community went and applied for a building permit. Only then were the construction materials and equipment confiscated, and the project stopped:

> In 2016, I worked on a project to develop the main water supply for Al-Zbidat community. Most of the pipeline was in Area C. We faced a serious problem when it was the time to work close to the main street because we were working without an Israeli-issued permit. Two months earlier, members of the community made a big mistake. They went, without consulting with us, to the ICA to apply for a construction permit. Before this incident, we constructed most of the pipeline without having issues. The ICA did not notice the work and therefore did not issue a stoppage or demolition order. We were careful not to draw attention to the project. They [ICA] did not see anything going on the ground. After applying for the construction permit, when the work started, the ICA officers showed up at the site with a military force; they confiscated all the equipment, including the heavy ones, the pipelines, the water pumps and tanks, whose value was more than 70,000 €. Now, we cannot work there anymore because of the stoppage order and a notification of confiscation of equipment. (International Organization official 3)

Experiences like this one have taught Palestinians that the way to have access to housing rights is not through the ICA and the construction permits system, which is part of the unjust colonial structure. Currently, they know that challenging the oppressive system is the only way to exercise housing rights. Consequently, through learning by doing, the Palestinians developed their own tactics to meet their needs and to survive the unjust and oppressive colonial system imposed on them.

"They demolish a home; we build it again": Collective and Individual Surreptitious Home-Building

Throughout the interviews, many research participants cited spontaneous survival tactics as a significant way to access housing rights in so-called Area C. Palestinian communities, based on previous experiences, have developed their own strategies and tactics, in a spontaneous way, to undermine the oppressive power system and /or to avoid the strict system of surveillance

imposed on them. These survival tactics involve the everyday acts of building their homes and community bit by bit, meeting their basic needs to survive and continue existing on their land. These everyday acts were developed over time to resist different Israeli policies that prevent people from having their right to housing.

Interviews with research participants provided many examples of these tactics either in term of the physical building or the construction process. Urban Planner 2 described the counter actions of the people as spontaneous, stemming from the peoples' understanding of the policies and regulations. They gave the example that people understood that if the building is under construction, the ICA does not demolish, but they give building stoppage order. So, the people build partly finished houses to avoid the demolition:

> There are the actions of the ICA, counter actions of the people. Sometimes you can see the spontaneous actions from the people and how they understand the policies. Like, for example, people have the idea that if the building is under construction, you cannot demolish it. So, for example, in the village of Al-Minya, people do not build complete houses to give the impression that their house is still under construction. Of course, the size of the building [they build small structures], the materials they are using [use inexpensive material]. (Urban Planner 2)

Also, many research participants, including community leaders, urban planners, and NGOs officials alike, spoke about the size and quality of the building. People do not invest much in their houses because they know it might be demolished at any point, which unfortunately affects the quality of the living environment. Thus, to avoid big economic losses, they build small and/or incomplete structures and use inexpensive building material such as light bricks and tin, which has become a common community practice:

> They don't build large houses, of course. They don't build expensive houses or use expensive material because they know in their minds the average lifespan of the building. They build under the threat of demolition. They don't invest that much. They just build with the hope that it will stay longer. But they don't invest that much. So that affects the type of architecture that you can see in these villages. It's not just because people are poor economically, but also because of how they understand the politics and its effect on the

> environment. When they [Palestinians] start thinking about construction, they think about the material. How easy is it to build? How much time and effort does it take to build a house or a livelihood structure? So, they adopt these fabricated metallic sheets to avoid big economic loss, should the structures have demolished. I think the value of the land is higher than the value of the house itself. This is how the people see it. (Urban Planner 2)

Additionally, several research participants pointed out examples of poor-quality material used in building low quality homes, such as mud and corrugated metal sheets roofs. In some cases, people even chose to live in caves and tents— simply to survive and continue living on their land and maintain their livelihoods:

> We use tents or build houses out of mud to provide our families with a space to protect them from the cold and for the children to study. We learned from previous experience that there are certain structures that the ICA does not demolish. So, we build out of mud and paint the interior. We use corrugated metal sheets for the roof. Even, some families live in caves, so that they are not building anything. We can't leave, our olive groves, our fields, and the grazing plains for our animals are here. (Community Leader 4)

Research participants also shared different tactics used during the construction process to render it invisible. On participant shared that, "I saw people building only concrete walls, and they use a tent to cover it as a roof" (International Organization Official 7). Also, research participants mentioned that people learn from their own and from other's experiences, so if someone builds and succeeded in completing the building, other community member will follow and build their homes, so one person encourages the others to act: "There is a building here which is not demolished, then I can build next to that" (Urban Planner 5).

Throughout the multiple examples that were shared describing Palestinian tactics to exercise their housing rights, time was a significant factor in the success of the building process and keeping it surreptitious. The people learned that if they start building, they should finish it as soon as possible to avoid being noticed and then getting a stoppage order. If they succeed in completing the building before receiving a work stoppage order, then they would be able to use it

for some time, while negotiating the demolition order. Therefore, completing the work rapidly is critical to construction and then using the building.

> When we built Al-Fakheet school, we did not apply for a construction permit because it will take forever if we even get it at all. So, in the community we decided to go ahead and build the new classrooms, but at the same time we have taken sensible precautions in case we received a demolition order. The most important thing in the process is to build and complete the building quickly, so the ICA would not catch up while still building. According to the building regulations, if the ICA's building inspector found out we are still building, they have the right to confiscate the building material and equipment. Also, they order a demolition on the spot. However, if the building is completed and the roof is already built and we were able to create the building as a fact on the ground, the ICA's building inspector can only give me a demolition order. So, we brought the building material and carried out most of the work at night. All the workers were from the community, and we worked long hours. From our experience we know when to build and how to avoid the on-spot demolition. (Community Leader 2)

Therefore, Palestinians realized that time, effort, and cost are critical factors when building under the threat of home demolition. By learning from previous experiences and taking the previous factors in consideration —the process should be fast, does not cost so much and does not take lots of effort—Palestinians developed their everyday practices to avoid the oppressive power and move on in their life by taking the risk toward de-facto home-building despite the threat of home demolition.

Circumventing a Strict Surveillance System

The ICA noticed that building without construction permits was a growing phenomenon, so they implemented a strict surveillance system to prevent construction activity in Area C. The surveillance system is applied in cooperation with Israeli settlers living in illegal colonies in the West Bank. Several research participants explained the surveillance system: "They [ICA] take regular photographs of what's going on in each community and have albums of the area" (Urban Planner 9). So, any building or construction are monitored on a regular basis. Also, the ICA's building inspectors conduct regular field visits.

However, the ICA's building inspectors cannot be in all the communities all the time, so they work in coordination with settler colonizers who live in the surrounding illegal colonies against the indigenous communities. Many participants mentioned that settler organizations such as 'Regavim'[131] are explicitly following up and keeping an eye on Palestinian communities' construction activity in Area C. Should they note any new structure being built or building material being installed, they inform the ICA, who act right away:

> The Israeli settler colonizers and Pro-settler groups, such as the 'Regavim' organization, cooperate with the ICA to prevent any construction in Area C. The settlers attack Palestinian homes close to the colonies. The colony guards and some settlers are active in monitoring what is happening on the ground in Area C, and they inform the ICA regarding any new Palestinian construction. (International Organization Official 3)

Reviewing Regavim's documents, available on their website, indicates that it is a pro-settler organization active not only in Area C but in all historic Palestine. They are explicit about their goal: to prevent Palestinian expansion on the land. Their activities include fieldwork, research, and legal activity to stop Palestinians from building in Area C. In terms of field work, they go out every day to document any kind of Palestinian construction, using different documentation technics such as observation, taking pictures, using drones, and using satellite (GIS) images to compare over time so they can see what changes are happening on the ground (Regavim, 2021). Then they analyze all this information and disseminate it through different venues, such as using the media, policy briefs, position papers and public events to pressure the ICA to prevent any new construction and to accelerate the demolition of existing structures. Also, they use the data in legal cases.

[131] For more information about Regavim organization and its activities see: https://www.regavim.org/?lang=en

Regavim's field coordinator, Eitan Melet, in action

Figure (6.2): Drones are used as a tool of surveillance by Israeli settler colonizers
Image source: A screen shot by Nuha Dwaikat-Shaer from Regavim organization website. Available at https://www.regavim.org/our-drone-was-stolen-but-theres-a-happy-ending/

For many research participants, local communities' awareness of their context, particularly of the existence of a surveillance system, was key in developing innovative circumventive tactics and skills. Several research participants cited surveillance drones and active observation by settlers as tools used by Israel to monitor homes and infrastructure construction in Area C. They also gave several examples of Palestinians' everyday activities to survive this strict surveillance system: "When we paved the street, we brought the asphalt at night, and we worked all night" (Community leader 1). Working at night, on Saturdays and other Israel holidays when the settlers are not active was a widespread tactic:

> The Israeli regime usually monitors Palestinian communities by flying surveillance drones to monitor actions on the ground. These people know when these drones are in the sky, they know how to out-maneuver them. They know, for example, that on Saturdays the Israelis do not engage in any monitoring activities or during the Israeli Jewish holidays, so they bring in building material on these days. They know when to plan, when

> to do what and where. So, the skills, the local skills, are very important in outmaneuvering the system and challenging the system. (International Organization official 7)

Similarly, Urban Planner (2) emphasized, based on their observations, the importance of local communities' role and skills in combating the surveillance system and developing their own ways to meet their needs while being invisible, such as misleading the drones by keeping a tent roof, building at night, on Saturdays and other holidays:

