Abstract
Tens of Palestinian refugee families face eviction from their homes in Jerusalem’s Shaykh Jarrah neighborhood after the claim that the land on which their house was built in 1956 belonged to Jewish owners prior to 1948. Israeli law allows Jews to reclaim their properties within the 1967 occupied territories, but denies Palestinians the same right, despite the fact that, according to Israeli law, both Palestinians and Israelis in Jerusalem live under Israeli jurisdiction. By clearly exposing Israel’s apartheid policies, the struggle waged by this small Shaykh Jarrah neighborhood of twenty-eight houses could begin a new era in the Jerusalem front line of the Palestinian-Israel conflict.

Keywords
Shaykh Jarrah; Jewish settlements in East Jerusalem; Shimon HaTzadik; Holy Basin; displacement of Palestinians; Mufti of Jerusalem.

The threatened evictions in Shaykh Jarrah are part of a larger plan to transform the main area of conflict, Jerusalem and its vicinity, into a Jewish Israeli city. The Israeli projects in the area known as the “Holy Basin” – encompassing the Old City and the surrounding area, including the holy sites and Jerusalem’s historical landscape – aim to change the demographic reality and urban landscape in Jerusalem in favor of the occupation and its religious and “nationalistic” symbols. The Shaykh Jarrah neighborhood cannot be separated from what is happening in al-
Aqsa Mosque, as was evident in the spring 2021 al-Aqsa uprising, since that holy site is the central part of this plan.

In order to understand the Holy Basin’s importance and the ferociousness of the attack on it, it is enough to say that after fifty-four years of occupation of east Jerusalem, 90 percent of the population in the Old City and the “Holy Basin” is still Palestinian, despite the numerous mechanisms Israel has employed to change its composition in favor of the colonialist project.

It is also important to acknowledge the distress that has beset the Arab world after years of civil and intraregional wars. Recent years witnessed some Arab states rushing to legitimize occupation (normalization) under various pretexts, while the Palestinian Authority has failed to set the direction or devise a political platform that responds to the developments of the past two decades and the emergence of new tools for resistance.

**Shaykh Jarrah in History**

The Shaykh Jarrah neighborhood, whose boundaries are only vaguely drawn, is located two kilometers north of the Old City’s Bab al-‘Amud (Damascus Gate) – a stone’s throw. The southern part of the neighborhood was probably within the boundaries of ancient Jerusalem in the early Roman era (first century BCE). Several churches and convents were built in the neighborhood during the Byzantine era, in addition to two rock-hewn pools used to preserve rainwater that date to the Roman-Byzantine era. The neighborhood also has several historical cemeteries from various eras, with Qubur al-Salatin (Tombs of Kings), the most renowned among them.

The neighborhood is geographically important since it is the link connecting the Old City – through two central streets, Salah al-Din and Nablus roads – with the northern neighborhoods of Jerusalem (Shu’fat and Bayt Hanina), and leading to Ramallah and the north of the West Bank. The neighborhood itself houses a considerable number of national and international institutions that many Palestinians, not only in Jerusalem but in all of Palestine, depend on.

During the Ayyubid era, a Sufi center was built over the gravesite of Husam al-Din al-Jarrahi, Salah al-Din’s personal physician and one of his emirs. Jerusalem historian Mujir al-Din, writing at the end of the fifteenth century, refers to al-Zawiya al-Jarrahiyya:

Al-Zawiya is located at the northern edge of Jerusalem. It has a waqf and specific administrative functions. It is attributed to its endower, Emir Husam al-Din bin Sharaf al-Din ‘Isa al-Jarrahi, one of King Salah al-Din Yusif bin Ayyub’s men, who passed away in Safar in 598 h. (1201 CE) and was buried there, may his soul rest in peace. Opposite of the Qibla direction, gravesites of several mujahidin, known as al-Jarrahi’s men, can be found, but only God knows the truth.¹
Al-Jarrah’s gravesite, which can still be seen, is considered a holy place (maqam) very similar to other Islamic shrines in Palestine. This zawiya apparently played a role in the Sufi movement and was supported by an endowment; its last trustees were from al-Disi family in Jerusalem, whose descendants today still dwell in and around the zawiya.

‘Arif al-’Arif refers to this zawiya as al-Madrasa al-Jarrahiyya, and mentions that it had specific administrative functions. Al-Jarrah became prominent in the local popular heritage, with some references to him as “al-Nabi Jarrah” (Prophet Jarrah). In 1886, a mosque with a minaret was built at the end of the zawiya to serve the growing population in the neighborhood. The mosque, known as Shaykh Jarrah Mosque, remains in use today.

It is not known when exactly the name “Shaykh Jarrah” began to be used, but the fact that al-Zawiya al-Jarrahiyya existed since the beginning of the thirteenth century suggests that the name is quite ancient. The name “Shaykh Jarrah” consistently appears in texts and maps, and in local Jerusalem records from the nineteenth century as the location of the few buildings that stand outside the gates of the city before modern residential neighborhoods emerged in the second half of the nineteenth century.

