

FACT SHEET

REGARDING THE CASE OF SHEIKH JARRAH - THE OCCUPIED JERUSALEM

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Executive Summary:

This last week the world bore witness to an escalation of tension in the Sheikh Jarrah neighborhood- a Palestinian area located north of the Old City of the occupied East Jerusalem- due to the demands of Israeli settlers to forcibly evict Palestinian families who live in the neighborhood. As a result, many civilians have been either injured or arrested and tension in the entire Palestinian territories is at an all-time high. Over the past few years, a number of Palestinian families have been forcedly evicted from this neighborhood, and more than 27 Palestinian families, approximately 500 persons, are also under threat; these families are at risk of dispossession and forced eviction.

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It is obvious that the facts documented in this paper bear out the Israeli occupation's true intentions; supported by their courts and discriminatory laws, the occupation is seeking to transfer ownership of these homes from their original owners to Israeli settlers. According to the legal analysis of the rules of international law, Jordanian laws, Ottoman documents, and Israeli laws, we find ourselves facing a situation of forceful land usurpation aided by discriminatory policies and laws. Based on the legal situation of the lands in Sheikh Jarrah, we emphasize that these lands are outside Israeli sovereignty and therefore outside the jurisdiction of its courts that tyrannize the law and the jurisdiction of Palestinian courts. According to the rules of international humanitarian law, these lands are located in the occupied Palestinian territories; the aforementioned rules deem the legal characterization of the Israeli authorities as an occupying power, obliging the latter to respect the international laws regarding the Palestinian territories. The international humanitarian law criminalizes the transfer of residents by the occupying power, and the Rome Statute governing the International Criminal Court - which is currently investigating the situation in Palestine - considers it a war crime.

1. Summary of Events

- On April 22, 2021, representatives of 500 Palestinian refugees from the Sheikh Jarrah neighborhood in East Jerusalem - joined by humanitarian organizations - issued a public communication letter to the office of the Prosecutor at the International Criminal Court (ICC) to demand the latter's inclusion of the hardships of Palestinians in the Sheikh Jarrah neighborhood in its investigation inside the occupied territories.¹ Palestinians in Sheikh Jarrah are subjected to forced evictions, aggression by law enforcement and human rights violations. The events in Sheikh Jarrah deteriorated after an Israeli court issued a decision on October 2020 to forcibly evacuate twelve Palestinian families living in the Sheikh Jarrah neighborhood in East Jerusalem,² along with the transfer of ownership of their homes to Israeli settlers aided by Israeli associations and organizations. These include "Nahalat Shimon", a settler organization registered in the United States of America.³ Approximately 500 Palestinians are at risk of being deported, joined by the deprivation of their right to own their properties that they have lived in for decades. The court ruled⁴ that each family that was ordered to evacuate must pay \$20,000 to cover the legal fees paid by the settlers during the trial. An order was issued by the Israeli District Court of Jerusalem, it stipulates that four Palestinian families⁵ must evacuate their homes; otherwise the Israeli authorities will forcibly evict them on May 2, 2021.⁶ Four other families are to evacuate by August 1, 2021.⁷

¹A letter from the people of Sheikh Jarrah neighborhood to the International Criminal Court, which has been certified by 191 international organizations. (<https://www.alhaq.org/advocacy/18240.html>)

²Aref Hammad, member of the Sheikh Jarrah Refugee Housing Units Committee. (<https://bit.ly/33JoBk9>)

³A decade in, Palestinian family fights on against East Jerusalem eviction, (<https://bit.ly/3uEt8QG>)

⁴ Court ruling: ת"א 6629/09 נחלת שמעון בע"מ נ' רפקה עבדאללה
Civil case No. 6629/09 filed by Nahalat Shimon against Abdallah and his team.

⁵Ibid, Civil case No. 6629/09 filed by the Nahalat Shimon Company against Abdallah and his team.