> Local communities, and this is very important, have a very strategic and very sensitive role in outmaneuvering the permit system and the surveillance regime. The local communities are more aware than anybody else of what could be done in their neighborhood or in their lands, when the Israelis come to check on their actions in Area C, or how settlers in the nearby settlements behave and monitor their actions. In some locations, they keep tents. In other locations, they cover the building with a tent. The building can have concrete walls, but the roofing is tent roof. So, in the aerial photographs it appears like a tent [...] Sometimes you can see this in the process of how they build on Saturdays when the Israelis not working… for the Shabbat. They build in the night not during the day. Sometimes it's how they organize the building activity, how they manage the building process. Like, you can't start digging and not finish because the material could be confiscated. If you start this, you should finish it. (Urban Planner 2)

Community Leader 2 pointed out the importance of time and timing in the whole building process to be successful, as well as the importance of being invisible when they build any structure. They are aware of the building regulations, and they try to use it in their favor, so the demolition does not take place right away. If the building is completed, then the building inspector should give a demolition order first, which can be contested in court:

> We first pitched a tent and then we did all the building activities inside the tent, then we moved the tent. This is very important, to finish the work before they [ICA] notice, because should they catch us building, they would confiscate the building material and equipment and give us a stoppage order so we cannot continue the building. So, time is important, to start the job and finish it quickly before we receive the stoppage order. Otherwise, the ICA building inspector would demolish the structure on the spot. (Community Leader 2)

Building surreptitiously was mentioned over and over as a necessary practice to secure housing rights:

> The army encampment [Israel occupation army] is at our village entrance. The ICA did not approve connecting our village to water or electricity supplies. We connected both behind their back; we did all the work at night. While they were asleep, Al-Aqaba, got electricity and the houses were lighted. (Community leader 1)

Several research participants mentioned another strategy to render the building process invisible, which is using local knowledge either in the building skills or in bringing the building material and equipment to the community. International Organization Official 3, whose organization provide humanitarian aid to Palestinians communities in Area C, mentioned that the best way to get the work done smoothly without drawing attention is having workers from the community itself to do the construction. In case the community does not have skilled workers to do the required job, such as installing solar panels for electricity, they provide the necessary training to them: "We provided training to few community members to install the solar panels that generate electricity, and we smuggled the solar panels to the community each one at a time in private cars" (Policymaker 9). Community knowledge, skills and commitment have been essential to such surreptitious actions. For example, "to avoid material confiscation, we bring it bit by bit in our private cars or wagons, many times we cover it with hay" (Community leader 4).

These self-directed and newly identified forms of struggle, developed to avoid the strict surveillance system, allow surreptitious home-building as an alternative way to exercise housing rights in the face of adversity. I argue that these practices and tactics reveal a constantly evolving dynamic resistance that constructs a new reality in practice, in which rights are enacted from below. Palestinians are active in developing new forms of struggle responding to the settler colonial denial of housing rights.

Persistence of Hope, Resilience and Solidarity

"They destroyed my mother's home, and I saw her crying. I told her: 'Mother, we will never disappear! They destroyed your home that had corrugated metal roof; I will build it again for you, but this time with a concrete slab'" (Community Leader 2). This is an example of the many stories I heard from Palestinians in Area C that show ordinary people's remarkable agency and resilience on the individual level. For Community Leader 2, the reaction to the violent destruction of his family home is not only to rebuild it again, but even to improve the quality of the new home.

Persistence and solidarity at the community level are notable at Al-Aqaba village. This little community provides an exceptional example of community leadership and initiative to rebuild their own homes and necessary infrastructure and services. They use different forms of everyday resistance, such as rejecting Israeli building permits and instead issuing permits through their village council, a right that was abolished by Israel MO 418. Haj Sami Sadiq, the head of the village council, donated his land to build the village mosque, kindergarten, and a community park. Also, unlike many other village councils, Haj Sami did not rely only on the PA for support. He reached out to the international community building alliances and connections with donor country delegations. He used the media and presented how housing rights violations impact the people in his community. Several research participants mentioned Al-Aqaba as a great example of persistence and solidarity: "Haj Sami Sadiq[132], despite his disability, went to the USA and advocated for his people's rights. He follows up and goes everywhere to support his community. He insisted on building his community and never gave up." (Palestinian Government Official 7)

[132] Haj Sami Sadiq, head of Al-Aqaba village, passed away in August 2021.

Figure (6.3) Haj Sami Sadiq at Al-Aqaba Village main street that he insisted on paving, as well as installing electricity poles, despite ICA rejections of permits.
Source: photo by Nuha Dwaikat-Shaer on July 9th, 2016.

> When we started working in Al-Aqaba, we worked on three levels: the legal advocacy and defense to stop the home demolitions, and to remove the military camp from our area. The second level is the media, where we invited them to our community, and we shared with them information. On the third level we built alliances with the international donors to support us in building our institutions, infrastructure, and services. We donated the land where we built a community park, mosque, kindergarten, and school, as well as a clinic. We invited the donors to come to our community and whenever there was a threat to demolish these structures, we contacted them to put pressure on Israel to stop the demolition. I told the head of the ICA: 'Each time you demolish something in Al-Aqaba, we will rebuild it. I bring in all the foreign country delegations and I will show them your actions.' I strongly believe that we should act and insist on our rights. Waiting will take us nowhere, being strong is better than being a victim. (Community Leader 1)

Al-Aqaba village represents the realization of rights from below. It is a success story of how people's agency, determination and creating facts on the ground is the way to secure housing rights.

On the institutional level, several NGOs who support Palestinian human rights in Area C realized that ICA policies and practices in Area C do not create an enabling environment that supports Palestinian rights. Therefore, several NGOs rejected the restrictive permit system and decided to provide support according to Humanitarian International Law (HIL), which applies to occupied Palestine. Based on HIL, the international community is supposed to provide humanitarian aid for the occupied population.

International Organization 4 shared their frustrations, however, about the humanitarian support provided by the NGOs. They pointed out that humanitarian support does not solve the problem. They argue that by only mitigating the problem in the short term, such interventions actually diminish human rights and normalize housing rights denial. Instead, they called for a sustainable solution to the housing problem.

> The international and local NGOs provide tents and support building homes out of mud and corrugated metal sheets. They call it humanitarian aid and a tool for empowerment and resilience. I do not see this as empowerment. It might mitigate the impact of the problem for a short period. However, this diminishes human rights. In the end, for the people, when we speak with them, they say: 'I own the land, I have money, I am not poor, and I want to build an adequate home for my family.' (International Organization 4)

As mentioned in chapter five, the PA shifted the responsibility to secure housing rights onto the people and did not provide sufficient support to the communities in Area C. However, there are several Palestinian government officials who provided support, when it was possible for them, because they learned from experience that creating facts on the ground is the only way to support people secure their housing rights. Government Official 7 pointed out the importance of

persistence, determination and not giving up when it comes to supporting people trying to exercise their housing rights:

> Based on my experience working with the Israelis, nothing works with them except creating facts on the ground. They [Israel government] themselves apply the policy of creating facts on the ground… I construct a street, they will demolish it, I construct it again; they will demolish it, again, I will construct it. Let them keep demolishing it and I keep reconstructing. This will create a visible problem and will shine a spotlight on it. Thus, I create an irritating situation for the occupiers, which requires a solution. But, if I keep waiting for them to give me permission, they will never do that, and I will keep waiting forever. (Government Official 7)

Several research participants insisted that creating facts on the ground is important; even if the projects are demolished, there are still some gains such as showing Israel that Palestinians are determined to stay on their land. Also, it has an impact on the population's human rights, providing moral support for the people and encouraging them to stay and build, as well as building trust between the local communities and the PA.

Through these practices people show their agency and determination to protect their communities and spaces. But it is worth noting that these practices only mitigate the impact of the problem but do not solve it. People have to take risks and live under the threat of losing their home at any time, which has negative impact on the family's well-being.

6.2 "We have the right to plan our spaces": Planning for Housing Rights

In this section, I examine the second strategy used to exercise housing rights in so-called Area C, which includes negotiating the colonial power system through an emerging Palestinian spatial-planning process. To do so, I draw from the experiences of the urban planners who were directly involved in preparing and discussing the communities' masterplans with ICA to get them approved. I also draw from the NGOs officials and Palestinian Government officials who provided support during this process and the community leaders who represented their

communities during the planning and negotiating phases. My analysis uncovered three main themes: planning as protection, planning as resistance and, finally, planning as limbo. These themes will be discussed in the next sub-sections.

As I illustrated in Chapters two and five, Israel fully controls building, planning and land use in Area C. Israel applies outdated and complex planning and land regulations in a selective way. Through Military Order 418, Israel has centralized the planning process in the hands of the ICA and excluded Palestinian communities from the process. I examined the literature on the planning system applied in occupied Palestine, which indicates that Israel applies a restrictive planning system to control the territories and limit Palestinian existence on the land (Abdelhamid, 2006; Abdulhadi, 1990; Coon, 1992; Khamaisi, 1997). After the Oslo Accords interim agreement in 1993, the ICA continued prohibiting Palestinian construction —including homes, basic infrastructure and public services such as schools and clinics— in vast areas of so-called Area C, which deprives the Palestinian communities of their right to exercise their housing rights (B'Tselem, 2013; Cohen-Lifshitz et al., 2008; UN-Habitat, 2015; UNOCHA, 2009) and forces them to live under acute risk of home demolition and forcible displacement (UNOCHA, 2015).