During the Ottoman era, the area continued to be used for agriculture and summer resorts for Jerusalem’s notables. Many of the vineyards (al-krum; s. karm) there were named according to their owners, and are still used today; Karm Abu al-Khayr, Karm al-Nazir, Karm al-Mufti, Karm al-Ja’uni, and the like. It was common for the city’s notables to spend the summers and some weekends with their families in these vineyards, seeking some privacy, sun, and fresh air, which they missed in the overcrowded Old City.

Shaykh Jarrah’s gardens and orchards were planted with grape vines, and olive and fig trees, and some plots had mills and grape presses. A few of the simple dwellings were turned into small fortified castles (al-qila’; s. qal’a), especially in the seventeenth century, such as Qal’at al-’Amawi, whose remains were still visible up to 1948.
Al-ʿAmawi was located directly southwest of al-Zawiya al-Jarrahyya. The castle consisted of two floors built of chiseled stones, with a grain mill and a water well, and was surrounded with olive orchards and vineyards.⁵

Eventually, it became a trend among Jerusalem’s aristocracy to build summer houses (qusur; s. qasr) amid the vineyards, even more widespread by the nineteenth century. Maps from the mid-nineteenth century show Qasr al-Mufti, which appears to have existed before 1840. Although the building was modest,⁶ it was one of the earliest orchards and “palaces” built in the nineteenth century. Shaykh Tahir Afandi bin Mustafa al-Husayni (d. 1865),⁷ who was the Hanafi mufti in Jerusalem and father of Hajj Amin al-Husayni, built a luxurious qasr to the north of his previous home around 1890. Sources refer to other qusur in Shaykh Jarrah built in the nineteenth century such as Qasr al-Qutub and Qasr al-Shihabi. Although we have little information about them, this shows how common this practice was.⁸ After the Husayni family built their qasr, the families of al-Nashashibi, Hindiyya, Jarrallah, al-ʿArif, al-Khatib, Ghosheh, Murad, Dajani, Sharaf, Nusayba, and other wealthy families followed suit.⁹

Although numerous Jerusalemite families built extravagant houses in Shaykh Jarrah, the Husayni family remained dominant in the southern part, where most of the buildings still stand, giving this important part of Shaykh Jarrah the name: al-Husayniyya. It is difficult to track the exact date when the family purchased the land, but it could be assumed that they began purchasing land there in the middle of the sixteenth century, when the family’s influence began to increase and they acquired more property in other cities and villages.¹⁰

Figure 2. “Sheikh Jarrah after Operation Yevusi.” April 1948, Harel Brigade, Palmach Archive, online at ar.wikipedia.org/wiki/%D9%85%D9%84%D9%81:Sheikh_Jarrah.jpg (accessed 14 June 2021)
Modernity began to appear among the Husaynis in mid-nineteenth century in the form of modern houses built in Shaykh Jarrah. In addition to vineyards, Rabah Afandi al-Husayni (d. 1886) built the first modern villa south of Zawiyat al-Shaykh Jarrah in the 1860s. He expanded the villa in 1876, and later several other family members built houses in the same “al-Husayniyya” area. One of the most famous houses is a large villa built by Isma‘il Haqqi Musa al-Husayni in 1897, which has stood witness to important political events, including the reception of German Kaiser Wilhelm II during his visit to Jerusalem in 1898. After 1948, Isma‘il Haqqi’s villa was turned into the New Orient House hotel. In the 1980s, the same building became the headquarters of the late Faisal al-Husayni’s Arab Studies Society, and the unofficial headquarters of the PLO. In 1990, it became the official diplomatic headquarters of the PLO, known simply as “Orient House.”

Another famous house in Shaykh Jarrah – and one of the largest and most beautiful – is Dar Is‘af al-Nashashibi, on a northern rise of the neighborhood. It consists of three floors in addition to a garden and several other amenities. The house’s facade is decorated with Jerusalem ceramic (Kashani) tiles. The house was designed by the famous Jerusalemite architect, Spiro Khouri, for Is‘af Othman al-Nashashibi and built in 1922. Later, the house became an important cultural salon, a trend among Jerusalem’s notables in the late Ottoman era and one that persisted during the British Mandate, when Is‘af al-Nashashibi became famous for hosting Palestinian and Arab literary intellectuals. Following al-Nakba, the house was utilized by a number of...
foreign and local entities: the embassy of Saudi Arabia, and later the Saudi Consulate; the French Consulate; and headquarters for the German Archeology School in 1964 until 1982 (when it moved to the Mount of Olives). Most recently, it was turned over to Dar al-Tifl al-‘Arabi (Hind al-Husayni), to be used as a Center for Islamic and Heritage Studies, housing an important collection of books and manuscripts under the direction of author and historian, the late Ishaq Musa al-Husayni. The building is now called Dar Is’af al-Nashashibi for Culture, Arts, and Literature, where numerous cultural and artistic activities take place, and its rich library is maintained. 18