⁶ UN. Settler violence is rising in Occupied Palestinian Territory, warn experts. See: <https://news.un.org/en/story/2021/04/1089752>

2. Legal and historical facts and information on the case (1956-2021)

- The Sheikh Jarrah neighborhood is located on a land called “Karam al-Jaouni” to the north of the Old City of Jerusalem, where 28 Palestinian refugee families live. They were expelled from their homes and villages in 1948, and resided in the neighborhood based on a treaty signed between the Jordanian government and the United Nations Relief and Works Agency for Palestine Refugees (UNRWA). On November 16, 1954, this treaty was due for signing in an agreement between the Jordanian Minister of Housing and Construction and the tenants on September 3, 1956.⁸ The agreement stipulates the following: “An urban housing project consisting of housing accommodation for twenty eight families now in receipt of Agency relief will be undertaken as a means of enabling these refugees through savings in rent to become self-supporting members of the community.”⁹ Under the agreement, the lands were divided into 28 plots for each of the families who resided in the neighborhood at the time. Under the agreement, residents waive their status as refugees, hand over their refugee cards and thus deprived from their rights to free

⁷A letter from the people of Sheikh Jarrah neighborhood to the International Criminal Court. Mentioned before.

⁸An agreement was concluded between the Kingdom of Jordan and UNRWA on 11/16/1954. It stated that the two parties have agreed to establish housing for 28 families in Jerusalem, and that the housing will include two houses from one apartment and 13 houses for two families in the Sheikh Jarrah neighborhood “on formerly Jewish land.” In order to be rented, every family must sign a special rental contract. On September 3, 1956, the lease contracts were signed between the Jordanian Minister of Housing and Construction and the tenants for a period of three years and three months. Among the conditions of this contract are in Article 11 (translated from Hebrew):

“After the tenant acts in accordance with the terms of this agreement and the landlord is satisfied that the tenant has actually helped build the entire unit, the ownership will be transferred to the tenant free of charge.”

It was stated in the ruling No. 79/459 (הוועד הכללי לכנסת ישראל נ' זוהרי אחמד אל איובי)

The Law for Palestine confirmed the content of this agreement through a copy provided by one of the residents involved in the Sheikh Jarrah lawsuit. According to this version, the agreement was signed on July 3, 1956.

⁹ Report of the fact-finding mission to Israel and the Occupied Palestinian Territory, Enforcing Housing Rights: The Case of Sheikh Jarrah. (May 2011)

education, health insurance and food aid, and their names will be removed from the UNRWA refugee registry. In exchange, they reside -and then, after 3 years, own- the housing units (the plots).

- With the approval of the Jordanian government, apartments were built on the basis that they are owned by the latter, and that the agreement with the families is an agreement under the concept of rent and lease for a period of only three years (1956 to 1959). Article No. (11) of the agreement stipulated that after three years, if the owner (Jordan) has been satisfied with the residents adherence to the agreement, along with their contribution to the construction of the buildings, the ownership of the housing units would be transferred to them without charge.¹⁰
- Following the expiration of the 3 years period mandated in the agreement, the families of Sheikh Jarrah demanded the Jordanian Land Department to register the houses under their names. The Department commenced the procedures until the Director of the Land Department discovered conflicting papers and documents; he learned that the ownership of the lands was not Jordanian, but rather classified as property of the enemy; these lands are under the legal responsibility of the Custodian of Enemy Property at the Jordanian side. The Custodian handed over the possession to the Jordanian government for a period of 33 years according to an agreement¹¹. Therefore, Jordan used this land to implement the agreement with UNRWA to house the refugee families there.
- The reason behind these lands falling under enemy property is the aftermath of an Ottoman agreement granting land for cultivation to a Jewish resident of Jerusalem (a renting contract, not a transfer of ownership). After the 1948 war, the Jewish families

¹⁰ According to the perusal of the aforementioned agreement, granted to Law for Palestine. A free analysis and translation of what was stated in the judgment: 459/79 (הוועד הכללי לכנסת ישראל נ' זוהרי אחמד אל איובי)

¹¹ According to **lawyer Hosni Abu Hussein** on March 8, 2021 in an interview with Law for Palestine's researchers

who were cultivating the aforementioned land fled at that time. Because it was not clear who owns the land, and the fact that the last tenants were Jewish families, Jordan placed it under the enemy's property, which requires consideration.¹²

