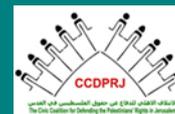


## Forced Eviction in Occupied East Jerusalem: The Case of Sheikh Jarrah

Civic Coalition for Palestinian Rights in Jerusalem: [civiccoalition-jerusalem.org](http://civiccoalition-jerusalem.org)



Sheikh Jarrah is a Palestinian neighborhood in occupied East Jerusalem, located between the Old City and Mount Scopus. Sheikh Jarrah has become the site of a protracted legal battle, the implications of which concern the status and rights of at least 28 Palestinian extended families, as well as the status and rights of Palestinians in occupied East Jerusalem at large.

12 Palestinian households – one household from the Fawzia al Kurd family, three households from the Hanoun family, seven from al Ghawi family, and one from the Rifqa al Kurd family – have already been forcibly evicted from homes, in which they had lived for three generations. These families had moved to Sheikh Jarrah after they had been displaced in 1948 from their villages and cities of origin now located in Israel and, for months, slept on the street in small, hastily constructed tents. Another 9 households have received eviction orders.



### Historical Development of Sheikh Jarrah

#### Jordanian Government Land Agreement

- In 1956 UNRWA chose 28 Palestinian families who had become refugees in 1948 for a humanitarian initiative, in cooperation with the Jordanian government. The Jordanian government provided land on which UNRWA sponsored the construction of 28 housing units.
- The agreement between the families and the Jordanian government stipulated that they would receive legal title to the property in three years, assuming that, during that time, they paid a nominal rent and forfeited their refugee ration cards.
- Despite having fulfilled the terms of the contract, the families did not receive legal titles to the land before the 1967 war.

#### 1967 Annexation, extraterritorial application of Israeli domestic law

- Following the 1967 occupation, Israel annexed East Jerusalem, taking control of property previously held by the Jordanian government and extending its domestic law to the annexed area, including discriminatory property and land laws used for the expropriation of Palestinians since 1948. This Israeli move was strongly condemned by the UN Security Council.

The Israeli *Legal and Administrative Matters Law of 1970*, which provided the rules for how Israeli law should be applied in annexed East Jerusalem, **allowed Israelis to reclaim property they had owned in East Jerusalem before 1948, whereas Palestinian refugees in East Jerusalem, such as the families of Sheikh Jarrah, were not allowed to claim their pre-1948 property in West Jerusalem under the law.**

This law has provided the basis for claims by Jewish settlers that they own Palestinian homes, legal proceeding and forced evictions of Palestinians, such as the inhabitants of Sheikh Jarrah.

#### 1972 Settler claims

- Soon after, Sheikh Jarrah became a target of Jewish settlers. Settlers occupied one of the homes whose owner was abroad, and gained control of the cave in the neighborhood.

- In 1972, two settler groups<sup>1</sup> claimed ownership of four houses in Sheikh Jarrah since 1885. They presented an Ottoman *koshan*, i.e. a property registration document that is evidence of a preliminary form of ownership.
- *Koshan* documents do not meet the land location and border criteria required for formal ownership title. Moreover, the authenticity of this document has never been verified. Similar and contradictory documents were filed regarding the same area, raising serious doubts as to their validity.
- The Israeli court ruled against the settlers' claim.
- Nevertheless, several of the 28 Sheikh Jarrah families began receiving demands of rental payments from these two settler groups. Legal proceedings began on this basis, and actions aimed at removing the families from their homes were undertaken.

### 1982 Toussia-Cohen Agreement:

- In 1982 the settler groups filed a joint civil suit against 23 of the Sheikh Jarrah families. Yitzhak Toussia-Cohen, the Israeli attorney representing 17 of the Palestinian families, reached an agreement without consulting the families, through which they would be considered "protected tenants" rather than owners of their homes.<sup>2</sup> This meant that the families were to pay rent to the settlers.
- The agreement was sanctioned by an Israeli court and became a precedent for subsequent similar disputes.
- The Toussia-Cohen agreement utterly failed to address the validity of the settlers' ownership claims, and it appears that at no point did the families give consent to the settlement negotiated by their lawyer.
- This formed the basis for court-ordered evictions of the involved Palestinian families, because the settlers could simply claim that they were not dutifully paying rent and had, therefore, forfeited protected tenancy. Indeed, all four families who have been evicted were a party to the agreement. For many years, the agreement also effectively prevented further investigation into the validity of the settlers' ownership claims by Israeli courts.<sup>3</sup>

### Forced Evictions in Sheikh Jarrah

- The Fawzia al Kurd family was the first to be evicted. After a series of appeals, an Israeli court accepted the settlers' claim that the family had violated the Toussia-Cohen agreement by renovating their home and failing to pay rent. In the middle of the night on 8 November 2008, Israeli Special Forces broke into the home and forcibly evicted the family.
- The cases brought against the three Hanoun and seven al Ghawi families followed a similar pattern. The settlers claimed that the families had violated the Toussia-Cohen agreement and requested their eviction. All ten families were evicted in August of 2009.