In all cases, every house in Shaykh Jarrah has a history worthy of a stand-alone article.19 The history of the neighborhood is an integral part of the collective history of the Palestinian people. It played an important role in political and cultural life and witnessed the major changes that Jerusalem has undergone since the mid-nineteenth century. The neighborhood was home also to a number of Palestine’s prominent figures, in addition to the Husaynis: George Antonius,20 Raghib al-Nashashibi,21 and Is’af al-Nashashibi22 lived there. The Ottoman census for 1905 mentions 167 households in Shaykh Jarrah, and this number increased even more during the British Mandate, as indicated by the number of qusur in the neighborhood, making it one of the most affluent areas in Jerusalem in the first half of the twentieth century.

International and National Organizations in Shaykh Jarrah

After al-Nakba, Shaykh Jarrah attracted more buildings and organizations, especially public buildings that moved to Shaykh Jarrah after the fall of the western part of the city into the hands of the Israeli occupation. Today the neighborhood houses the Swedish, Turkish, Belgian, Spanish, Italian,23 British, and French consulates.24 (Until 1967, Shaykh Jarrah also housed the Iraqi, Lebanese, Saudi, Egyptian, and Syrian consulates.) International and national organizations also prefer the location, such as: the UN Office for the Coordination of Humanitarian Affairs (OCHA),25 the World Health Organization, the EU Representative Offices, YWCA, International Committee of the Red Cross, Friedrich Ebert Stiftung,26 Friedrich Naumann Stiftung,27 Belgian Development Agency, and UN Relief and Works Agency for Palestinian Refugees (UNRWA).

The neighborhood has several schools, including Khalil al-Sakakini,28 ‘Abdullah Bin al-Husayn,29 and al-Fatah al-Laji’a; two hospitals: St. John’s Eye Hospital30 and St. Joseph’s Hospital;31 and the British School of Archaeology (Kenyon Institute). There are also three Arab hotels: the Ambassador Hotel,32 Mount Scopus Hotel,33 and the American Colony Hotel. The Palestinian National Theatre (al-Hakawati) in the former al-Nuzha cinema is also located in the southern part of Shaykh Jarrah. In addition to many Palestinian families, the neighborhood is the residence for a number of consuls and state representatives to the Palestinian Authority,34 and employees of international organizations in Jerusalem and Ramallah.

Being a hub for international, national, and service organizations makes Shaykh
Jarrah one of the most sensitive and important areas in the city, one on which many Palestinians inside and outside Jerusalem depend for services and employment. Hence, targeting the neighborhood is an attack on Palestinian vital infrastructure and Palestinian symbols in Jerusalem.


Early Settlement Activity in Shaykh Jarrah Post-1967

Early Israeli settlement began in various forms in Shaykh Jarrah immediately after the occupation of the city in 1967. At the time, the Jordanian government had just finished constructing a new governmental hospital near St. John’s Eye Hospital, with the intention of moving the (Austrian) Hospice there from the Old City. Although the construction was completed in 1967, the internal finishing had not yet begun when the building was appropriated by the Israeli forces claiming it as a “governmental building.”35 The building was made the headquarters for Israeli Police, and several Israeli additions were built on the north, east, and west sides over the following decades. Currently, more construction is underway to turn the entire area into a hub of Israeli governmental buildings in Shaykh Jarrah.

About three hundred meters southwest, another large complex was built as the
regional headquarters for the Israeli Border Police, thus turning a main part of Shaykh Jarrah into a center for Israeli internal security forces – altering the cultural and historical character of the residential neighborhood. In addition, the Israelis took control of the western strip of Shaykh Jarrah, located in the buffer zone known as No Man’s Land that had marked the separation of the two parts of the city between 1948 and 1967. In part of that strip, two huge Israeli hotel blocks were built west of the American Colony Hotel, in addition to a building for the Histadrut (General Organization of Workers of Israel), part of which was later turned into a clinic. The broad Road No. 1 was constructed adjacent, on No Man’s Land, to conceal the 1948 armistice (“green”) line and lay claim to the “unification” of the city’s two parts.

After 1967, the Israeli authorities confiscated Qasr al-Mufti, which included the nearby Shepherd Hotel built during the Jordanian period, claiming it as absentee property, despite the fact that several inheritors of the mufti were still living in Jerusalem. In 1985, the American Jewish billionaire Irving Moskowitz bought the hotel, palace, and the surrounding area to build a Jewish settlement. Moskowitz planned to tear down the one-hundred-year-old palace of Hajj Amin al-Husayni, with its Palestinian national history and all that Hajj Amin had stood for, and build in its place 122 settlement residential units. In 2010, and after receiving many objections, the Israeli Planning and Building Committee agreed to build only twenty-eight units, and later increased that number to fifty-six units. The historical palace itself was not torn down; instead it was converted into a synagogue, but all other structures built before and after it were destroyed.