Emerging Palestinian planning initiative in so-called Area C

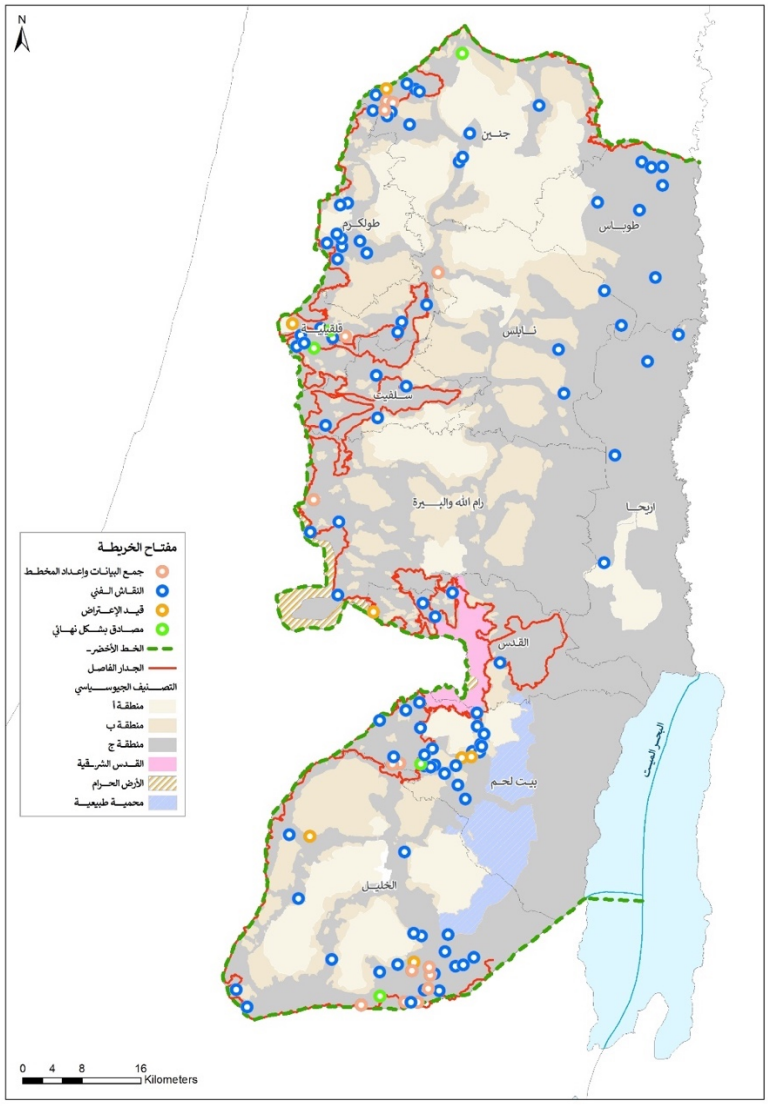
After almost two decades of negligence and abandonment of Area C, and with the assistance of international donors (especially the EU), the PA cooperated with UN-Habitat to support an emerging Palestinian planning initiative[133]: statutory outline plans in so-called Area C that engage Palestinian communities in the development of their space.

[133] The initiative started based on a signed agreement, "Land Development and Access to Basic Infrastructure in Area C", between the European Union and the PA in March 2013 (2012/023-776)

> The people have the right to plan their spaces. For many years Area C and Jerusalem were neglected. The only planning in these areas was colonial planning done by the colonizers to empty the land of its inhabitants, so we developed, in cooperation with the local communities, another planning scheme to counter the colonial plans. (Urban Planner 1)

This initiative started with the local communities working closely with Palestinian consultancy planning firms to identify their needs and vision and then develop Local Outline Plans (LOPs) for each community. The preparation of the LOPs is supported by UN-Habitat, which provides technical support, and is monitored by the MoLG, which coordinates the necessary funding for the projects from the European Union. The last phase of the initiative is to submit the LOPs for ICA approvals. Between July 2011 and May 2017, out of a total of 123 LOPs prepared, 109 plans were submitted to the ICA for approval.[134] So far (November 2021), only 7 LOPs have been approved by the ICA, while 92 LOPs are still in the technical discussion phase and 10 in the objection phase. In addition, there are 14 still in the data collection and preparation phase. Over almost 10 years, the ICA approved only 6% of the LOPs. As mentioned in Chapter 5, in 2015, UN-Habitat cooperated with the MoLG to invite a group of neutral, experienced international planners (an International Advisory Board) to provide a technical opinion regarding the LOPs and to understand the reasons why it is taking so long to approve them. The International Advisory Board analyzed a sample of LOPs and met with the different stakeholders involved in the process of preparing these LOPs, including the ICA personnel. The International Advisory Board found that the LOPs are technically sound and the reason for the approvals delays is political[135].

[134] All the data including the numbers is retrieved from unpublished PowerPoint presentation prepared by the MoLG, which was shared with me on November 10, 2021, based on my request to update the data in my study.
[135] The full report is available at: https://unhabitat.org/spatial-planning-in-area-c-of-the-israeli-occupied-west-bank-of-the-palestinian-territory



Map Legend
Data collection phase
Technical discussion phase
Objection phase
Approved

Figure (6.4) The distribution of the Local Outline Plans in the so-called Area C.

Source: The Palestinian Ministry of Local Governorate, 2021. Retrieved by Nuha Dwaikat-Shaer from unpublished PowerPoint presentation on November 10, 2021.

Several research participants stated that the ICA is using double standards when it comes to approving outline plans for the Israeli illegal colonies versus the Palestinian communities in Area C. They stated that the delays in approving the outline plans by the ICA are political and they cited the International Advisory Board findings to support their claims:

> They [ICA] are using double standards when approving masterplans for Israeli colonies versus Palestinian communities. It's not justified. The plans which are prepared for the Palestinian communities were studied by an international advisory board, and they found the plans are technically sound. They are adequate for the needs of the community. They

> also address the growth ratios, and the service needs and all that stuff. But the delays were not because of the technical issues, of course. Because, if it was based on the technical issues, the plans are technically good. And any modification doesn't need all this time. (Urban Planner 2)

By reviewing the International Advisory Board's detailed report and the methodology they used to assess the planning process in Area C, I found they conducted field visits, met with communities and different stakeholders, examined the context and a sample of 10 LOPs that were chosen to represent different geographical locations, different phases including the preparation, technical discussion, objection and finally the approval phases. It is notable that most of the LOPs are stuck at the technical discussion phase (93 plans out of 116 submitted, some of which were submitted in 2011). It was also notable that there are no written criteria available to explain the requirements to approve the outline plans, which puts Palestinian planners at a disadvantage when discussing the plans with ICA officials. The following quotes are a sample of the main findings in the international advisory board report:

> Within the constraints imposed by this exceptional context, and because the planning standards imposed by the ICA are not available in a written and comprehensive form, the IAB is of the view that all ten plans discussed above have met basic professional standards in terms of public engagement and in terms of land use zoning, given the limited purpose for which these plans have been prepared. On the basis of the evidence available, there are no appropriate technical grounds for delay or refusal of these plans. (UN-Habitat, 2015, p. 39)

> The growth boundaries imposed through these plans are arbitrary, and the IAB does not endorse them or the demolition of properties and agricultural buildings outside the plan boundaries. In general, the boundaries, which limit land where development can be authorized, are very tightly placed in relation to existing buildings within a village, and in some cases already developed areas are excluded sterilizes opportunities to develop existing properties outside the line and creates vulnerability to demolitions. The practice fosters conflicts within communities, and objections to plan proposals and hence delays in plan approval. Practice internationally is less rigid and affords opportunity to gain the right to develop, even in areas beyond planned growth boundaries. (UN-Habitat, 2015, p. 40)

The purposeful arbitrary delays of the outline plans and their endless discussion were repeated several times by research participants throughout the course of this study, and was expressed by urban planners, international organizations officials, human rights lawyers, and government officials alike. However, to break this rigid state of endless discussions with the ICA to approve the outline planes, and to defend the vulnerable Palestinian communities right to plan their spaces, the PA and the EU agreed on moving ahead in implementing basic services and infrastructure projects in communities engaged in the planning process in Area C 18 months after the submission of the outline plans by the village councils to the ICA.

Community–Driven spatial planning

The planning process was described by several participants as participatory, community-driven, and a "learning by doing experience" (Urban Panner 2). The legal foundation for this process has two pillars. The first pillar is Jordanian Planning Law (79) of 1966, that gave the local communities the right to participate in planning their spaces through the local planning councils, later cancelled by MO 418 (1971), depriving the people of this right. The idea is to reclaim the right to participate in the planning process and thus to revive these committees:

> The Jordanian Planning Law has an advantage that gives the local community councils the opportunity to plan their space. Like, the local community council initiate a local outline plan for the community and submit it for review. So, we used this advantage in the law, which was abolished by MO 418. (Government Official 2)

Figure (6.5): Community–Driven spatial planning in Massafer Yatta, so-called Area C.
Source: The Palestinian Ministry of Local Governorate, 2021. Retrieved by Nuha Dwaikat-Shaer from unpublished PowerPoint presentation on November 10, 2021.

The second pillar is international humanitarian and international human rights legal frameworks. Because Area C is considered an occupied territory, planning should be done and evaluated within an international humanitarian law framework (UN-Habitat, 2015).

> We have concluded recently a human rights impact assessment mechanism for the local outline plans prepared with and for the Palestinians to meet their needs in occupied Area C. There's an acceptance from the MoLG to include it in the ideas they will use in preparing outline plans in area C. The basic idea here is to use international humanitarian law as a framework when it comes to the engagement with the Israeli authorities in Area C, as a framework for spatial planning. (International Organization Official 5)

Throughout the interviews several themes emerged from analysing the planning process including, protection from home demolition, resisting Israel colonization of the land as well as planning ambiguity and uncertainty, which will be presented in the following sub-sections.