<sup>1</sup> The Sephardic Community Committee and the Knesset Yisrael Committee are ideological Jewish settler groups. Approximately 15 years ago the two groups authorized Nahalat Shimon International to act on their behalf. Nahalat Shimon International is a well-funded private settler association, working to advance the Jewish presence in Jerusalem. The association functions both as a settler organization and a real estate company.

<sup>2</sup> Protected tenancy is a status derived from the Israeli *Tenant Protection Law of 1972*. It is intended to provide, *inter alia*, protection from evictions.

<sup>3</sup> Competing Palestinian property claims were made, for example by Suleiman al Hijazi in 1997. Although Hijazi presented relevant documents, the Israeli Supreme Court rejected his claim, arguing that it was not possible to verify the documents. Such inability to verify documents was not brought up to argue against the claims of the settlers.

- In 1999 the Jerusalem Municipality and the Sephardic Community Committee filed two claims against the Rifqa al Kurd family. The court ruled against the family, imposing a large fine, sealing a newly renovated section of the home, and taking possession of the keys. Not long afterwards, a group of settlers moved into the renovated section.

“We refused to accept a tent from the UN or Red Cross. We will not become refugees for a second time...The eviction destroyed our lives...It kills my family to watch strange faces living in the same home in which we spent our lives.” Maher Hanoun, evicted resident.

### Resuming Challenge of Settler Ownership Claims

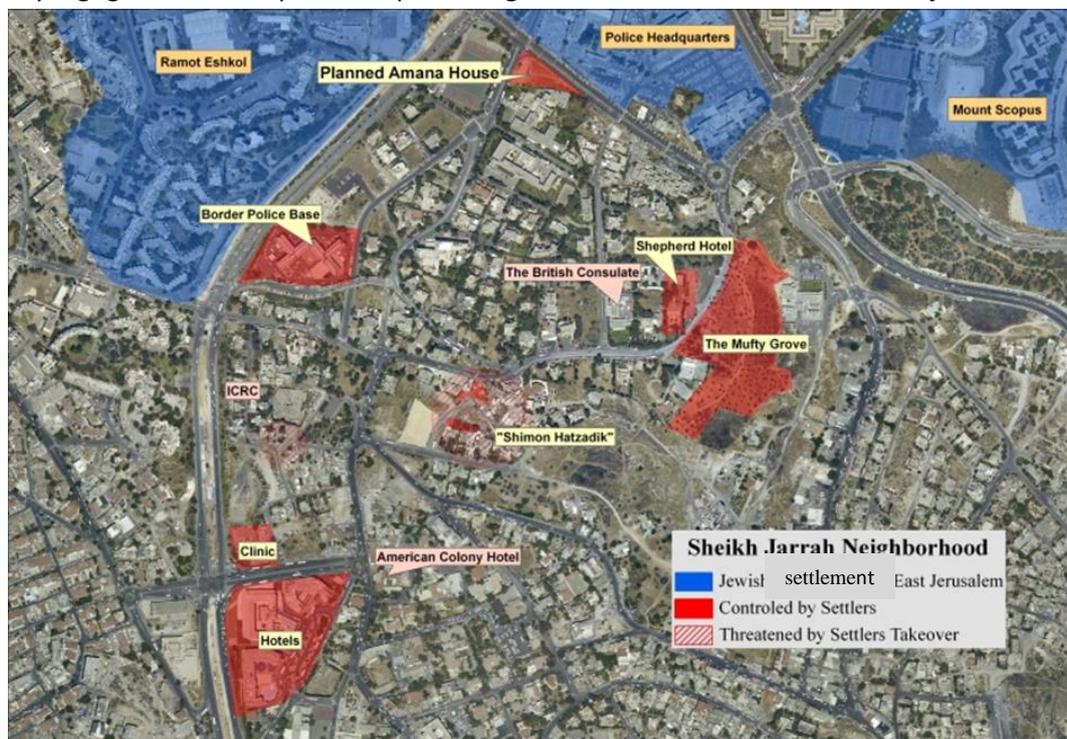
- Eviction orders were subsequently received also by the families of Sabbagh, Hammad, Diab, Jaouni, Skafi, al Dawoodi, al Dajani and al Qasem. Among them were families who were not a party to the Toussia-Cohen agreement, indicating the intention of Jewish settlers to widen the scope of their claims.
- In 2013, an analysis of the historical maps and property records of the Ottoman period was completed by experts on behalf of the Palestinian families. The analysis showed that the plot of land claimed by the settlers is not located in the area of the Palestinian homes.
- The families decided to challenge settler ownership claims in court on this basis. Legal proceedings are ongoing, as the Jerusalem District court has requested a second expert opinion on the matter.