The settlement is part of the northern strip that marks the borders of the “Holy Basin” – on the west is the hospital-now-governmental complex and to the north, the Hebrew University and Hadassah Hospital – and succeeds in disrupting the continuity of the Palestinian neighborhoods in the area. It is useful to regard these disparate settlement components as a single unit, rather than scattered points.

Figure 5. Mufti of Jerusalem Hajj Amin al-Husayni’s original palace (bottom right) and the new palace, later converted under Jordan into the Shepherd Hotel (center), 1933, American Colony Photo Department, Library of Congress, online at www.loc.gov/pictures/collection/matpc/item/2019704480/ (accessed 10 June 2021).
Southeast of Qasr al-Mufti, part of a twenty-five-dunum plot of land (Karm al-Mufti, attributed to mufti Tahir al-Husayni) was used to build al-Madrasa al-Ma’muniyya, a municipal girls’ school, which was never opened. Instead, after the building was completed, it was turned into offices for the Israeli Ministry of Interior, apparently to prevent students from gathering in a sensitive location near several Israeli security organizations. Had the school been opened, it would have become a headache for settlements planned in the same area. The Jerusalem municipality confiscated the rest of the land to prevent the erection of any Palestinian structures on it, calling it “absentee property.” Recently, the municipality decided to turn it into a park, set to be completed by 2023, that will effectively be a barrier between the settlement and Wadi al-Jawz neighborhood to the east.

Shimon HaTzadik Settlement

In Jewish heritage, Shimon HaTzadik (Simon the Just) was a prominent rabbi who lived in Jerusalem during the Greek era. Jewish tradition says that he welcomed Alexander the Great in 332 BCE, when he conquered Jerusalem, although historical sources do not mention that Alexander the Great ever arrived in Jerusalem when he conquered Palestine, nor do they mention that this meeting took place in any other part of Palestine. According to these sources, Alexander the Great marched through Palestine towards Egypt, and a small Greek military force occupied Jerusalem. In all cases, Shimon HaTzadik is mentioned in the Talmud, including the Mishnah.

In the Middle Ages, a cave in Shaykh Jarrah was claimed to be the gravesite of Shimon HaTzadik, although the tomb in the cave has a wall inscription indicating the grave is of a Roman matron named Julia Sabina. Clermont-Ganneau (1871) refers to it as “the so-called Simon the Just” (Shimon HaTzadik), and concludes that the gravesite actually dates to centuries after the life of Shimon HaTzadik, the closest date being the second century CE and not before. He concludes that any association between the grave and Shimon HaTzadik is nothing but a myth.

Wasif Jawhariyha mentions in his memoirs written at the end of the Ottoman era:

The Jewish Picnic (shathat al-Yahud): there are two caves in Shaykh Jarrah in Jerusalem next to Waqf Abu Jibna. The Jews believe that the gravesite of Shimon HaTzadik is in one of these caves, and they visited them twice a year, I believe, spending the whole day under the olive trees. Most of them were Eastern Jews who observe Eastern traditions, especially in Arab countries. Visitors enjoyed the performances of string musicians such as Haim, the oud and violin player, Zaki, the Aleppine tambourine player who had a loud melodious voice and sang mainly Andalusian Mushahat and some other melodies. The Arabs of Jerusalem, both Christians and Muslims, used to join the Jews in what was known as the Jewish picnic. The mountain at the time of the Jewish picnic was full of people from different backgrounds and peddlers of all sorts. My
Jawhariyya speaks about visiting the gravesite twice a year, similar to the practice of visiting maqams in Palestine in certain seasons. He does not mention the existence of a Jewish settlement in the area, but it is clear that the custom of visiting this gravesite was well-known and involved certain rituals, such as popular celebrations that attracted people from various communities and faiths.

Wilson quotes from Ferdinand Ewald a description of the location saying that it is carved from rock, specifically in the Shimon HaTzadik burial spot, and that there is a water well nearby. Conservative practicing Jews visited the location on the first Friday of every lunar month, especially thirty-three days after Pesach. They celebrated with their children by shaving their heads for the first time. He provides a detailed description of the cave.

In conclusion, it has never been proven that the cave in Shaykh Jarrah can be linked in any way to Shimon HaTzadik; rather, the evidence – the inscription for a Roman woman – dates to the second century CE and not earlier. The Jewish tradition began in the twelfth century based on an assumption, and the site turned into a mazar (shrine) at the end of the Mamluk era. In the Ottoman era, and particularly in the nineteenth century, it became a well-known tradition with specific rituals including lighting candles, playing music, and dancing similar to Islamic seasonal festivals al-Nabi Musa (between Jerusalem and Jericho), al-Nabi Rubin (Jaffa) or the Christian festival of Mar Jiryis al-Khadr (al-Lyd). The area, including the cave, was owned by Arabs and probably visitors paid fees to the owners, who had a key to the cave and hence received fees for this service.