Planning as Protection

The ICA's main justification for home and livelihood demolitions in Area C is building without Israeli-issued permits, so the structures are considered illegal. As discussed in Chapters 2 and 5, the ICA rarely issues any building permit for Palestinians, and their rational for rejecting building permits in Area C is the absence of detailed outline plans for Palestinian communities. Therefore, developing outline plans for these communities is a tool to improve the situation on the ground, respond to their needs and mitigate people's suffering. When participants were asked to walk me through their experiences participating in the planning process, protection was a powerful thread throughout the interviews:

> The idea is to be engaged with the Israeli side to protect the community from demolition and forced displacement. That's it. Thus, our engagement in Area C with outline plans, it's two folded: (1) to freeze demolitions, to keep these houses standing there; (2) to strengthen the resilience of these communities using the… Israeli system against itself. We submit the plans within the Israeli system according to their rules, all plans that are logged in the system, all these communities should be protected in law from evacuation or demolishing and so on. So, we have been successful in submitting 110 plans to the ICA. (Urban Planner 5)

For many research participants, the planning process should help to protect the existing structures from being demolished and allow the construction of public services such as schools and clinics, as well as basic infrastructure, such as water and electricity, and main roads:

> [In 2016] the Palestinian Authority decided, first, they will design with the communities a master plan of all Area C. Secondly, we will submit this master plan to the Israeli Civil Administration and to try to get an approval. If we don't get an approval after a certain time, it has been decided 18 months, we consider that the plan is approved and then that we can invest and implement the investments identified in this master plan within 5 key sectors; agriculture, water, electricity, and this has been supported by most of the development partners and by the European Union. (International Organization Official 2)

Figure (6.6): Children and women participating in the planning process at Massafer Yatta.
Source: The Palestinian Ministry of Local Governance, 2021. Retrieved by Nuha Dwaikat-Shaer from unpublished PowerPoint presentation on November 10, 2021.

A few research participants mentioned not only protecting homes and livelihoods from being demolished but, also, they went further to explain the political importance of the planning process through protecting the land from colonization. They stated the planning process could support and increase the communities' existence on the land, which they hoped would protect it from being confiscated:

> It's also helping these communities to stay and to protect the land which is the cornerstone for statehood in Area C. So, politically, it's the one endeavor towards the best solution. So, this is really one of the most important outcomes of this process: to keep Area C as an integral part of Area A and B and to put limits on the illegal Israeli colonies' expansion. It's not the other way around. When we initiate planning initiatives in Area C, we deal with the Israeli colonies and the geo-political artifacts as constraints. (Urban Planner 5)

Several research participants, specifically the human rights lawyers and urban planners, spoke about how the outline plans provided a legal tool for lawyers whenever they appeal home

demolition cases in Israeli courts, if the community had already submitted its outline plans to the ICA and was awaiting discussions and/or approvals. Thus, outline plans developed based on community initiative to respond to their current and future needs are used to counter the outline plans developed by the ICA behind closed doors before the Israeli juridical system. As Urban Planner (5) noted, they are "using the system against itself". This is possible through an article in the 1966 Jordanian planning law # 79, which gave communities the opportunity to plan their localities:

> So, the localities in Masaffer Yatta now have outline plans and lawyers use these outline plans in the court. Because when the court says: "Why are you demolishing these houses?" The military replies: "These houses are illegal based on the ICA-prepared outline plan." So, since the demolition order is based on the ICA outline plan, we need a counter plan or alternative plan that shows the ICA outline plan that they are referring to does not consider the communities' needs and is very outdated. It's insufficient. And here is another outline plan that the community is involved in, and it meets its needs. This outline is also legal because we are following the Jordanian law. There is an article in the law that gives each local community the right to initiate planning, to take initiative. So, if the local community is taking initiative, it is legal according to the law, and the ICA should take this into consideration. Planning in Masaffer Yatta, the communities were consulted through community visioning sessions. The planning team from UN Habitat was involved in the whole process. (Urban Planner 2)

However, an alternative view was also presented in interviews, one that suggested that community participation was not really taken seriously by the stakeholders, that community participation was as a token and their vision, in some cases, was not fully taken into consideration. In the words of Community Leader (1), who was not satisfied with the approach to decide the borders of the community in the outline plans: "It's not about asking people to attend meetings; it is about considering their vision for their community." Community Leader (1) went on to say that the contextual constraints, mainly Israel restrictions and the facts they created on the ground, were taken into consideration more than the community vision and rights. Human Rights Lawyer (2) shared an example of a few communities leaders' frustration from the process:

"I just heard from [xxx], who said instead of, whatever, seventeen hundred dunams [136] or fourteen hundred, the planner prepared just four hundred dunams."

Similarly, Human Rights Lawyer (2) cited the lack of a comprehensive vision and national spatial plan as important factors that negatively impact the planning process. They also noted that the outline plans do not meet the future needs for the communities, describing them as narrow and complying with illegal Israeli policies in Area C. They described their frustration with the ways in which the whole planning process in Area C is managed by the different stakeholders:

> Until they [the PA] have a national spatial plan and a clear vison, what they do is another plan here and another plan there and then we find out that the plans are very narrow, shrinking plans to adapt to the existing policies which are illegal by nature. And then you have some human rights organizations discovering this and saying: "What're you doing? What do you think you're doing?" And then you have a UN agency that says that it's okay: "Let's do a monitoring mechanism." And then we suggest, then they bring a consultant to put a human rights mechanism. The consultant put the mechanism. The ministry says: "Very well, very good. We need to implement it." But you know how they implement it. They don't implement it very actively. They are only for the future, and I don't know how they implement it. I know they like it. But finally, everybody likes to get a good report but then what to do with it? Whether to put it aside or implement it.

Additionally, Human Rights Lawyer (2) pointed out the PA's lack of clear vision and action plans to implement the vision for Area C as an obstacle limiting the potential of the planning process: "It is not about what to do now. It is about how to do it. Because clearly, how come… they [PA] still do not have a national spatial plan? It is a joke." However, other research participants spoke of other weakness of the planning process in Area C, which will be discussed below in this chapter.

[136] A metric dunam is equal to 1,000 square meters.

Spatial Planning as Resistance in Settler Colonial Contexts

In response to growing deprivation and systematic oppression resulting from the restrictive policies implemented by the settler colonial regime in so-called Area C, community-driven planning processes have emerged in recent years. Resistance was a profound thread throughout many interviews. Urban Planner (5) put the spotlight on the political nature of the emerging planning. Besides development goals, "it's all about politics. Planning here in Palestine is a political exercise of rights. So yeah, definitely it is to resist land grabs and protect people homes and livelihoods." Similarly, Urban Planner (10) used the term "planning is resistance" to describe the Palestinian emerging "counter" spatial planning process:

> Spatial planning in Palestine is resistance. We plan our spaces for our people. At the same time, the Israeli colonizers are planning the same spaces as part of their colonial project in Palestine. It is the same space used by two sides who want to control it – of course, with the big difference of power, possibilities and capabilities between the Israeli colonizers and the Palestinians. Israeli spatial plans consider the entire Palestinian space as theirs. In their spatial planning, they deal with us as if we do not exist. So, their long-term plan is to impose their spatial vision on us, in the same way they are now, in Jerusalem, using the 2020 Masterplan that aims to limit Palestinian existence in Jerusalem. Therefore, what we do now is to counter the Israeli occupation plans." (Urban Planner 10)

Similarly, Palestinian Government Official (2) used the term "counter planning" when they described emerging Palestinian planning initiatives in Area C. They also stated that the Israeli planners at the ICA plan for the entire space without considering the Palestinians:

> "They [Israeli planners] see Palestine as a white page when they plan. I saw them reviewing plans on their computers while discussion the outline plans at the ICA. Once, I saw a highway planned over a Palestinian community. They erased the whole community and put a highway through it." (Palestinian Government Official 2)

Palestinian Government Official (2) pointed out that Israeli planners use structural mechanisms, such as the complicated building permits system, that disadvantage the Palestinian communities. They have their own plans for the entire Palestinian space and only approve things that do not contradict these plans.

Applying the concept of counter planning in so-called Area C implies a constant struggle against the settler colonizer expression of power through the imposition of colonial spatial policies, policies which result in home and livelihood demolition, as well as forcible displacement:

> We have a demolition crisis in Area C. How to respond to that? Through counter spatial plans, using the system against itself, as I said. We submit these plans. The idea is to protect the communities in Area C, to buy time before the next demolition. The Israeli occupation is building and expanding the colonies. I think the Palestinians are using the same tactic to resist the Israeli policies; it is to buy time and to keep these communities in place. However, these plans used to introduce new development initiatives; roads, houses, public facilities and to use it legally in the system. (Urban Planner 5)

In this quote and through other interviews, it is notable that Palestinians are aware that the emerging planning process will not solve the demolition crisis in Area C. However, it will provide the families with some time in their homes while the demolition petition is discussed at the court. So, "it is to buy time" because the court freezes the demolition until a decision is made.

Additionally, several research participants stated that the proposed outline plans facilitate some access to basic public services and infrastructure for deprived Palestinian communities. This is possible through an agreement between all cooperating stakeholders that, if they do not receive a response from the ICA 18 months after submitting the outline plan, they will consider the plan official and move ahead in implementing basic services and infrastructure in these communities:

> There is an agreement which any outline plan that has been submitted for the ICA for more than eighteen months and if we did not get any official response from the ICA, we can invest and implement this outline plan and proceed, even if the plans are not authorized yet. Donors agreed to start implementing basic services and infrastructure projects. This outline plan is a candidate for project implementation. In the first phase, ten projects were implemented, and future ten projects and thirty-seven projects will be ended. Basically, infrastructure projects. (Palestinian Government Official 3)

Implementing infrastructure projects in the Palestinian communities of Area C promotes a positive development trajectory and increases the communities' resilience in the face of the restrictive planning regime. Also, it encourages households to improve their housing conditions and provides them with an adequate environment. All of this leads to protection of communities and, therefore, of the territory:

> What makes people more resilient is not having the outline plan. It is the consequence of having an outline plan, how the projects are implemented based on the plan because people are there, they have buildings, and they are creating facts on the ground. What the Israelis are trying to do is create facts on the ground by creating an inadequate environment. For example, they don't provide road services, water, and electricity. But if we provide people with electricity, they will stay even without having a plan. Because they are not staying because of the plan; they are staying because they have their life if you provide life to this community. So, the planning is a means to give life to them. If the plans are successful, they will succeed in reducing demolitions and freezing the demolitions in certain areas. Since 3 plans were approved, this is a good sign that more plans should be approved in the future. But it's more important to implement these projects and to use the plan as a basis to implement projects on the ground.

