



## The Sabbagh Family: A Case Study in Palestinian Displacement from the Old City Basin

The ring of Palestinian neighborhoods wrapping around the Old City, known as the Old City Basin, represents the most contested land in Jerusalem owing to the density of holy sites within its confines – most prominently, the Temple Mount/Haram al-Sharif. The population density in the built-up areas of the Old City Basin limits Israel's ability to advance plans for residential settlements as a means of altering its demographic character. After more than 50 years of Israeli control over East Jerusalem, nearly 100,000 Palestinians live in the Old City and the surrounding neighborhoods, alongside 6,000 Israelis at most, 3,000 of whom live in the Jewish Quarter of the Old City. In grappling with this demographic reality and with the symbolic value of a space holy to three religions, non-residential projects – especially those targeting tourism and archeology – assume a central role in Israeli settlement policy.

Increasingly, settler initiated, state-backed evictions of Palestinian families are being used as a strategy to help cement Israeli control over the area. Given their strategic location as gateways to the Old City, Sheikh Jarrah to the north of the Old City and Silwan to the south are the two neighborhoods under greatest pressure from Israeli settler groups. Some 150 families in these two areas alone are under threat of eviction.

**Having exhausted all legal remedies, the Sabbagh family of Sheikh Jarrah – an extended family of 32 members – is the latest to find itself at imminent risk of eviction. Ir Amim and Peace Now, along with multiple Israeli and international NGOs, have issued an urgent call for intervention to halt the family's displacement and put a stop to the accelerating creation of new facts on the ground being used to deepen Israeli control of the Old City Basin.**

### HISTORY

After the 1948 Arab-Israeli War, the Jordanian Custodian for Enemy Property assumed management of abandoned Jewish properties in East Jerusalem and the Jordanian government designated land in Sheikh Jarrah for the resettlement of dozens of Palestinian refugee families. The Sabbagh home was built in the 1950s by the Jordanian Housing Ministry as part of a refugee rehabilitation project that provided new housing to 30 families in exchange for relinquishing their refugee status. Refugees from Jaffa, the Sabbagh family waived its status and moved into its new home in the Kerem Alja'oni section of Sheikh Jarrah.

In June 1967, Israel annexed Jordanian East Jerusalem – the Old City and adjacent neighborhoods – together with an additional 60 square kilometers of land in surrounding areas of the West Bank. Because the homes constructed under the resettlement project had not yet been registered, the Palestinian families living in them were vulnerable to reclamation of the land on which their homes had been built. In 1970, Israel passed **The Legal and Administrative Matters Law**, providing the means for Jews to reclaim assets lost during the war of 1948. Palestinians have no parallel legal protections; to the contrary, the 1950 Absentee Property Law enshrines that Palestinians who lost their assets in Israel in 1948 cannot recover them.

Two Jewish associations claimed to have purchased the land where the Sabbagh home is located at the end of the 19th century. Their interests were later purchased – and the eviction of the Sabbagh family initiated – by the Nahalat Shimon Company, which is spearheading a wave of evictions in Kerem Alja’oni on behalf of settlers acting to establish a major enclave in the area. The Legal and Administrative Matters Law is now being invoked to evict Palestinians from the homes in which they were legally resettled under Jordanian law, in effect making them refugees twice over. Moreover, because the Israeli government compensated all Jews who lost their property in 1948, providing them with alternative properties inside Israel, Jews are entitled to double compensation under the Legal and Administrative Matters Law.

The Sabbagh family has now exhausted all legal remedies, despite uncovering Turkish documents that undermine the original ownership claims of the Jewish associations and appear to show that the land purchased at the end of the 19th century was in fact located in an altogether different area. The Magistrate’s Court and District Court refused to discuss the new documents on the basis of statute of limitations, and the Supreme Court ultimately rejected an appeal on the matter. For a full legal timeline, [click here](#).

## **POLITICAL RAMIFICATIONS**

The Sabbagh family is only the latest family threatened with eviction in the Kerem Alja’oni section of Sheikh Jarrah. If evicted, their home will be the tenth to be seized by settlers. Roughly 30 Palestinian families are under threat of eviction and at least eleven have open court cases. Those cases were suspended pending the Supreme Court decision on the Sabbagh case; the recent removal of that stopgap could usher in a wave of new evictions. On the other side of Nablus road, in the Um Haroun section of Sheik Jarrah, an additional 40 or so families face the threat of eviction.

The elements of the Sabbagh family case are reflected symmetrically on the southern side of the Old City in **Batan al-Hawa, Silwan**, where settlers are exploiting the same law to wage the most comprehensive settler takeover campaign since the 1967 annexation of East Jerusalem. Based on their co-optation of a Jewish trust that held title to properties in Batan al-Hawa, the Ateret Cohanim settler organization has acquired two plots of land from the Israeli General Custodian, from which it is waging a campaign to evict a community of some 600 – 700 people. Seventeen families have already been displaced.