Nineteenth-Century Jewish Settlement in Shaykh Jarrah

The settlement project in Shaykh Jarrah began when the chairmen of the Sephardi and Ashkenazi councils in Jerusalem formed a coalition in 1876 to buy/rent Shimon HaTzadik cave and the cave next to it known as the Minor Sanhedrin, and the surrounding Karm al-Ja’uni (around 17.5 dunums). They secured a long lease contract (hikr) for sixteen thousand francs. The contract was registered in the Ottoman records under the name of Rabbi Avraham Ashkenazi on behalf of the Sephardi community and Meir Auerbach on behalf of the Ashkenazi community. The cornerstone of Shimon HaTzadik was laid in 1890 in the Sephardi part. German architect Conrad Schick may have been involved in dividing the land plots and drawing the settlement’s plan east of Nablus Road. The settlement was meant to house poor Jews, hence the dwellings were small, crowded, functional, and plain. In 1916 there were around forty-five settlers in this settlement living in thirteen dwellings. As for the part allotted to Ashkenazi Jews, it was never built and remained empty. This land plot in particular is the one where a housing project (of twenty-eight houses) was built in 1956, as we will explain later.

In 1891, the establishment of another settlement commenced less than two hundred
meters away from Shimon HaTzadik settlement, west of Nablus Road, called Nahalat Shimon, known among locals as “Kubaniyat Umm Harun.” The land was rented (or less likely bought) by a Jewish settlement investment agency that divided the land into plots and distributed them to Jewish families, mostly settlers from Yemen, Aleppo, and Georgia, who built very modest homes. The residents in the settlement numbered 259 people in 1916. The condition of the buildings and the dire poverty there turned the settlement into ruins and, less than two decades after the cornerstone was laid, it became mostly uninhabitable.

The number of Jewish settlers in the settlements varied, decreasing due to poor living conditions as well as due to the repercussions of al-Buraq uprising in 1929 and the Great Arab Revolt in 1936–39. The settlement was evacuated after al-Nakba when the Haganah and the British police moved whoever was left there to the western part of the city where they settled in Palestinian homes whose owners had been forcefully removed.

**Attempts to Control Karm al-Jaʿuni Post-1967: “al-Nuqta Cave”**

The first attempt to control Karm al-Jaʿuni was in 1999, when Magharat al-Nuqta (Cave of the Point) (19 meters long, 20 meters, and 3.5 meters high) was found near Shimon HaTzadik. Zionist organizations claimed it as Ramban Cave, where Ramban prayed in the thirteenth century CE. This was accompanied by an attempt to put their hands on land located next to Shimon HaTzadik that belonged to Abu Jibna family from Jerusalem (Abu Jibna family waqf). Jewish religious groups flocked to the location to perform religious rituals. These groups appealed to Israeli authorities and courts to declare the cave a holy Jewish location. Abu Jibna family installed a fence around the land to protect its property.

In 2000, the Israeli Minister for Religious Affairs announced that the cave is a Jewish religious site and subject to the Protection of Holy Sites Law of 1967. The Abu Jibna family filed a lawsuit in the Israeli High Court of Justice, protesting against the decision to transform its private property into a holy place, and depriving it of its right to use and benefit from the land. This particular piece of land is considered one of the most expensive properties in Jerusalem because of its location in Shaykh Jarrah and on the main road that connects Jerusalem to Ramallah, only two kilometers from the northern gate of the Old City (Damascus Gate). The land is also suitable for commercial purposes, including building a hotel. After an eight-year-long bitter and expensive battle in the Israeli courts, the Abu Jibna family managed in 2008 with the help of the Islamic Waqf Department to win back its right to the land, and prevent settlers from going into the cave that was private property. The court was not convinced that the location was holy, whereas the Palestinian ownership of the cave was clear and duly documented, obliging the court to accept the challenge by the Abu Jibna family and the Islamic Waqf Department.
Shaykh Jarrah Housing Project: Displacement and Displacement Again