Palestinians in Area C continue their struggle and resist the colonial policies by engaging in counter planning schemes to protect their dispossessed homes, communities, and lands. They are challenging Israel's imposed outline plans by developing their own alternative plans and moving ahead to implement infrastructure projects based on these plans, despite Israel's restrictive planning policies and despite their procrastination policy when discussing the outline plans.

Planning in Limbo

Indeed, developing outline plans for the Palestinian communities in Area C is an important step toward realizing housing rights after many years of neglect and abandonment. However, the spatial planning in Area C is happening in an area controlled by military occupation that implements a settler colonial regime. In this context, Palestinians are not included in planning their spaces and the whole process is in the hands of the ICA who has

ultimate authority and power on the ground. Throughout the interviews, most research participants described the planning process as a political more than a professional process. I was told that planning is connected to the political situation. For example, the emerging planning process was stopped as a punishment when Israel did not like PA political positions, such as the PA going to International Criminal Court to investigate possible war crimes committed against Palestinians: "When Abu Mazen[137] went to the International Criminal Court, the punishment was that they cancelled all the sessions for planning in Area C" (Urban planner 2).

Also, several research participants pointed out the endless discussions with the ICA to approve the proposed outlines plans, without making any progress: "Our progress is very slow, like an ant step" (Urban planner 1). Indeed, any planning project should have a start and end date based on its size. However, in Area C the situation is unusual in terms of the timeline and the effort necessary to complete the planning projects:

> The process is not realistic, not the time, nor the effort, nor the details. Because, for small communities, you don't need all those details. It's more conceptual plan or a zoning plan. You're talking about 1000, 2000 people maximum. Of course, the ICA does not want Palestinian growth. They don't want the Palestinian plans to be approved. (Urban planner 2)

Other research participants cited funding as a critical element when discussing the plans takes so long. Some research participants described the long discussion process as a waste of time and energy, without positive results:

> The master plans projects are funded by donors and there should be end date for it. It is possible to get one or two extensions. After that, we should close the project, even if we do not have the final approved master plans. There are projects that started in 2010 and 2011 and are still pending. It takes a long time at the ICA, a few meetings. Sometimes they [ICA] freeze the whole process, sometimes it reaches Israel's Ministry of Defense and the political level such as Qalqilia masterplan. In some cases, after we made big progress, we must restart from scratch… This process is going nowhere. (Palestinian Government Official 4)

[137] Abu Mazen is the public name of Palestinian Authority President, Mahmoud Abbas.

Similarly, Urban Planner (4) spotlighted the uncertainty of the long and complicated discussion of the outline plans. They gave an example of Ethna, a small town close to Hebron, which has been two years in the discussion phase, with no answer from the ICA, because parts of it are a military zone and need higher military levels to approve the plan:

> Ethna is a Palestinian town close to Hebron with a population of 20,000. Parts of its proposed masterplan is within a military area and firing zone. There are houses in this area. After long discussions with the ICA, they demand to remove this part from the master plan, or we must wait for approvals from higher military levels. Until now, there is no answer. It's been more than two years." (Urban Planner 4)

Indeed, the ICA uses time, procrastination, as a strategy: "The planning firms' contracts ended at a cerin point, then there is no one professional who will follow up the discussions with the ICA" (Human rights lawyer 2).

Several research participants spoke of the obstacles that negatively impact the planning process, such as the ICA not following planning standards if they contradict their political agenda. The ICA's main focus is on the Blue Line, the outline borders of the community, in order to control the expansion of Palestinian communities. Urban Planner (8) referred to a dilemma that they needed to address: "This situation put the Palestinian planners in a dilemma. The discussion is not based on logic and planning standards and communities do not accept the plans if they do not meet their needs, which leads to losing trust between the community and the planners". Moreover, research participants stated that there are no clear regulations or criteria from the Israelis to guide the planning process: "Keeping everything gray and not clear helps them [ICA] to pass their plans for Area C" (Urban Planner 3). This adds to the complexity of the process. Urban Planner (2) told me that it is "mostly case by case. We cannot generalize because each case is different." The International Advisory Board also cited the limitations imposed by

the ICA on the planning process, including disrespect of International Humanitarian Law and the Law of Occupation:

> The aspects of the occupation that constrain plan preparation, combined with the failings in the procedures and practices for processing and authorizing the Local Outline Plans and the disregard for International Humanitarian Law and the Law of Occupation, amount to a denial of administrative justice. (UN-Habitat, 2015, p. 41)

On the other hand, several research participants mentioned weaknesses on the Palestinian side throughout the planning process as also having a negative impact. For example, Urban Planner (7) told me that the internal discussions among urban planners, UN-Habitat and MoLG are not productive because any steps require a political decision at the level of the Palestinian Prime Minister "because of the political sensitivity of the issue" (Urban Planner 7). Also, there is an absence of regulations or outline "that is reasonable and practical to guide the engagement process with the ICA, so each planning firm comes with its own standards" (Human rights lawyer 2).

Likewise, Urban Planner (6) shared their frustration from the PA's irresolute position regarding the whole planning process, in particular the lack of political will:

> There is no clear and strong political position on the process. The professionals working on the outline plans need guidance from the policymakers to develop rules of engagement with the ICA. It should have happened on a higher level, I mean, higher political level. The process needs a political will but, unfortunately, the leadership is not willing to challenge Israeli interpretation of the Oslo Accords. They are afraid of retaliations, and they are not willing to pay the price going fully to support it. The presence of the MoLG is just as an observer and they do not have a political decision to formally endorse the plans. (Urban Planner 6)

Finally, a few research participants acknowledged the importance of the Outline Plans as one step toward securing housing rights in Area C. Yet, they stated that the outline plans do not enable significant development because development interventions in Area C still carry risk; it has happened, for example, that the Israeli army carried out demolitions without even a note,

such as the kindergarten playground in Za'tara village that I mentioned in chapter 5. The kindergarten playground was within the outline plan of the village, yet still the Israeli army demolished it.

6.3 "We Have the Right to Defend our Homes": Legal Defense of Housing Rights:

In the previous chapters, I clarify the discriminatory zoning and spatial planning policies, and the restrictive construction permits regulations applied by Israel in so-called Area C of the West Bank that denies Palestinians' human right to adequate housing. Israel criminalizes Palestinians who are forced to build their homes and livelihoods structures without obtaining Israeli-issued building permits by declaring these structures to be illegal constructions, thereby making them subject to the arbitrary home demolition policies. Thus, this section examines the third housing rights strategy that emerged from data analysis, which is engaging with the oppressive power system through a legal process (legal defense, aid, and advocacy) to defend housing rights. Several research participants used the term "legal resistance" (International Organization Lawyer 7) to describe this strategy. Throughout the interviews, it emerged that the idea underpinning this strategy is the use of human rights and the law as tools to defend people's homes and livelihoods, as well as to challenge the denial of housing rights using the judicial systems applied in occupied Palestine.

Research participants, in particular community leaders and human rights lawyers, explained that, for decades, "legal resistance has been an individual struggle" (Human rights Lawyer 1); only lately has it received attention through organizations that provide legal aid and advocacy:

> Another important leverage that would increase the capacity and impact of initiatives led by local communities are legal instruments. Legal instruments supported by legal actors' organizations who play a very important role in making sure that protection tools are

> there to protect local communities whenever they face demolitions. (International organization official 5)

The interviewees mentioned that when people receive a work-stoppage order or demolition order from the ICA, many of them choose to petition the Israeli juridical system against the ICA decision. Urban Planner (2) said "peoples' immediate action when they receive a demolition order is to take legal action against what happened. So, they run for lawyers and the lawyers file a petition with the court." However, the petition process is long, expensive, and complicated. Nevertheless, many individuals still choose to use the legal instruments to try to protect their homes.

Legal Defense: The Process

Human rights lawyer interviewees walked me through the legal process to securing housing rights and explained its stages. According to the 1966 Jordanian law 79, when a structure is constructed without the necessary permits and approvals, there are several regulations applied at different stages:

> When the ICA notice a new structure that is built without a permit, the building inspectors issue a work-stoppage order and invite the party that built it to correct its legal situation through applying for the necessary permits. As well, they issue a notice to attend a hearing at the ICA military court. If the building owner or his/her representative do not attend the hearing, then the court issues a final demolition order and later carries out the demolition. (International organization Lawyer 7)

This means that many of those who receive work-stoppage order will immediately seek to take legal action to contest it. They reach out to lawyers to start the legal defence on their behalf. The legal defence process happens on two levels: legal intervention with the ICA (military committee) and legal intervention with the Israeli Supreme Court.

Legal Intervention with the ICA Military Committee

Several research participants cited acting quickly, as soon as receiving the work-stoppage order, to be a critical element in protecting homes from being demolished. International Organization Lawyer 7, who has represented many cases, explained that:

> After receiving the work stoppage order, the lawyer starts the process with the military committee, representing the homeowner and asking for a break to start the process of applying for building permit. If the owner or his lawyer do not show up in front of the military committee, a final demolition order is issued right away. (International Organization Lawyer 7)

International Organization Lawyer (7) emphasized the importance of attending this first hearing to avoid having a demolition order issued right away. Attending the hearing allows the owner to gain time in their homes.