- Information emerged from the Jordanian side with evidence indicating that a Bethlehem citizen, Hanna Elias Bandak, claimed the ownership of a large portion of the land on which the Sheikh Jarrah neighborhood is located, since 1934. The evidence included Bandak's request to register it under his name, and a document indicating the sale of the property to another citizen from the family of Hijazi al-Saadi, in the al-Saadiya neighborhood in Jerusalem.¹³ The evidence was presented before the Israeli courts¹⁴.
- This information, as well as subsequent requests for proof of ownership from the Jordanian Land Registry by the residents of Sheikh Jarrah, have prompted the land registration authorities to be reluctant in adjudicating on the case. As a result of this, the Director of the Jordanian land registry requested the Jordanian government to issue a decision to exclude Sheikh Jarrah's land from the settlement.¹⁵ Indeed, the order was later issued in 1966. Thus, the ownership of those lands and houses was not transferred to the residents of Sheikh Jarrah - as agreed upon in the agreement with the Jordanian government - which at the same time did not deny the agreement, but prolonged the matter into a procedural and administrative dimension that delayed it, until the Jordan's rule in Jerusalem ended following the Israeli occupation of the city in 1967.

¹² According to a translated summary and analysis of the civil case (Jerusalem) 1465/97 and the civil appeal 4126/05 according to what was documented in a report published by Adalah, entitled (Expropriation and Eviction in Jerusalem: Cases and Stories of Sheikh Jarrah) (see: <https://bit.ly/3xWkZsP>)

¹³ Ibid

¹⁴ The Civic Coalition for Defending Palestinians' Rights in Jerusalem (CCDPRJ), Dispossession and Eviction in Jerusalem: The Cases and Stories of Sheikh Jarrah 14 (December 2009)

¹⁵ According to **lawyer Hosni Abu Hussein** on March 8, 2021 in an interview with Law for Palestine researchers

- *Immediately after the occupation of East Jerusalem by the Israeli forces in 1967,¹⁶ the house of the Al-Shanti family in the Sheikh Jarrah neighborhood was seized when the family was outside the country due to the war that took place at the time. The Israeli government had passed unilateral legal legislation authorizing it to annex East Jerusalem lands, and in 1970 it issued an amendment to a law regulating legal and administrative affairs,¹⁷ which considers that all lands before 1948 to be owned by Jews and were confiscated by the Jordanian authorities under Israeli jurisdiction. This was followed by another arrangement according to which the lands of Sheikh Jarrah came under Israeli general trusteeship.¹⁸ Consequently, it becomes entitled to confiscate the land from its current owners and give it to alleged former Jewish owners.¹⁹*
- *In early 1972, practical attempts by Israeli settler organizations began to control the Sheikh Jarrah neighborhood with the aim of building 200 settlement units on Sheikh Jarrah's lands. Two Jewish settler committees, the Sephardic Community Committee and the Knesset Israel Committee²⁰ filed a claim before the Israeli Land Registry, which states that the neighborhood is owned by Jews according to an Ottoman document (Tapu). It has claimed in the document that the land on which Palestinian homes are built is a Jewish sacred land and that there has been a cave in which a*

¹⁶UN General Assembly, Future government of Palestine, 29 November 1947, A/RES/181

¹⁷The Laws of the State of Israel: Authorized English Translation of Israeli Legislation (S.H.) Publications by the Ministry of Justice, 75 (9167) (ibid)

¹⁸Municipalities Ordinance (Amendment No. 6) Law, (1967) 21 Laws of the State of Israel 75; Hodgkins, B., The Judaization of Jerusalem, 6 Palestinian Academic Society for the Study of International Affairs, 1996

¹⁹Report of the fact-finding mission to Israel and the Occupied Palestinian Territory, Enforcing Housing Rights: The Case of Sheikh Jarrah (May 2011)

²⁰ ועד העדה הספרדית בירושלים - the Committee of Jews from Spain: Founded in the middle of the 9th century with the aim of organizing the relations of Jewish communities coming from the countries of the Mashreq, and managing different their different aspects of life. הוועד הכללי כנסת ישראל - General Committee of Israel's Knesset:

An economic, social and religious organization that brings together all the Ashkenazi Jewish groups in Jerusalem since the beginning of the 19th century.

rabbi has been buried since 1885.²¹ Accordingly, the two committees were able to collude with the Land Registrar of Jerusalem,²² which is under the occupation's authority; the land was registered preliminarily under the name of the two committees.

