

The way the government can prevent evictions in East Jerusalem

The authority of the police

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A. Background: Eviction of Palestinian families in favor of settlements

Since the 1980s, settler associations have been trying to take over Palestinian property in East Jerusalem in order to change the character of the neighborhoods and prevent a future two states agreement. To date, they have managed to settle some 3,000 settlers in the heart of Palestinian neighborhoods in the Old City area (in Silwan, the Muslim Quarter, Sheikh Jarrah, Ras Al-Amud and more). The Israeli government, through the Ministry of Housing, funds [private guards to the exclusive protection of settlers](#) in the Palestinian neighborhoods in the amount of approximately [NIS 100 million per year](#) (approximately NIS 3,000 per month for each settler).

In almost all cases, these are properties that were owned or held by Palestinians in which the settlers' associations succeed in acquiring property rights. Ways to obtain such rights often rely on discriminatory legislation and the exploitation of the [deep weakness](#) of Palestinian East Jerusalem residents. Reliance on [the Absentees' Properties Law](#) (as has happened more than once in Silwan [including the case of the Sumarin family](#) who is facing eviction); or the [Legal and Administrative Matters Law \(1970\)](#) that allows reclaiming of properties owned by Jews before 1948 (as is the case of the eviction claims of hundreds of Palestinians [from Sheikh Jarrah and the Batan Al-Hawa in Silwan](#)); as well as on exploiting the weaknesses of Palestinian families [to purchase the properties](#) from them.

In most cases, the issue of ownership is clarified in court, and after it is determined that the ownership belongs to settlers, Palestinian families usually do not evacuate voluntarily and enforcement proceedings and police assistance for evacuation are required.

In fact, no eviction of Palestinians can be carried out without police assistance involving a semi-military operation with immediate and long-term security implications. It turns out that the Israeli police are always directly involved in the evacuation of Palestinian families for the purpose of the settlers' entry (or in a case such as the [evacuation of the Salahia family in Sheikh Jarrah](#), evacuation in favor of the municipality or government bodies).

B. Discretion of the police to exercise the property right

In principle, the Israel Police is committed to assisting and securing the property rights of the residents. Whoever seeks the eviction through the Execution Office is also required to pay for the police assistance (usually the payment is eventually imposed on the evacuees).

But the police have discretion, regarding the manner in which the evacuation is carried out, regarding the timing and even regarding the actual execution - for security reasons, considerations of public peace and even political considerations. In many cases, the entry of settlers into a Palestinian home, and especially the forced eviction of the family, can pose a real risk to the stability of the city and perhaps even the entire region.

On 24/11/91, the Attorney General, Yossef Harish, wrote [an opinion](#) to the Commissioner of Police regarding settlers entering houses in Silwan, in which he writes:

“Indeed, property rights are a fundamental value in our democratic regime. However, like other values protected by our legal system, this value is not an absolute value either. Sometimes the individual's right to exercise his property and other rights may conflict with other fundamental values of society, such as the value of maintaining public peace and preventing riots and disasters. In such cases, the two values must be balanced after they have been weighed.”

The AG's conclusion is clear:

“If the police reach a clear and unequivocal conclusion that the exercise of rights has a close certainty to endangering the public peace ... it may, and may even must, prevent the rights holders from exercising their rights immediately”.

It should be noted that the Attorney General does not limit the discretion only to the question of the risk in a one-time event of the eviction itself, but he states that:

“If in a one-time allocation of forces so, all the more so it should be the case in our case, if indeed a massive allocation of police officers will be required for frequent security, day and night, of those who come to settle in the neighborhood.”

The full opinion of AG Harish (in Hebrew) is available here: <https://bit.ly/3A9DkEh>

In 1997, the Attorney General Elyakim Rubinstein was also required to address the issue in the case of the Ras Al-Amud settlement during the Netanyahu government in September 1997. **AG Rubinstein had also determined that when there is close certainty for endangering public peace if a house that was legally purchased is inhabited, it is allowed to prevent the buyer from entering it.**

It is important to emphasize that even if there is no immediate and certain danger to public security in a particular evacuation **now**, there is certainly a real danger. The responsibility for the integrity and stability of such an explosive and complex city as Jerusalem, can certainly justify the denial of property rights of such or other individuals.

In this context, we will also mention [the opinion of the Deputy Attorney General, Menni Mazuz from 1/12/99](#), on the issue of the settlement in Ras Al-Amud. Mazuz states that the government is even allowed **to expropriate the property from the settlers for political reasons**:

*"... The argument is therefore based on the political and security implications ... as well as on the fact that it is in fact an attempt to dictate a political agenda under the guise of a legitimate construction activity of a property owner ... The government seeks to prevent the creation of new points of friction, and to maintain political freedom of action at such a politically sensitive stage, and to prevent a single person ... from shackling the government and dictating moves with far-reaching political implications ... **where the government's position is that private activity can have serious consequences - both politically and in terms of public order – it must not be left helpless from acting.**" (Emphasis added).*

The full opinion of the Deputy Attorney General Mazuz (in Hebrew) can be downloaded here: <https://bit.ly/34eZJ7m>

C. Summary:

Israeli governments in the past have taken into account political and security considerations on sensitive issues such as the settlement in East Jerusalem. This was the case when Prime Minister Netanyahu prevented the demolition of populated houses in East Jerusalem for about three years when there was explicit pressure from the Obama administration and Secretary of State Clinton. The far-reaching implications of the settlements and evictions in the Palestinian neighborhoods of East Jerusalem is clearly evident from the strength of the international resonance it has received this year in the issue of Sheikh Jarrah.

The Israeli government and the Israeli public must not be held hostage by a group of extremists settlers who are trying to impose a new and dangerous reality in Jerusalem. If, God forbid, the court approves [the eviction of hundreds of Palestinians from Silwan and Sheikh Jarrah](#), the government will be able to prevent it immediately for reasons of

safeguarding the paramount public interest of maintaining security and preventing dangerous provocations in Jerusalem. **The police have the tools to do that.**

The government can also prevent this through expropriation, as stated in [Mazuz's mentioned opinion](#). In a case of expropriation, the owners are entitled for compensation from the government on the property taken from them. Expropriation for public needs is a common act buy the government. In the case of the Palestinians threatened to be displaced in East Jerusalem there is nothing more justified than this. In East Jerusalem, since 1967 Israel expropriated about 24,000 dunams, almost all of them from Palestinians, for the purpose of establishing Israeli neighborhoods such as Ramot, Gilo and Pisgat Ze'ev. It can today (and even is obligated to) expropriate from a handful of settlers about 20 dunams in Sheikh Jarrah and Silwan to allow Palestinian residents to continue living in the houses in which they have lived for decades and prevent their displacement.