Similarly, community leaders also emphasized the importance of time in the legal process. They mentioned that the hearing at the military committee sometimes take place within days or a week from the time they receive the work stoppage order. People need to act quickly and hire a lawyer to represent them. However, Community Leader (4) told me that the ICA is aware that people will use legal instruments to try to prevent home demolition. Therefore, the ICA has adopted a few practices to limit the time available for people to act, such as issuing the work-stoppage order before a weekend or a holiday. Also, sometimes the ICA inspectors leave the work-stoppage order at the building site under a stone and take a picture of it to prove it was delivered; the owner is held responsible even if they do not find it right away or even at all.

When it comes to the next steps, assuming the owner received the work stoppage order and secures a lawyer rapidly, Human rights lawyer (1) described the intervention with the ICA Military Committee:

> The legal team gives the owner information about the steps of applying for a building permit and what documents are needed for it. Usually, the building permit is refused for many reasons, such as land ownership or lack of outline plans. Then the lawyer submits

> an appeal with the Military Committee. The Military Committee discusses the appeal, without the presence of the lawyer nor the owner, and take their decision. Usually, the appeals are refused. If the refusal is because of land zoning, the owner applies for a detailed outline plan and in most of the cases the ICA refuse to issue it. (Human rights lawyer 1)

After all the attempts to secure a building permit are rejected, the ICA issues a final demolition order. That when the legal defense moves to the next level.

Legal Intervention with the Israeli Supreme Court

The second level of legal defence is to file a petition with the Israeli Supreme Court against the Civil Administration that issued the demolition order. These petitions usually present the owner's factual and legal claims and request the cancellation of the demolition order and/or to freeze the demolition. Community Leaders and International Organizations Lawyers alike cited the importance of these petitions in delaying the implementation of the demolition until the court decides about the case. International Organizations Lawyer (7) told me that the judges usually agree to freeze the demolition and issue an interim order that prevents the demolition until further ruling, requesting the ICA Military Committee to provide a response to the petition.

International Organizations Lawyer (8) stated, based on their experience filing petitions against home demolition, that the legal defense process is either very quick or very slow, depending on the political agenda and the site of the building (if it is in a place that is critical for Israel settlement agenda). Also, they argued that the process is not clear because it is based on military law in which the regulations are ambiguous. This contrasts with the civil law, in which the regulations are clear, and the law is specific. Additionally, Community Leader (4) mentioned that the Military Committees are run by military commanders and some of them are settlers themselves, which impacts their decisions.

However, several research participants pointed out the importance of completing the building before receiving a work-stoppage order. In such cases, people can stay at their homes while the case is discussed at the court:

> Sometimes the legal defense helps people because the building is already there. When the building is there, you can negotiate. To issue a stoppage order is much easier and it takes shorter time than executing the demolition. So, when the building is built, you go with layers and layers, have hearings at the courts, more and more time while you're living in the building. But, if the building was given a work-stoppage order, or the materials were confiscated, then you don't have time to finish the building. If the building is already finished, you have more time. You can hire a lawyer; you can have some cases at the court and lawyers can have time to extend the decisions. Also, the lawyers try to win more time if the building is already built, and people can stay therefore for longer time. (Urban Planner 2)

The legal defense process is only to buy time and support people to stay in their homes as long as possible. Several research participants mentioned that the court hardly ever rules in favour of issuing a building permit. The best it does is to issue an interim order that freezes the demolition.

Politicized Judicial System

Denying the basic rights of the Palestinian communities in Area C is against the International Humanitarian Law, specifically Occupation Law and the International Human Rights Law. However, the only law fully applied in so-called Area C is the Israeli military law. Throughout the interviews with the lawyers, planners, and community leaders, the politicizing of the Israeli Supreme Court was a profound theme. Several research participants explained how the Israeli Supreme Court failed to fulfill its neutral role when it comes to Palestinians rights. Human Rights Lawyer (2) gave us an example:

> The initiative [petition against the ICA and MO 418 that cancelled the local planning committees] was supported by some Palestinian villages which were fed up with the Israeli system and it was also discussed with the PA. And it was agreed that no harm can come out of this petition, only good. It was also agreed that we don't look for successes.

> We look for the process of advocacy and education of the judges about what's really going on here. The judges, they are judging particularly based on individual cases and they rule on the lives of individuals and their structures. So, it's good that somebody gives them the bigger picture; and I think we managed to do that. I think some of the judges, there were three judges, they were all on shock, shocked to see all of this. They didn't know… how many Palestinians there are in occupied Area C. They didn't know 'Area C' means and I think the data was really unbelievable to them. It's also unbelievable because this was never denied by the state, it was never rejected by the state. So, the way they convinced themselves that I didn't prove it is discrimination was unbelievable. They just bluntly lied to the paper they've written on. They've made it a political issue, which we thought they would. They've put the state's framing of planning in Area C as a political bargaining chip. (Human Rights Lawyer 2)

Following upon this, when I asked Human Rights Lawyer (2) what they mean by "political bargaining chip", their answer was:

> They [the Israeli Supreme Court] considered changing the structure of the planning situation in Area C as a political issue in terms of peace negotiations between Israel and the PA. So, they didn't look at housing as a human rights issue, they looked at housing as a political issue. (Human Rights Lawyer 2)

Similarly, the International Advisory Board in their report about the emerging planning process in Area C reported the politicizing of the legal system as one of their findings:

> There is evidence that the Israeli High Court in some particular cases has been prepared to recognize that the harm done to Palestinian residents, notably in respect of access to their land, in the West Bank exceeds the likely security benefits to Israelis as a result of proposed developments. (UN-Habitat, 2015, p. 17)

Harmful Legal Defense

Finally, a few research participants, community leaders and human rights lawyers in particular, felt that the absence of a recognized local authority (village council) was part of the communities' marginalization, leaving many communities without a representative. Therefore, some people started working individually with Israeli lawyers to protect their homes from being demolished. A few of these Israeli lawyers have ties with the ICA and tried to convince their clients to accept agreements that diminish people's rights to their land and limit their access to

most of it. The ICA tries to implement its plans in a quiet way by negotiating individual agreements with marginalized communities and sometime with individual families.

6.4 Palestinian decolonial struggles: Ordinary People Acts of Everyday Resistance

To exercise housing rights in so-called Area C, Palestinians have to challenge an arbitrary settler colonial regime polices through acts of everyday resistance. In this chapter, I examined three dynamic and intersecting strategies and tactics contributing to securing housing rights.

These practices are indications of bottom-up engagements that go beyond formal political realms. The struggles to exercise housing rights have been individual struggles and, in some cases, a local community struggle for years. In the last decade, people's direct struggle to exercise their housing rights and to continue existing in their communities has received attention from the PA and the international community, leading them to provide support through spatial planning and legal defence.

Most Palestinians living in so called so-called Area C are active agents in shaping their spaces and do not simply submit to the pressures of the colonial military power directed against their presence on their land. Persistence, resilience, and hope are important pillars of their daily struggle to survive and continue existing on their land. Continuing to build homes in spontaneous ways despite the acute risk of demolitions, engaging in an emerging spatial planning process and using legal instruments to defend their homes and communities are everyday actions taken by Palestinian people. Through these actions, they oppose the oppressive colonial power that reinforces systemic injustice. Israeli policies and practices in so-called Area C present common settler colonial practices that aim to eliminate the natives and appropriate their spaces. So,

Palestinians' strategies to exercise housing rights contribute to the general Palestinian struggle to combat injustice and oppression in Palestine.

7 Discussion and Conclusion: The Scope of Challenging Spatial Oppression in So-Called Area C, West Bank, Palestine

In this dissertation, I explored housing-related initiatives for vulnerable Palestinian communities at acute risk of home demolition and forced displacement in so-called Area C, Palestine, to understand the ways in which housing rights have been exercised within the context of prolonged military occupation and settler colonialism. This dissertation emerged from intensive discussions with different stakeholders involved in securing housing rights in so-called Area C— including community leaders and key informants including spatial planners, government officials, human rights lawyers, and policy makers— in response to a current and urgent need to address the ongoing home demolitions and forcible displacement crisis in so-called Area C, Palestine.

The main goal of this study was to explore three housing-related initiatives in so-called Area C to provide a comprehensive understanding of the complexity of exercising housing rights in areas affected by spatial-political conflict and settler colonial practices. Therefore, this exploration is based on two key concepts: (1) settler colonialism as the primary motivation for housing rights denial, which helped me unpack the policies and practices that contribute to housing rights denial; and (2) everyday resistance as a basis to highlight the ways in which housing rights are exercised despite adversity.

7.1 Key Findings and Broader Conceptual Contributions

This dissertation addresses two principal dimensions related to spatial oppression in the context of housing rights denial in an area affected by ongoing military occupation and settler

colonialism: the matrix of housing rights denial versus the challenging of spatial oppression to secure housing rights.

Housing policies as tools of settler colonialism

In the first dimension, building on theories of settler colonialism, I attempted to develop an exhaustive account of the current official and unspoken policies that impact housing rights in so-called Area C as a context affected by ongoing settler colonial actions. Specifically, I analysed the policies and practices of the two main official actors involved in the struggle over space in so-called Area C, Israel, and the Palestinian Authority (PA), and developed an advanced understanding of the ways in which their policies create a matrix of housing rights denial in so-called Area C. In doing so, I offered a new understanding of housing rights denial in Palestine as related to the realm of settler colonial domination, going beyond the available understanding that frames housing rights within socio-economic crisis. This study frames housing rights within the geo-political struggle over spatial control. However, in this context, housing rights denial is not the end goal of the settler colonizers, rather it has been used as an effective tool that contributes to controlling the territory and erasing the natives' presence on the land.