- The aforementioned two committees demanded from the Court²³ to forcefully evict 3 families from their homes in the neighborhood for the so-called indecent assaulting of the property of others. They based their claim on their ownership of the land as per the Tapu stating that rabbis bought the land in 1885. The Court approved their claims in 1972, and they confirmed it at the preliminary registrar.²⁴ However, the Court's decision in 1976²⁵ Which follows the occupying power register was in favor of the three families on the grounds that their presence in the neighborhood is legal and that preliminary registration is not credible in Court decisions.²⁶*
- This was followed by numerous attempts to enforce the eviction by the settler organizations through the Court, and there were approximately 23 such cases before the Magistrate's Court in Jerusalem²⁷. The families of Sheikh Jarrah did not claim ownership of the lands, but referred to the Jordanian government's agreement with*

²¹According to lawyer, the document dates back to a convention in 1885. (<https://bit.ly/3hcgTqm>)

²²"Under Section 43 of the Land (Settlement of Title) Ordinance 1969 the primary procedure for ruling on ownership disputes that are in the process of land settlement is to transfer the dispute to the District Court. In relation to Sheikh Jarrah, despite the existence of conflicting claims, the Land Settlement Officer failed to meet this requirement"(for further details, click here: <https://bit.ly/3nZn8PV>)

²³For further details, see: Civil Appeal 236/76 (District Court of Jerusalem), Civil Appeal 459/79 (Israeli Verdicts 35 (4))

²⁴Report of the fact-finding mission to Israel and the Occupied Palestinian Territory, Enforcing Housing Rights: The Case of Sheikh Jarrah (May 2011) (ibid)

²⁵Decided at the Jerusalem Magistrates Court on November 18, 1976 (court decision: 6480/72, 6800, 1391/74, 2404) in a case brought by the Lebanese Associations to evacuate three families if they were in the neighborhood.

²⁶Ibid

²⁷ Reports provided that 23 families had received financial claims from the two associations for rental payments in 1972 and after (for further details, (click here: <https://bit.ly/3ex9bW5>)

UNRWA. Accordingly, 17 of them have hired Israeli lawyer, Tosya Cohen, who had before him a title document submitted by the two Jewish committees. And as a result, he reached an agreement with the two committees, acknowledging their ownership of the lands and granting at the same time the residents of Sheikh Jarrah the status of protected tenants in 1991²⁸. This agreement provides that they must pay monthly or annual rent and also requires permission from the owners if they wish to add rooms or maintain the house. The agreement took the form of a decision from the Magistrate's Court and then the Supreme Central Court.

- In 1995, two cases were filed against Sheikh Jarrah's families. When the defense examined the papers, they found that there was nothing in the (title deed-Tapu) to indicate the ownership of Sheikh Jarrah's neighborhood by either party. The agreement that was concluded between the residents of the neighborhood and the two Jewish committees has been approved by the Registry service (**registration according to the agreements between the parties**). Thus, the ownership of the two committees under the agreement is not definitively proven, but it can be appealed.²⁹ Moreover, the disputed lands must be owned according to a court decision.³⁰
- As for the title deed document submitted by the two committees, and for the purpose of confirming their claims regarding the ownership of the lands, the defense team of Sheikh Jarrah's residents translated the title deed written in Ottoman language to the director of the Land Registry in Bethlehem. It turned out to be a temporary land use document for Provisional for 3 years, dated 1891. The families' lawyers started looking into the Ottoman Archives, and approached the Director of

²⁸ Ibid

²⁹According to what was stated by the **lawyer Hosni Abu Hussein** on May 8,2021 in an interview carried out by Law for Palestine's researchers

³⁰ "Under Section 43 of the Land (Settlement of Title) Ordinance 1969 the primary procedure for ruling on ownership disputes that are in the process of land settlement is to transfer the dispute to the District Court. In relation to Sheikh Jarrah, despite the existence of conflicting claims, the Land Settlement Officer failed to meet this requirement "(for further details, click here: <https://bit.ly/3nZn8PV>)

the Land Registry in Turkey. They requested him to supply the original document, No. 37 of 1891. The defense team for the residents of Sheikh Jarrah received a letter from the Turkish Ministry of Foreign Affairs stating that Document No. 37 of 1891 does not exist in the Ottoman archives in Turkey.³¹ However, the defense team acquired documents from the archives of the Ottoman Sharia courts proving that the neighborhood's land belongs to the Hijazi al-Saadi family, who are currently residing in the al-Saadiyya neighborhood in Jerusalem.