The uptick in evictions and building plans in Sheikh Jarrah and Silwan represents one of a growing number of state-sponsored settlement campaigns inside Palestinian neighborhoods, among which must be considered the privatization of touristic settlement sites to nationalist settler organizations. This strategy enables the Israeli government to exploit tourism as a tool for reinforcing settlement initiatives in the Old City and its environs, erasing the significant Palestinian presence there, promulgating the idea of the entire area as an Israeli environment, and imposing a nationalistic Israeli character that blurs the multi-religious and multi-cultural nature of the space, primarily to the detriment of the Muslim sites and presence. These projects – including promenades, national parks and visitor centers – serve manifold purposes:

- They connect otherwise isolated and relatively small settlement compounds inside Palestinian neighborhoods, creating a contiguous ring of settler controlled areas.
- They fracture the Palestinian space, disrupting freedom of movement and breaking large neighborhoods into smaller, easier to police enclaves.
- While the number of ideologically driven settlers living inside Palestinian neighborhoods may still be relatively small, tens of thousands of non-ideological Israeli tourists visiting these sites serves to strengthen the Jewish presence inside Palestinian areas of the city.

Ultimately, this use of national parks and tourist sites serves the goal of transforming the Palestinian neighborhoods in and around the Old City – including Silwan, A-Tur, Ras al-Amud and Sheikh Jarrah – from a densely populated Palestinian area into one sprawling tourist site that bolsters Israeli control of the area and access to it.

Despite their tremendous political and environmental sensitivity, plans are now being fast tracked, some outside of appropriate planning channels and with limited public participation, in service to decidedly political considerations and with the prominent involvement of settler associations. This [new map and accompanying map notes](#) detail the numerous projects and eviction cases now advancing, including plans for an 8-story yeshiva at the entrance to Sheikh Jarrah, 13 new housing units in Um Haroun, Sheikh Jarrah that would require the teardown of existing buildings and the eviction of 5 Palestinian families; and a cable car project that will function as a key link in solidifying the Israeli ring of control around the Old City by funnelling potentially thousands of people a day to the Kedem Compound – an approved but not yet constructed visitor center and headquarters for the Elad settler group – and connecting them to a constellation of touristic settlement sites.

The private settlement compounds being built in the Old City and around its circumference cannot be quantitatively compared to settlement building in the ring neighborhoods of East Jerusalem but qualitatively, they have disastrous implications for Palestinians in Jerusalem, the relationship between Palestinians and Israelis in the city, the two state solution, and the Old City as home and historic center of the three major monotheistic world religions. It is vital that the traditional calculus of settlement building be readjusted to 1) treat these coordinated efforts to consolidate control of the Old City and surrounding Palestinian neighborhoods with the same urgency afforded to settlement building throughout the whole of East Jerusalem; 2) ensure a holistic response that regards private settlement inside the Old City Basin and touristic settlement not as individual phenomena but as elements of a unified and politically lethal strategy to unilaterally entrench Israeli control and undermine an agreed political resolution on the city.

## **INTERNATIONAL LAW**

Under international law, the area of East Jerusalem is occupied territory. As such, pursuant to the core principle of the law of occupation established in Article 43 of the Hague Regulations of 1907, Israel as the occupying power is obliged, among other things, to administrate the area for the benefit of the local population and to maintain the situation as it was prior to the occupation (the *status quo ante*) to the extent practically possible. It must respect, unless absolutely prevented, the laws that were in force in the area prior to the occupation and must not introduce structural changes such as the restructuring of the demographic composition of the area.

Transfer of its own population into the area is explicitly prohibited under Article 49(6) of the Fourth Geneva Convention of 1949. Pursuant to Article 47 of the Fourth Geneva Convention of 1949, Israel as the occupying power may not annex any part of the occupied territory and any such annexation is legally null and void. Israel's unilateral annexation of East Jerusalem as well as all the administrative measures undertaken by Israel with the goal of changing the status of East Jerusalem consequently lack legal validity. This has been affirmed repeatedly in UN Security Council resolutions.

The decision of the Israeli government – and later of the Knesset – to nevertheless apply Israeli domestic law in East Jerusalem and Israel's related assertion that the rules of international humanitarian law governing situations of occupation do not apply in East Jerusalem, is thus in clear contravention of international law. Furthermore, Article 49 (1) of the Fourth Geneva Convention of 1949 provides that:

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to

the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Displacement of Palestinians in East Jerusalem – as by the evictions taking place in Sheikh Jarrah – may therefore amount to a forcible transfer in breach of this provision.

The enforcement of Israel's Legal and Administrative Matters Law for the purpose of effecting discriminatory demographic goals is thus in complete contravention of the letter and spirit of applicable international law; and Israel's conduct in this case is completely at odds with its duty to ensure the well-being of the occupied population (as required pursuant, again, to article 43 of the Hague Regulations).