### Israeli Settlements and Expansion Plans in Sheikh Jarrah

Today, a Jewish settlement already exists in the Palestinian neighborhood. Three plans for some 350 additional housing units are proposed by settler associations in expropriated Palestinian property.<sup>4</sup> These plans are at various stages of review by the Israeli authorities. By 2011, at least 20 units had been approved in two main sites:

**The Shepherd Hotel:** demolished on 9 January 2011 for construction of some 100 settler housing units, a kindergarten and a synagogue with the sponsorship of Irving Moskowitz, a US national and major donor to settlement projects in East Jerusalem.

**Karm al Mufti (Mufti Grove):** a 40 dunum olive grove near the site of the former Shepherd Hotel; leased by the Israel Land Authority to the settler association Ateret Cohanim, who intend to construct 250 housing units, although the



<sup>4</sup> Town planning schemes TPS 12705 (submitted by Nahalat Shimon in 2008), and TPS 2591 and 11536. Property was expropriated mainly under the Absentees' Property Law of 1950, which has been used to confiscate East Jerusalem property of Palestinians living outside the annexed city, abroad or in the occupied West Bank.

land is zoned as a “green area” where all construction should be prohibited. Also planned in the area is Glassman campus, a conference center funded by Canadian philanthropists, Max and Gianna Glassman.

### Sheikh Jarrah in the Context of Israeli Settlement Expansion in East Jerusalem

*Our strategic plan for open areas will prevent invasions and illegal construction by Palestinians who live near the Old City.*

Former Member of  
Knesset, Binyamin Elon

- Israeli settlement activities in Sheikh Jarrah are part of a much larger scheme aimed at establishing Israeli-Jewish ownership and control over the so-called “historic basin” extending from the Old City to Sheikh Jarrah in the north, Silwan in the south, and the Mount of Olives to the East.
- Through forced evictions of Palestinians, establishment of Jewish residential settlements and development of Jewish archaeological and tourism sites (the “Open Spaces Project”), Israel is transforming the demographic composition and the cultural character of this entire area into an area of Israeli-Jewish population, landmarks and infrastructure, thereby consolidating its domination from West Jerusalem, via the core of Palestinian Jerusalem, to the West Bank settlement of Ma’aleh Adumim in the East.<sup>5</sup>

### Consequences for the Palestinian families in Sheikh Jarrah

- Palestinian families in Sheikh Jarrah have been systematically deprived of the protections of the Fourth Geneva Convention and fundamental human rights, such as the rights to return, freedom, equality and non-discrimination, security, property, home, family and effective remedy.
- Over 100 persons, members of Palestinian refugee families who lost their homes in western Jerusalem in 1948, have been evicted once more from their second homes in Sheikh Jarrah to make space for Jewish settlers.
- Many more are at risk of forced eviction.

Today, it is universally recognized that East Jerusalem, including Sheikh Jarrah, is occupied territory where sovereignty belongs to the Palestinian people.

Israeli practices in Sheikh Jarrah are part of the Israeli policy of annexation and population transfer in occupied East Jerusalem. These practices contradict the UN Charter, are serious violations of international humanitarian and human rights law, and result in war crimes.

- **Israel is to stop these violations and make full reparation to the victims, including the Palestinian refugee families in Sheikh Jarrah**
- **All states are to abstain from assisting these Israeli violations, and to cooperate in order to bring them to an end – for example by freezing the assets of Jewish settlers.**
- **Private entities are to abstain from (business) involvement in illegal Israeli activities in occupied East Jerusalem, such as those in Sheikh Jarrah.**

Sources: UN Security Council Resolutions 465 and 478 (1980); ICJ Advisory Opinion on the Israeli Wall (9 July 2004) adopted by the UN General Assembly on 20 July 2004; the Report of the International Fact Finding Mission on the Israeli Settlements endorsed by the UN Human Rights Council on 22 March 2013

<sup>5</sup> UN OCHA-oPt, “East Jerusalem – Key Humanitarian Concerns”, March 2011, p. 58.