- In 1997, Suleiman Hijazi moved for the first time to challenge the right of the two settler organizations to the ownership of Sheikh Jarrah's lands before the Jerusalem District Court. Hijazi's lawyer objected to the registration of ownership by the committee and requested recognition of his legal right to ownership of more than 75 percent of the disputed property inside Sheikh Jarrah. His legal argument was a sale agreement signed between Hijazi and Bandak in 1961.³²
- The Israeli District Court rejected Hijazi's claim for two issues; the first is related to the procedural aspect of accepting consideration of the lawsuit, which is the statute of limitations, as more than 36 years have passed since the ownership of the land proven in accordance with the document from 1961 until the time the lawsuit was filed in 1997, disregarding the implementation of the statute of limitations in 1967, at the time of annexing Jerusalem. Based on that, Hijazi's motion to claim ownership before the Israeli courts is 15 years late. The other issue is related to the inconsistency of the land borders claimed in the title deed with the borders claimed

³¹According to what was stated by lawyer Hosni Abu Hussein on 5/8/2021, during an interview with researchers of the Law for Palestine Organization.

³²The Civic Coalition for Defending Palestinians' Rights in Jerusalem (CCDPRJ), Dispossession and Eviction in Jerusalem: The Cases and Stories of Sheikh Jarrah 14 (December 2009)

in the lawsuit. The court concluded that the title deed may have been forged or altered.³³

- The Israeli court cited evidence in its ruling, which is an inscription in Hebrew found inside a cave in Sheikh Jarrah, it did so to rule that the lands in question were under the legal responsibility of the enemy's property guardian of the Jordanian government between 1947 and 1967. It also approved the registration of the committees in 1972 as a factor supporting the Jewish claim of ownership. Despite this, the court affirmed that its ruling is not related to prove one of the two committees' entitlements to ownership; it explained that the two committees had presented evidence for the purpose of refuting Hijazi. As a result, the court did not rule in either committees favor.³⁴
- Attempts to evacuate the residents from their homes resumed. In 2008, an entire family was evicted from their home.³⁵ In 2009, half of the Al-Kurd family's house in the Sheikh Jarrah neighborhood was seized - based on Israeli court decisions.³⁶ Israeli courts have not categorically ruled over ownership of the land. The families were evicted on the grounds of non-compliance with the 1991 rental agreement mediated by their Israeli attorney with settler groups at the time.³⁷ In October 2020,

³³ The following information is a summary and translated analysis of the (Jerusalem) 1465/97 Civil Case and the Civil Appeal 05/4126 according to what was documented in a report published by Adalah, entitled (Expropriation and Eviction in Jerusalem: Cases and Stories of Sheikh Jarrah) (<https://bit.ly/3xWkZsP>)

³⁴ The previous reference

³⁵ The decision of the Israeli Magistrate's Court to evacuate the Ghawi and Hanoun family (26.09.1999) ת"א (שלום ירושלים) 18901/98 ועד עדת הספרדים בירושלים נ' עבד אלפתאח גאוי (נבו) 26.09.1999 Civil Case No. 18901/98 filed by the Sephardic Jews Association against Abdel Fattah Ghawi.

³⁶ The Civic Coalition for Defending Palestinians' Rights in Jerusalem (CCDPRJ), Dispossession and Eviction in Jerusalem: The Cases and Stories of Sheikh Jarrah 14 (December 2009) (ibid).