The Jordanian Ministry of Building and Construction signed an agreement with UNRWA to build twenty-eight residential units for Palestinian refugees (from west Jerusalem, Jaffa, and Haifa) in Karm al-Ja‘uni, south of Shimon HaTzadik on a piece of land that Jordan placed under the administration of the Custodian of Enemy Property (Custodian of Absentees Property). According to the agreement the Jordanian government would provide the land needed for construction while UNRWA would fund the construction work. The ministry signed contracts with twenty-eight Palestinian families to build houses for them on that land without waiving their rights of return and compensation and without giving up their legal status as refugees. In return they only had to waive the “ration card” provided by UNRWA. A memorandum of understanding was also signed between the Jordanian ministry and UNRWA on one side, and the beneficiaries on the other in July 1956. According to this understanding thirteen buildings, comprising two apartments on a single floor, were constructed, and two other buildings with one apartment each. The apartments were very small, about sixty square meters, with two rooms separated by a corridor, a kitchen and a bathroom. Each building was constructed on a plot of around 350 square meters. The initial (preliminary) contract’s term was for three years and three months that expired on 30 September 1959, and provided that each apartment holder would pay a nominal annual rent of one Jordanian dinar to the Jordanian Ministry of Economy and Development until the title deeds were issued in the names of these families for thirty years, renewable for thirty-three more years. Accordingly, the families moved into the newly-built apartments, settled there, and started a new life.\textsuperscript{55}

The eastern part of the city fell into the grip of occupation in 1967, and the Israeli forces seized the Jordanian records of the Custodian of Enemy Property and handed them over to the general Custodian of Absentee Property in the Israeli Ministry of Justice, which was handling Jewish property in the West Bank and Jerusalem prior to 1948.

Israel first attempted to put its hand on the neighborhood in 1972, after the Sephardi Council in Jerusalem and the General Synagogue Commission in Israel succeeded in registering the land (17.5 dunums) in the Israeli Land Department (Title Deeds), and without issuing an official statement or notifying the residents. Interestingly, the registration was done without approving a master plan for the location, which indicates that there was collusion from the Israeli Land Department. Ten years after this registration, in 1982,\textsuperscript{56} the first lawsuit was filed by the entity that “claims ownership of the land” against twenty-three families living in the neighborhood, demanding that they evacuate their homes since they are built on Jewish land registered officially in the Israeli Land Department.

Shaykh Jarrah’s families hired the Israeli lawyer Yitzhak Tosia-Cohen to represent them. This lawyer signed a settlement in 1989, without consulting the residents. The
agreement recognizes the settlement agency’s ownership of the land, and considers the residents as tenants protected from eviction in return for a regular agreed-upon rent. The Israeli court approved this “settlement” but the residents rejected it, considered it to be collusion between the lawyer and settlement agencies, and announced that they did not recognize Jewish ownership of the land in the first place. Their argument was that their homes were built in accordance with the decision by Jordan, which had jurisdiction over the land at the time, and accordingly they would not pay rent to the settlers.

In 1993, after they had severed their relationship with Cohen, the families hired Palestinian lawyer Husni Abu Husayn to represent them. In 1994, Sulayman Darwish Hijazi filed a lawsuit to prove his ownership of the land on which the neighborhood is built. He provided the Tabu deeds (Ottoman tapu, title deed for permanent lease) and official Ottoman documents that proved his ancestors’ ownership of the land, which had been sold in 1939 to Palestinian Hanna Bandak. Bandak registered this land and recorded it in the Jordanian Survey and Land Registry in 1959 with the official deeds and documents. Consequently, the three judges in the central court ruled that Hijazi cannot be answered until the court reaches a final decision about the ownership of the land. This was stated in the rejection of the proceedings filed by the Sephardi Council in Jerusalem and the Israeli General Synagogue Commission at the Central Court demanding a decision about the ownership of the land.

There are many details pertaining to the long, difficult, and costly path that the neighborhood’s families and supporters have taken in their attempts to prove their entitlement to the estate. Dozens of sessions were held in several courts on all judicial levels. But at the end, the Israeli High Court rejected Hijazi’s request to prove the ownership of the land, and the first Palestinian family (the family of Fawziya al-Kurd – Umm Kamil) was evicted from their home on 4 August 2009. The Hannun and Ghawi families were also forcefully evicted by the police from their homes and settlement agencies took them over and occupied them. These families were evicted because allegedly they did not pay rent to the settlement agencies, although they, like others living in the neighborhood, did not recognize the ownership of settlement agencies to the land, and considered themselves to be the legal owners of the real estate.

Thus, the removal process began with the support of Israeli courts and under the protection of Israeli police, and the families were removed from their homes by force, after almost seven decades of living in their homes – a period of at least two generations.

Is It a Legal Dispute That Requires a Legal Solution?

Despite the fierce legal battle that the residents of the neighborhood have waged in Israeli courts, the dispute is not a legal one. It is a purely political dispute that falls within the lines of apartheid and ethnic cleansing. The contract signed with the Jews in the nineteenth century might have been a long-term lease (hikr), perhaps up to ninety-
nine years, and in all likelihood it was. From a legal perspective, this is a thorny issue for legal experts who disagree about the interpretation of such contracts. Some experts say that the contract expires according to the stated term, especially since it has a defined annual rent, while others say that it is basically a regular purchase contract written in the form of a long-term lease to go around the law that prevented the sale of charitable or family endowment land, or perhaps to avoid the laws at the time that prevented selling real estate to non-Ottomans.