Data analysis revealed that, in the context of Israeli settler colonialism, housing rights denial manifests itself through a sophisticated system that is designed and managed to create an unbearable environment that pushes people out of their communities. Analysing Israeli policies and practices also revealed a three-level structural process that made up this oppressive system that underpinning housing rights denial: level (1) policy motivation – land control and questions of sovereignty result in in the politicizing of housing rights; level (2) policy design – normalizing the policy by legalizing housing rights denial through military laws, the Israeli judicial system and, ultimately, criminalizing the building homes; and (3) policy implementation – explains how

these polices are implemented on the ground, using arbitrary military violence; and enforcing a sense of powerlessness.

The other actor whose actions and policies—mostly unintentionally— contributed to the matrix of housing rights denial in so-called Area C is the Palestinian Authority (PA). In exploring the PA's policy and practices, I highlighted several themes that are related to housing rights denial: negligence and de facto abandonment; lack of territorial integration and increased disparities between Areas A, B and C; and shifting responsibility onto the people who were left to fight alone. However, since 2008 there has been a shift in PA policies that include: an emerging political vision; lack of political will to fully apply this vision; and lack of clear policy, fragmented, disconnected, and discontinued efforts.

Defending housing rights through everyday resistance

To address the second dimension, informed by theories of everyday resistance, I examined how Palestinians are challenging the matrix of housing rights denial through their everyday actions. Therefore, this analysis situates the struggle to secure housing rights at the core of the Palestinian geo-political struggle against Israeli settler colonialism. In exploring housing rights-related initiatives, I highlighted the dynamic strategies and spontaneous tactics used by ordinary Palestinians, at times supported by the PA and NGOs, to secure housing rights. I also examined the geo-political complexity behind their strategies and tactics. I found three main strategies that are dominant in the struggle to secure housing rights: circumventing the oppressive power system through acts of 'everyday resistance' such as *sumud* (steadfastness) and individual surreptitious home-building; negotiating the oppressive power system through an emerging Palestinian spatial-planning process; and finally, engaging with the oppressive power system through a legal process. These three strategies intersect to somewhat secure housing

rights, however, it is mostly mitigating the impact of Israeli policies. At the same time, these strategies relatively contribute to the general Palestinian struggle to combat injustice and settler colonial oppression in Palestine.

7.2 Dissertation's contribution to existing knowledge

In chapter 3, I developed the conceptual framework that informed my research. Key concepts that were identified from the literatures include settler colonialism, spatial planning as a tool of control, housing rights and everyday resistance, all of which helped to ground this dissertation and guide my data collection and analysis. The broad literature on settler colonialism and spatial planning as a tool of control provided a solid foundation for understanding the roots and operationalization of different policies and practices that contribute to housing rights denial. Meanwhile, the literature on housing rights provided a foundation to understand spatial oppression within the human rights paradigm. And, finally, the literature on everyday resistance encouraged a politicized interpretation of the counter actions Palestinians take to challenge spatial oppression and settler colonial domination. All these concepts helped the realization of my thesis objectives and supported my approach to understand housing rights denial as a geo-political aspect of settler colonial contexts.

Situating the Spatial Oppression Palestine within the Settler Colonial Paradigm

My research differs from previous studies (Jabareen, 2006; Khamaisi, 1997; Porter, 2016; Yiftachel, 1998, 2017; Zeid & Thawaba, 2018) in that my analysis of Israeli planning polices in so-called 'Area C' and its impact on Palestinian housing rights is embedded in the settler-colonial framework. I consider Israeli planning polices in so-called 'Area C' as an expansion of Israeli planning polices in the areas of Palestine that became the State of Israel in 1948 and argue

that all of these polices are driven by the fundamentally territorial nature of settler colonialism. Consequently, building on Yiftachel's conceptualization of 'grey spaces' and using the settler colonial lens, in the case of Palestine, I argue the process of 'whitening' and therefore decriminalizing land occupation is employed to promote housing rights for the dominant group (Israel and its settler colonizers) because housing is a tool to root the settler colonizers in the land. Meanwhile the process of 'blackening' and criminalizing is employed to deny the housing rights of Palestinians to uproot them from their lands. These processes are usually legitimized and implemented through violent state power. Therefore, the concept of 'grey space' helps explain state hegemony over urban planning and reveals an important element of the colonial culture of planning in settler colonial contexts.

While previous studies have focused on situating Palestine/Israel[138] within the settler colonial paradigm and on understanding the structure of the Israeli settler colonial project, its policies, and practices (Busbridge, 2017; Clarno, 2017; Elkins & Pedersen, 2005; Lentin, 2016; Lloyd, 2012; Salamanca et al., 2012; Veracini, 2006, 2013b; Wolfe, 2006, 2012), in this study, I shed light on the strong relationship between settler colonialism and housing rights. I explore the complexity of exercising housing rights in Palestine in the context of ongoing settler colonialism, as well as Palestinian counter practices in challenging housing rights denial and 'spatial oppression' despite the settler colonial regime practices.

Planning for Control and Deliberate Home Demolition

A comprehensive understanding of the struggle over space in Palestine and what drives the policies and practices that affect housing rights in Area C helps to explain the rapid spatial

change and expansion of Israeli colonies in Area C and its profound impact on Palestinian communities and their housing rights.

The Israeli settler colonial regime works to advance its goals by controlling the planning process so they can limit the Palestinian presence in so-called Area C to what exists and used to exist 50 years ago. They treat the master plan as a wall that prevents Palestinians from expanding and building outside its border. Thus, it limits Palestinians' access to the land, and therefore, it become easier for the Israeli to control it. I argue that upholding outdated planning laws and military legislation enables violations of housing rights and make these violations appear legal. As such, this legal framework renders a basic human right such as building a home illegal and justifies its demolition. In this case, the law becomes a tool of oppression.

Furthermore, this study highlighted the importance of building homes to protect the land from confiscation. It was evident that Palestinian homes were targeted as a symbol of existence, which aligns with Wolf's (2006) argument that allowing Indigenous people to build their homes connects them to their land. Palestinian presence obstructs settler-colonizers' access to land, so any activity that might root people to their land and that might not be easy to remove is prohibited. In this way, the restrictive planning system fostered the logic of elimination.

Homes are targeted because building a home roots the people to the land and promote the national identity. As stated by Bowlby et al. (1997), "A concept of home often demarcated space" and promotes national identity and nationalism (p.343). Also, my research echoes Young's (1997) argument that "'home' can have a political meaning as a site of dignity and resistance" (p.157).

The importance of home for Palestinian people as symbol of existence is evident in the literature. Through a comparison between the historical events of the *Naqba* and the current

situation, it is clear that after the *Naqba,* Palestinians became aware of the importance of staying in their homes to protect their existence. They realized that the home protects the land and the human rights of its inhabitants. Israel is today applying policies and tactics in so-called Area C that parallel those used in Palestinian land captured in 1948, with the intention of emptying the land of its indigenous inhabitants. Khalidi et al. (1992) provide a detailed description of more than 400 Palestinian villages being destroyed and/or depopulated during the 1948 *Naqba*. Pappé (2006) describes the Zionist militias' offensive actions which caused the Palestinian exodus, the destruction of their homes and communities, and the erasure of the villages, as ethnic cleansing. Similarly, Kadman and Reider (2015) draw attention to the systematic, collective and politically institutionalized process of concealing the physical destruction of depopulated Palestinian villages in 1948, as erasure of Palestinians' spaces and memories. Therefore, I argue that the destruction of Palestinians' homes is at the core – is the main tool – of the annihilation of Palestinian spaces and changing their identity to become settler colonial spaces.

From my personal experience, I learned at an early age the importance of home in our narrative. My grandmother used to tell us all the time about the 1967 War. When the people in our area — a little village called Balata-Albald, 1 km east of Nablus City in the West Bank) — knew that the Israeli army was close to Nablus, many people were scared about their safety and started to pack their precious belongings and flee their homes. My grandmother wanted to join the crowd and started preparing to escape with the hope to come back after the war ended. But my grandfather refused to leave their home and told her that he prefers to die with dignity in his home. He witnessed the *Nakba* and saw the refugees' suffering and how they were denied the right to return to their homes. He knew that the minute they left their home, that's it, they would never be allowed to return. My grandmother afterword was grateful that they did not leave. In

doing this research, I revisited these stories, which shaped my understanding of the importance of homes and their symbolic value in the struggle over space in Palestine.

Housing Rights and Spatial Oppression

By examining the concept of the 'right to adequate housing,' I was able to develop an understanding of how human rights are relevant to challenging spatial oppression in the settler colonial contexts. Specifically, in examining the complexity of the right to adequate housing, I illustrate the intersection between housing rights —such as security of tenure and access to services and infrastructure— and deliberate home demolition ('domicide') as violations of human rights. Also, I clarify how this intersection contributes to housing rights denial in the context of settler colonialism.

In this research, I expand the conceptualization of deliberate home demolition — 'domicide' —as a threat to security of tenure that results in forcible eviction. Therefore, there is a need to protect vulnerable populations against domicide, especially in the context of prolonged conflicts, ethnic cleansing, and settler colonialism, where domicide is used for political reasons. Thus, this research addresses the intersection between 'domicide' as a tool to achieve political ends and security of tenure as a cornerstone of housing rights in settler colonial contexts.