³⁷ Report of the fact-finding mission to Israel and the Occupied Palestinian Territory, Enforcing Housing Rights: The Case of Sheikh Jarrah (May 2011) (ibid).

an Israeli court issued a decision to forcibly evict twelve Palestinian families residing in the Sheikh Jarrah neighborhood in East Jerusalem and to transfer the ownership of their homes to Israeli settlers with the support of Israeli associations and organizations such as Nahalat Shimon (a settler organization registered in the United States of America). As a result of this decision, nearly 500 Palestinians are threatened and exposed to being deprived of their right to property and housing. The court ruled that every family who was sentenced to eviction must pay \$20,000 to cover the legal fees paid by the settlers during the trial.³⁸

- In addition, a warning was issued by the Israeli Jerusalem District Court directing four Palestinian families to evacuate their homes before they face forcible eviction by the Israeli authorities on May 2, 2021. Four other families were ordered to evacuate by August 1, 2021.³⁹*
- On April 29, the Jordanian Ministry of Foreign Affairs delivered the Palestinian Ministry of Foreign Affairs 14 documents proving ownership by number of Sheikh Jarrah's families, and a certificate in which the Jordanian Foreign Ministry acknowledged that there was indeed an agreement between the Ministry of Construction and Reconstruction in place with the UNRWA at the time, in which the Ministry received documents for individual contracts between families that ensued the establishment of housing units in the Sheikh Jarrah neighborhood in Jerusalem. The official spokesperson for the Jordanian Ministry of Foreign Affairs, Dhaifallah Fayez said: The approval comes within the framework of the Kingdom's keenness to provide all possible support to the people of the Sheikh Jarrah neighborhood in occupied East Jerusalem, in a manner that preserves their rights and their homes. The documents were delivered to the Palestinian side along with all the paper works in the possession of the ministry, including lease contracts and lists of the*

³⁸Court rule: ת"א 6629/09 נחלת שמעון בע"מ נ' רפקה עבדאללה

³⁹The previous reference

beneficiaries' names, along with a copy of the agreement signed with the UNRWA in 1954.⁴⁰

3. Legal conclusions

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- *According to the previous data and to the situation in the lands on which the Sheikh Jarrah neighborhood is located, we see that the lands belong to a Palestinian family. Therefore, we will build upon several legal justifications that clarify the legal nature of East Jerusalem, prove the legal jurisdiction that excludes Israeli courts from considering cases of Sheikh Jarrah's land ownership, and look for rules that are applicable at the international and local level in this case.*
- **Local law**
 - **Israel**
 - *The extreme right-wing Israeli associations relied on this issue on a temporary document (referred to in the facts), which is expired a century ago from now. It granted its owner usufruct of this land for a period of three years only. They rely on their request for ownership of the lands of the Sheikh Jarrah neighborhood on the Absentees' Property Law 1950, (a law that defines everyone who was forcibly displaced, evicted, or left inside the borders of the State of Israel until November 1947, as absent. All those properties are considered "absentee property" whose ownership is transferred to the State of Israel, and is administered by a trustee by the state. This absentee property law is the primary tool for Israel to control the property of Palestinian refugees without having to face legal repercussions).⁴¹*

⁴⁰ Statements by the Jordanian Foreign Ministry: (<https://bit.ly/3f3a3kx>)

⁴¹ ABSENTEES' PROPERTY LAW 1950, article 1/b.

- In addition, the Israeli occupation authorities rely on **the Israeli Tenant Protection Law 1972**, which is an Israeli law that has many powers that enable the landlord to evict the tenant from the property he rents. The Israeli government and settler organizations are trying hard to identify the population of Sheikh Jarrah neighbourhood as tenants to take advantage of these legal guarantees to forcibly displace them from their homes after the lease contracts with them are ended.

Jordan

With reference the contents in the agreement between the government of the Hashemite Kingdom of Jordan, the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), and the residents of Sheikh Jarrah, the following legal facts are stipulated:

- 1- The Jordanian government had concluded an agreement (as a law body), with an international law body, and refugees by the legal definition.
- 2- (UNRWA), according to the agreement, will construct homes for the Palestinian population (refugees, according to the legal definition) in the Sheikh Jarrah neighborhood.
- 3- The agreement between the two parties stipulated the transfer of ownership of the land and what is on it to the residents of Sheikh Jarrah neighborhood, provided that two conditions are met:
 - a. Waiver of the right to asylum.
 - b. Permanent and continuous residence in the Sheikh Jarrah neighborhood for a period of (3) consecutive years.