It could also be argued that Jordan, which had jurisdiction over east Jerusalem in the 1950s, and, with the support of an international organization (UNRWA), took measures within the law, and so retained the right of disposition of the real estate – similar to the way Israel disposed of Palestinian real estate in the occupied land in 1948 (although no comparison is intended here). If, for the purpose of argument, the land was actually owned by Jews in 1948, what does that mean?

Regardless of the different contract interpretations, the main point for discussion and defense is that the Shaykh Jarrah families are refugees who had been forcibly removed from their homes in 1948. Many had been removed from west Jerusalem and some from Jaffa and Haifa, and were now being removed for the second time. What kind of law (in this case the same law that belongs to the same state) prevents them from even demanding their property located a few kilometers away from Shaykh Jarrah in the western part of the city, while allowing at the same time the settlement agencies to claim back Jewish property in the eastern part of the city. A state without discriminatory laws applies the same laws to all citizens living under the same jurisdiction. Shaykh Jarrah residents would not mind in principle handing over their homes to whoever proves to be the owner, if they can in return reclaim their property that is within the 1948 occupied territories (in Israel) using the same logic.

The dispute is not legal, because Israeli law was legislated in a way that serves colonial settlement and denies Palestinians their right to return to their property. These laws have been reinforced since the Nakba and supported with further measures and regulations that prevent even Palestinians living in Israel from claiming the property that was appropriated or destroyed, although they are Israeli citizens according to Israeli law. For example, some Palestinians were displaced from Saffuriyya, six kilometers from Nazareth, and they have never been able to reclaim their property, and still live as refugees in Nazareth. This same situation applies to almost half of the Palestinians living in Israel. The people of Kafr Bir‘im in upper Galilee are another example. They managed to win a verdict from the Israeli courts acknowledging their right to return to their village. However, seven decades after their displacement they still have not been able to return.

Throughout the last ten years, several local and international solidarity movements organized to stand with the residents of Shaykh Jarrah for what is right. A progressive, diligent, and influential Jewish Israeli group participated in these movements; they have demonstrated every week throughout the past decade in Shaykh Jarrah in solidarity with the residents and kept the issue alive in the local and international
conscience. These demonstrations shone a light on the injustice suffered by Shaykh Jarrah residents, and their determination not to be expelled again, as they were in 1948, and demonstrate their unprecedented persistence. This accompanied the struggle in Israeli courts. Jordan has been entangled in the dispute since residents acquired their housing rights based on the agreement with the Jordanian government in 1956. Turkey has also been involved in it because of references to the Ottoman archives. The neighborhood’s location in the midst of a number of diplomatic and international organizations has raised the voice of the residents onto various levels, especially given the injustice of evictions and the just nature of their cause.

What is unusual about the movement in Shaykh Jarrah is that it has not been linked directly to al-Aqsa Mosque, as almost all previous battles have in one way or another referred to the occupation’s attempts to control al-Aqsa or parts of it. Shaykh Jarrah’s battle may be the first large-scale public battle in the last two decades that has a civic background rather than a religious one. This brings to mind the battles led by Faisal al-Husseini, such as Jabal Abu Ghnaim, that despite their importance did not attract such massive attention, and often had participation limited to social and political elites. Shaykh Jarrah’s battle, however, with the massive interest in it, resembles to a great extent the battles over al-Aqsa mosque. So will this battle be a new beginning in Jerusalem? The logical answer is yes, especially that the Palestinian young people of Jerusalem and Israel no longer fear the occupation forces or its tools of oppression. Followers, watching media footage and social media posts, realize that a new era has begun and it is difficult to predict what will happen next.

Social media has played an important role in facilitating immediate communication among the young people, a role that the occupation has been unable to control. The images are no longer held hostage in a military sergeant’s drawer. The events of 26 Ramadan became an important lesson. The Israeli police prevented dozens of busloads of Palestinians from Israel who were coming to spend Laylat al-Qadr in al-Aqsa Mosque from reaching the city; they were stopped about twenty kilometers west of Jerusalem. In only a few minutes hundreds of cars arrived from east Jerusalem to pick up the people waiting on the Jaffa-Jerusalem highway. They actually blocked the highway, which is the central axis linking Jerusalem and Tel Aviv, in both directions. They finally forced the Israeli police to open the road and dropped off thousands of worshippers at al-Aqsa mosque. Jerusalem welcomed its guests and Ramadan banquets were seen in all parts of the city.

