**Systematic dispossession of Palestinian communities in Sheikh Jarrah and Silwan**

In recent years there has been an increase in the threat of expulsion hovering over the communities of [Sheikh Jarrah](http://peacenow.org.il/en/sheikh-jarrah-braces-next-eviction-ahead-embassy-move) and [Silwan](http://peacenow.org.il/en/broken-trust-state-involvement-private-settlement-batan-al-hawa-silwan) in East Jerusalem. A wave of eviction lawsuits is being conducted before the courts, with well-organized and well-funded settler groups equipped with direct or indirect assistance from government agencies and the Israeli General Custodian.

* **Sheikh Jarrah - Umm Haroun (west of Nablus Road)** - approximately 45 Palestinian families under threat of evacuation; At least nine of them are in the process of eviction in the courts and at least five others received warning letters in preparation for an evacuation claim. Two families have already been evacuated and replaced by settlers. [See map](http://peacenow.org.il/wp-content/uploads/2018/05/Sheikh_Jarrah-Threarts-ENG.jpg)
* **Sheikh Jarrah - Kerem Alja'oni (east of Nablus Road)** – Approximately 30 Palestinian families under threat of evacuation, at least 11 of which are in the process of eviction in the courts, and 9 families have been evicted and replaced by settlers. [See map](http://peacenow.org.il/wp-content/uploads/2018/05/Sheikh_Jarrah-Threarts-ENG.jpg)
* [**Batan** **al-Hawa (Silwan)**](http://peacenow.org.il/en/broken-trust-state-involvement-private-settlement-batan-al-hawa-silwan) - about 100 Palestinian families under threat of evacuation; 84 of them are in the process of eviction in the courts; 14 families were evacuated and replaced by settlers. [See map](http://peacenow.org.il/wp-content/uploads/2018/05/Batan-Al-Hawa-threats-eng.jpg)

The basis for all claims is the same: the Legal and Administration Arrangements Law enacted in 1970 by the Knesset determined that Jews who owned property in East Jerusalem and lost their property in the 1948 war, can receive it back from the Israeli General Custodian. The law was not applied to Palestinian land owners who lost properties in the same war and in the same circumstances, and did not take into consideration the fact that all of these Jewish owners had already received alternative assets from the state in 1948.

Settler groups began to acquire property rights from the owners' heirs and succeeded in gaining control over Jewish trusts who owned properties before 1948. The Custodian General directly or indirectly assisted them in demanding the evacuation of the Palestinians from these properties, and recently launched a wave of eviction lawsuits against the Palestinian tenants. It is important to emphasize that most of the Palestinian families are families of refugees from 1948 and have entered their properties legally during the Jordanian period.

**The court hearings: When the field is crooked, the result is crooked**

The court hearings are conducted as if it were an ordinary dispute between landlords and tenants, or a land ownership dispute between two equal parties. This perspective ignores the fact that this is an organized process under a discriminatory law that grants rights to one group and deprives them of a second group, in which the rights group acts to dispossess the rights-devoid group. As can be seen in the following maps, these are entire communities and hundreds of people who are in danger of being expelled from their homes, which they entered lawfully.

In order to prevent the unjust outcome of the use of the law, it must be ensured that the manner of its realization will not be discriminatory, return to the purposes of the law as legislated and take into account the rights of the property holders.

**A discriminatory law: the circumstances of the legislation of the Legal and Administration Arrangements Law 1970))**

The Legal and Administration Arrangements Law of 1970 was legislated in order to restore order in a chaotic situation created following the annexation of 70 km2 to Jerusalem in 1967. The law establishes a mechanism to prevent fraud, whereby instead of each of the owners filing a claim in court, all assets are vested in the General Custodian through which they are transferred to the owners.

In the words of the then Attorney General, Moshe Ben-Ze'ev, in a discussion of the Knesset's Constitution Committee on 5 August 1968:**"We chose to grant the property to the Custodian General so that he would release the property to the person who claims it. This way we wanted to prevent potential fraud and land grab that could take place, just as there were, unfortunately, in a few properties of people who perished in the Holocaust".**

Because of the fear of Palestinian return claims, the legislators chose not to apply the law to the assets of Palestinians who lost their property in the same war. Applying the law that allows restitution of assets to only one population, while deporting a second population on which the law does not apply, constitutes clear and unacceptable discrimination.

Moreover, **there is no connection between the original purpose of the law and its current use**: the settlers who stand behind the eviction lawsuits are not connected to the owners of the original properties. They locate the heirs of the properties, acquire their rights and demand the evacuation of the properties for ideological reasons and the desire to establish settlements in the heart of Palestinian neighborhoods. The General Custodian serves as a tool for them to systematically evict Palestinians from their homes and replace them with settlers. **The individual right that the law sought to protect was made by the settlers and with the assistance of the General Custodian to the right of one (Jewish) collective at the expense of another (the Palestinian) collective.**

**The government has several ways to prevent the evictions and the injustice**

* **Immediately: instruct the police not to accompany the eviction** - the police are entitled, for reasons of public safety, to refrain from sending police to carry out the evacuation, thereby preventing it. In the past, the police postponed many evictions of Palestinian families for reasons of public peace, and this was approved more than once by the attorney general.
* **Change in the General Custodian's policy** - the Attorney-General may instruct the General Custodian to act differently, in view of his role as responsible not only to the original owners but also to the tenants living in the properties:
  + **Assist tenants to continue as protected tenants** - for example, to ensure proper renovations of the properties, not to raise rental rates unproportionally, to stop eviction activities and to grant the status of protected tenants to tenants.
  + **Transfer rights when there is no owner** - When no owners or heirs are found, the General Custodian can act to enable the Palestinian residents to purchase the rights in the property (this could be tricky if the General Custodian sells it to third parties).
  + **Stop assisting the settlers**, either indirectly or directly, not in locating the properties, not in releasing them, or in assisting in evacuation lawsuits. To stop using the settlers' services as lawyers or land-locating experts.
  + **Condition the release of the property on the undertaking of the heirs to reside in it** **for at least five years.** In accordance with the legislator's intention to allow the return of assets and to prevent the exploitation of the law for the purpose of deporting Palestinian residents and replacing them with Jews.
  + **Establish an independent commission of inquiry** to investigate the General Custodian conduct in recent years.
* **Expropriation** - since 1967 the government of Israel expropriated about one-third of the annexed areas in Jerusalem (24 km2) in order to build housing on which 55,000 housing units have been built for Israelis. The expropriation of a few dozen dunams for Palestinian housing needs can be justified.
* **Change of legislation** - the Knesset can change or cancel the sections of the law that allow the return of assets.

It is hard to believe that the current government or Knesset will be motivated and willing to change the legislation or expropriate. Unfortunately, such far-reaching measures require significant political capital that is unlikely to be in the hands of governments in the near future. However, the change of the General Custodian's conduct and thus the change of the State's responses in court, although require serious political will, are less costly politically. The immediate prevention of the eviction by the police decision is something that was done many times in the past and can be done now.