I argue that the use of planning as control facilitates housing rights denial; urban planning provides the state with powerful tools to control all forms of development, such as public services and housing (Jabareen, 2006). Moreover, state planning polices directly affect land control and territoriality (Jabareen, 2006) and, therefore, have the power to shape peoples' lives through legitimization, or criminalization and destruction (Yiftachel, 2009b). Applying this logic in settler colonial states, the settler colonizers who have become the dominant power find, in planning, a very useful tool to achieve territorial control and to deny the indigenous people's

rights to their land. Therefore, the planning system is often designed by settler colonizers to legitimize the denial of indigenous peoples' housing rights, to criminalize indigenous people when they exercise their housing rights and finally, to destroy their homes and livelihoods using the state's violent power. In the Palestinian context, military occupation violence is used as an enabler to enforce the settler colonizers' policies and practices to control land and space. In this context of settler colonialism, access to housing rights is political and has national dimensions.

The Matrix of Housing Rights Denial

Deployment of polices for political purposes is a typical practice in settler-colonial societies. Therefore, the ways in which policies are developed —including policies affecting housing rights— is to promote settler-colonial goals that includes land control, elimination of the natives and to decide who has sovereignty in the area. Based on this study, I argue that the matrix of housing rights denial is an example of Israel's systematic efforts to drive Palestinians from their lands. These efforts are carried out through sophisticated policies and practices, which create a state of illegality to criminalize the acts of indigenous people when attempting to challenge spatial oppression. Moreover, arbitrary violence is used by the settler colonizers to enforce these policies.

Consequently, I argue the matrix of rights housing denial including the process of politicizing housing rights must be understood within the framework of settler colonialism. Also, I argue that the restructured planning system is an important part of the matrix of housing rights denial, used to give a legal cover to the ongoing transformation of Palestinian land and spaces into settler colonial spaces by creating state of illegality to facilitate ethnic cleansing. Indeed, this research confirms that Palestinians are trapped by a de facto matrix of housing rights denial and

exclusion, imposed on them through the arbitrary military violence of Israel's settler colonial regime to achieve its colonial goals in Palestine.

Everyday Resistance: Decolonizing Space

Settler colonial states continue to hold power against indigenous communities with little to no repercussions. Communities worldwide are beginning to challenge their invaders through different forms of 'everyday resistance', fulfilling the observation that power and resistance rely on one another (Baaz et al., 2016). The current literature refers to everyday resistance as a non-violent form of resistance communities use to challenge their oppressors. For example, Scott (2008) differentiated between two forms of resistance: the formally organised and the everyday forms of resistance. According to Scott (2008) everyday resistance is carried out by ordinary people when there is low risk of repression; therefore, it is simple, covert, unstructured (Ceric, 2020). It can be individual or collective, with modest demands modest and instantaneous gains. This study agrees with the emerging resistance studies theories that everyday resistance is an oppositional act that challenges oppressive forms of power. However, the finding of this study differs from previous literature by showing that everyday resistance can take place in high-risk context, where people engage in it well aware that they will likely pay a heavy price. In the case of this dissertation, I documented how Palestinians in Area C build their homes in secret yet are fully aware that it can be demolished at any point.

In Palestine, many forms of everyday resistance have been utilized, from the 1920s to the present day, pushing back against the oppressive nature of Israeli settler colonialism (Dana, 2018). Palestinians have learned from past tragedies to inform their methods of resisting an oppressive regime. As resistance can be classified as having goals that include the political, economic, personal needs, and increasing status/identity, Palestinians are collectively

challenging an oppressive settler colonial state, violating their basic human rights in an attempt to claim their land (Baaz et al., 2016; Peteet, 2017). Naji Al Ali, a Palestinian cartoonist, has become a symbol of resistance in his community as he created powerful drawings to keep the stories of his people alive, eventually resulting in his assassination (Hamdi, 2011). Like Al Ali, who produced images of orphaned children and women representing the motherland (Hamdi, 2011), other activists and citizens have utilized their abilities to oppose the power imbalance stemming from colonization. This study documented and analyzed Palestinians' creative tactics to resist the spatial oppression which is at the core of their straggle to exercise their housing rights.

7.3 Research, Policy and Practice Implications

The significance of this research is that it interrogates housing-related initiatives and praxis in areas affected by ongoing military violence and settler colonialism. In terms of theory, this study, contrary to previous research on housing within settler colonial contexts, frames housing rights within the geo-political struggle against settler colonial domination. Also, this research addresses the lack of knowledge about access to housing rights within the context of prolonged military occupation and settler colonialism. By providing a comprehensive understanding of the complexity of exercising housing rights in such areas, this study contributes to an improved theoretical understanding of housing rights in settler colonial settings, which is at the core of the struggle over space. Also, it extends the conceptualization of domicide by offering a deep understanding of home demolition, going beyond the narratives of destruction, its impact on the inhabitants and the notion of victimization, to explore the everyday practices that challenge domicide with a focus on people's agency.

There is still a large gap in literature regarding housing rights in long-term conflict zones including areas occupied by military forces guided by settler colonialism. The research on indigenous housing rights still in its infancy and indigenous housing rights have mostly been framed and studied from socio-economic perspective. Therefore, I suggest including the geo-political lens in future research on indigenous housing rights. Additionally, as there continues to be limited information on the ways communities, particularly in settler colonial context, resist the violation of their housing rights, it is important to examine the unique forms of everyday resistance as they are usually disguised or hidden in some way.

Future research could also take the design of this study and apply it to other domains of human rights: access to health care, livelihood, education. In all these domains, Palestinians are having to engage in everyday acts of resistance in order to achieve their human rights. Future studies could analyze the similarities and differences compared to the situation for housing, so closely tied to nationhood and place.

In term of policy, this study contributes insights for policymakers, national and international human rights institutions interested in housing-related initiatives for vulnerable populations in settler colonial settings. This study explored policymakers' counter planning, and a willingness to "assume" approval of building permits, in the face of a system intent on blocking efforts for development. The findings of this study will be disseminated in several policy briefs. For example, a policy brief that advocates for the endorsement of existing master plans by the MoLG and for issuing building permits based on them will be shared with Palestinian policymakers in the MoLG and in the Palestinian Prime Minister's Office. Another policy brief will be shared with international organizations such as UN-Habitat to encourage funding public infrastructure projects in so called Area C. A policy brief that address the

limitations that were identified in the International Humanitarian Law, in particular the Law of Occupation, will be shared with the UN Secretary-General's office and other UN bodies.

Therefore, its findings contribute to support the efforts by governments, civil society, national and international human rights institutions towards the full and progressive realization of the right to adequate housing in settler colonial contexts.

In terms of social work practice, how to secure housing rights, or counter deliberate home demolition and forcible displacement in the context of geo-political violence have yet to be conceptualized within the discipline. Based on this research, I suggest that securing housing rights for vulnerable populations living at risk of home demolition and forcible displacement must be considered a vital element in developing community organizing and advocacy mechanisms within the field of social work. The findings from this study could inform practice with indigenous communities in many contexts.

7.4 Recommendations for Planning in So-Called Area C

Based on this study's findings and the views of stakeholders involved in the planning process in Area C, I have developed a set of recommendation for the PA and other actors involved in securing housing rights.

Regional perspectives and regional planning initiatives are crucial to securing housing rights and therefore to protecting Palestinian land. Therefore, it is critical to develop a regional perspective that includes the Palestinian government's vision of what it wants in each and every square meter of the territory and to work toward this goal. Developing a locality outline plan here and another one there will not be sufficient to resist the overwhelming spatial oppression.

Also, planning must be on multiple levels, starting from small issues that do not need ICA engagement, from sidewalks and walls to planning on the regional level.

It is also recommended to use a human rights approach in planning as it is useful in terms of delineating human rights requirements, as well as an effective tool in term of international advocacy to mobilize support for vulnerable communities. Furthermore, developing clear rules of engagement with the ICA, inviting representatives from the international community to attend the outline plans discussions with the ICA on a regular basis and to trying to be consistent, in terms of having the same representatives in each meeting keeping detailed and well documented records for each meeting with the ICA – all these measures would increase the capacity to defend Palestinian housing rights.

Several stakeholders recommended that the PA approve the local outline plans officially because (a) endorsing the outline plans officially gives them political cover; (b) Palestinian planners also will feel stronger when they face the ICA planners, bridging the power imbalance; (c) donors will take Palestinian planners and communities more seriously and it will give the donors' investments legitimacy; e) it will encourage other donors to invest in Area C; f) and finally the local community will feel supported.

7.5 Last words

To conclude, I would like to emphasize the nature of spatial oppression in the context of housing rights denial in settler colonial contexts and the need to develop interventions that address it as arbitrary state violence. This is the case in so-called Area C, Palestine. But the violation of housing rights in so-called Area C carries with it much more serious human rights violations. The right to housing by itself does not provide the grounds for energetic and effective

enforcement of the right to protection of the Area C population. The population there needs to be protected from systematic violations of the basic international laws of war.

In term of human rights instruments, there is disagreement among states about how their responsibility to respect human rights should be interpreted, given each state's particular conditions and sovereign interests. In the occupied territories of Palestine, the Israeli military government does not have the authority to deny housing rights. However, the military legislation and its implementation are not only in violation of the law of occupation; they exceed the legislative competence of the military government, which must respect the law of war. So, the real problem is not denying housing rights. It is rather the structural violence against Palestinians collectively that happens to result in the violation of housing rights of specific families and communities.

What is happening is a much more serious form of structural violence because it's not just housing rights have been violated, but also their right to protection, the integrity of their communities, the integrity of public life of the population. I believe the ultimate remedy does not lay with individuals and communities defending their housing rights because housing rights are not well defended internationally. In terms of the current strategies used to challenge the denial of housing rights, most actions could be identified as a reaction and they are not directed by clear action plans. Specifically, the planning initiatives and legal defense are tools to mitigate people's suffering and foster community resilience, but they do not solve the problem. Ultimately, efforts to alleviate people's suffering in so-called Area C must confront the roots of the problem, which is settler colonial violence and domination. Only then will the roots of spatial oppression and housing rights denial be addressed.

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