By relegating the legal provisions stipulated in Jordanian laws to the adjacent agreement, the general feature of the above-mentioned agreement is that the Hashemite Kingdom of Jordan acted in its capacity as a body of law (a state that controlled and administrated these lands at that time). With regard to the provision of the contract (the direct effect of it is the transfer of ownership to the residents of

Sheikh Jarrah neighborhood), the Jordanian government has suspended its enforcement on a condition - contrary to the general principle in the Jordanian Civil Law No. (43) of 1976, which adheres that the provision of the contract is proven as soon as it takes effect without interruption by arrest or anything else (Article 199 of the Civil Law) - Its basis is the construction of houses by UNRWA for those living the Sheikh Jarrah neighborhood on one hand, on the other, the residents of the Sheikh Jarrah neighborhood are to waive their right to asylum in addition to their accommodation for a continuous period of (3) years in their homes within the Sheikh Jarrah neighborhood in Jerusalem, and the minister concerned is convinced of this, as we explained in the above facts.

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Based on the previous remarks, the agreement in terms of transfer of ownership represented an act dependent on a condition instead of being an act carried out in implementation of the provisions of Article (394) of the Jordanian Civil Law, and by examining the extent to which the standing condition was fulfilled or not, we find that both (UNRWA) and the residents of Sheikh Jarrah neighborhood had fulfilled and the conditions agreed upon in the agreement, and that the minister was convinced of the transfer of ownership with the evidence of his address to the land commissioner to register property for the residents of Sheikh Jarrah neighborhood, in a way that makes the contract provision (transfer of ownership) automatically convened directly from the date of fulfillment and completion of the standing conditions in implementation of the provisions of Article (395) of the Jordanian Civil Code.

Accordingly, with the aforementioned matter, and since the other two parties to the agreement ("UNRWA" and the residents of Sheikh Jarrah neighborhood) have satisfied the standing conditions agreed upon in the agreement concluded with the government of the Hashemite Kingdom of Jordan, the contract provision is enforceable accordingly even if the administrative entity lapses to rule the

agreement, *The time of devolution of the property to the benefit of the residents of the Sheikh Jarrah neighborhood is retroactive to the time in which the condition was enforced and implemented in accordance with the provisions of Article (395) of the Jordanian Civil Code.*

- ***The Legal Status of East Jerusalem***

It is known in international law that the legal description of lands in East Jerusalem is occupied lands. Hence, we are guided by the decision of the International Court of Justice in the issue of the Apartheid Wall, specifically in its paragraph 78 when it stipulated (that the lands located between the Green Line and the former eastern boundary of Palestine under the Mandate were occupied by Israel in 1967 during the armed conflict between Israel and Jordan). Accordingly, the description of these lands in international law is occupied lands, and the law in force is the law of the country to which those lands belong, and the courts of that state have the right to adjudicate the legal disputes emerging from that, in accordance with Article No. 64 of the Fourth Geneva Convention, which states that "the penal legislation relating to the occupied territories shall remain in force... The courts of the occupied territories shall continue their work in regard to all the violations stipulated in these legislations."

- *In addition, the Security Council has condemned all legal and pragmatic changes made by the Israeli occupation authorities in East Jerusalem, of which Sheikh Jarrah is one of its neighborhoods. Among these decisions, for example, was Resolution 1971/298, which emphasized that seizure of land through military conquest is illegal. Also, Resolution 2234/2016, which demanded an end to Israeli settlements in the Palestinian territories. This resolution stipulated that Israel cease settlement activity in the West Bank, including East Jerusalem, and the illegality of Israel's establishment of settlements in the land occupied since 1967.*

- Accordingly, the applicable law on the lands of East Jerusalem as a whole is Palestinian, and the courts with legal jurisdiction to consider issues of ownership in the Sheikh Jarrah neighbourhood are the Palestinian courts. However, there is an Israeli legal settlement incursion into the legal guardianship for other people, and it is considering issues that do not fall within its regional jurisdiction.

- In addition, the Israeli occupation authorities and the West Jerusalem municipality are encroaching on the occupied Palestinian territories, and are setting up discriminatory and non-random development plans aimed at evacuating these homes and creating a settlement complex around the city that will strengthen the separation between East Jerusalem and the rest of the West Bank, while preventing the possibility of East Jerusalem becoming the Palestinian capital in the future.⁴²

- **International human rights law**

Israel has ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, as well as the Convention on the Rights of the Child. Considering that, the International Covenant on Civil and Political Rights applies to actions undertaken by a state in the exercise of its jurisdiction outside its territory. Consequently, it applies in East Jerusalem, as it is considered occupied territory under the territorial jurisdiction of Israel as the occupying power. The same applies to the Second Covenant and the Convention on the Rights of the Child. For this matter, Article 17 of the First Covenant stipulates:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

⁴² Evictions and Settlement Plans in Sheikh Jarrah: The Case of Shimon HaTzadik, p2, (click here: <https://www.ir-amim.org.il/sites/default/files/SheikhJarrahEngnew.pdf>)

2. Everyone has the right to the protection of the law against such interference or attacks.

- We can conclude that any intervention in a person's home and private life shall not be arbitrary, but rather this behavior must be based on a clear law without discrimination, and every person must be given the right to appeal these provisions under what is established in the law. In addition, the intervention must be for legitimate reasons. Page | 18
- The Universal Declaration of Human Rights protected the right to property in Article 17/2 thereof, "No one shall be arbitrarily deprived of his property." Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination stipulates the prohibition of racial discrimination on the grounds of race or national or ethnic origin in granting Rights, including in relation to the right to own property, the two International Covenants (1966) also dealt with the prohibition of discrimination in Article 2 for both of them.
- In reality, Israeli laws allow Israelis to claim their properties in the occupied Palestinian territories, while preventing Palestinians from claiming their property inside "Israel", which represents a kind of lurid racial discrimination. On July 30, 2010, the Human Rights Committee concluded that the Israeli policies in the Occupied Palestinian Territories discriminate against the Palestinian population. It argued that Israel should stop home and property demolitions as a form of collective punishment. Israel must reconsider its housing policy and the issuance of building permits for purposes of enforcing the principle of non-discrimination against minorities, especially Palestinians, and for increasing construction plans for the benefit of the Jewish population in these areas disproportionately in the West Bank

and East Jerusalem. It must also ensure that municipal planning systems are not discriminatory.⁴³

International humanitarian law (IHL)

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- *Article 46 of the Hague Regulations of 1907 affirms that, “[f]amily honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated.” Israel accepts that the Hague Regulations are customary international law, and therefore it has a legal obligation to respect these regulations, which are binding on all states, including Israel.*
- *With respect to the Fourth Geneva Convention of 1949, which applies to the situation of the occupied Palestinian territories as a whole, also applies to the Sheikh Jarrah neighborhood. In December 2001, the conference of high contracting parties to the Fourth Geneva Convention adopted a declaration stating that “the ICRC has always affirmed the de jure applicability of the Fourth Geneva Convention to the territories occupied since 1967 by the State of Israel, including East Jerusalem. This Convention, ratified by Israel in 1951, remains fully applicable and relevant in the current context of violence.”⁴⁴*
- *Article (53) of the same convention states that: “[a]ny 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.” Thus, it is not permitted for the occupying power to implement a complete or partial “forced displacement” of the Sheikh Al-Jarrah area because there is no legal justification related to the security of the population or*

⁴³ Human Rights Council, Concluding Observations (2010) CCPR / C / ISR / CO / 3, para. 17.

⁴⁴ The conference of high contracting parties to the Fourth Geneva Convention, Geneva, 5 December 2001, paragraph 3. (click here: <https://www.icrc.org/en/doc/resources/documents/statement/57jrgw.htm>)

an urgent military reason that requires this. For all this, the efforts made by the Israeli occupation authorities with the support of the Israeli courts to displace the indigenous people of the neighborhood by relying on non-existent or false documents and to replace them with residents of the occupying State "Israel" and the expansion of their established settlements is a flagrant violation of the rules of international humanitarian law.