The Shaykh Jarrah families have endured five decades of Israeli oppression, persecution, lack of social stability, and psychological pressure. Their plight has been unbearable. Their five decades of suffering have also been five decades of steadfastness, struggle, and persistence to survive, building, for example, additional structures to house the new families of their offspring, multiplying the number of families living in the neighborhood. The latest Shaykh Jarrah battle is a new beginning, the beginning of a new era with new tools to end the occupation, a new era that has been proven possible by the latest events.
The Shaykh Jarrah Battle brought attention back to Nakba-related issues, particularly the right of return and reinstatement of private and endowed property in the 1948 occupied territories. If Israel is determined to reclaim Jewish property in the eastern part of the city – which number very few in Shaykh Jarrah (Karm al-Ja‘uni and Kuban‘iyat Umm Harun), Silwan (Batn al-Hawa and Wadi Hilwa), Ras al-‘Amud, and a small part in the Jewish Quarter in the Old City – vast areas in west Jerusalem are in fact Palestinian property.62

Palestinians should prepare for proceedings concerning the Palestinian properties in the western part of the city and throw all cards on the table. This should include filing lawsuits in Israeli courts, raising attentiveness about this issue, and looking into the possibility of filing lawsuits against Israel or individuals in courts outside Palestine. Along with Jerusalemites, Palestinians in the rest of the occupied territories can accomplish that on an even larger scale. The Israelis opened that door – that we know! But it is necessary to look at these attempts not only from the legal perspective, but also from a perspective of resistance and to embarrass Israeli institutions on all levels. These efforts may not lead to the reinstatement of Palestinian property, but they will clearly expose the escalating apartheid system in Israel.

Shaykh Jarrah succeeded in raising questions about the legitimacy of the State of Israel. This is an achievement that should not be ignored or surrendered. It has also drawn attention to the settlements in Jerusalem and has encouraged discussion about them. It has shown that Jerusalem is an occupied land according to international law, and that the transfer of occupied property, regardless in which form, contradicts international law.

Israel proved in Shaykh Jarrah that Jerusalem is not unified, and that it implements two different legal systems – one designed for Jews and their interests, and the other designed to control and uproot Palestinians. Shaykh Jarrah is a clear example that the “unified Jerusalem and the Capital of Israel” is but an empty slogan. Jerusalem is not only divided in services and social, economic, and cultural structures, but also in its legal and justice system.

Nazmi Jubeh is associate professor in the Department of History and Archaeology, Birzeit University.
Endnotes


2 There is an inscription in Naskh script on the tombstone on al-Zawiya wall: “In the name of God most mighty, most merciful: ‘Everyone on it will perish ... Only our Lord himself full of majesty and honor will remain forever.’ This is the gravesite of Emir Husam al-Din/ al-Husayn bin ‘Isa al-Jarrahi, may God bless his soul and the souls of those who speak well of him/ He died in Safar in 598” (The mistakes in the inscriptions have not been corrected). See Kamil al-‘Asali, Ajdaduna fi thara al-Quds [Our ancestors in the ground of Jerusalem] (Amman: Al-Bayt Organization, 1981), 104–6.


4 Al-Baq’a witnessed the same phenomenon during the Ottoman era. A southwest neighborhood of new Jerusalem, Baq’a was occupied and its citizens uprooted in 1948.

5 Qasr al-‘Amawi’s ownership was eventually transferred to al-Nusayba family.

6 The mufti’s original villa was used for many years by the Arab Graduates Club as a venue for organized cultural activities. It is now part of the Ambassador Hotel’s estate.

7 For more on Tahir Afandi al-Husayni, see ‘Adel Manna’, History of Palestine at the End of the Ottoman Era 1700–1918, 2nd ed. (Beirut: Institute for Palestine Studies, 2003), 26–41. For more information on the most important members of the family see, 41–46, 109–10, 120.

11 Manna’, History of Palestine, 123. This may not be the precise date. I believe that the house was built in 1865, and it was expanded in 1876. See, for example, David Kroyanker, Jerusalem Architecture: Arab Construction Outside the Old City Walls (Jerusalem: Keter Publishing, 1991), 177–82.

12 This villa and its amenities became the American Colony Hotel. It was bought by an American-Swedish religious group in 1895, along with the southern palace of Salim bin Husayn al-Husayni, which they turned into their headquarters and included workshops, farms, photography studio, and guest room. It was turned later into a hotel that is still considered one of the most luxurious in Jerusalem.


15 ‘Uthman al-Nashashibi was a well-known intellectual and a member of the Ottoman Chamber of Deputies. He had good relations with the intellectuals of the Arab world and other parts of the world and had a cultural salon. Is’af inherited his father’s relationships and followed in his footsteps, becoming a well-known name in his time.

16 Including Ma’ruf al-Rusafi from Iraq and Ahmad Shawqi, Ahmad Hasan al-Zayyat, ‘Abd al-Wahhab ‘Azzam from Egypt and others. In his memoir, the Jerusalemite...
musician, Wasif Jawhariyya, says that he used to spend the evenings in Qasr al-Nashashibi with a group of intellectuals and notables from Jerusalem and elsewhere. He mentioned that Nashashibi introduced him to the Egyptian musician, Muhammad ‘Abd al-Wahhab, and that he met him there several times.

Is’af al-Nashashibi died in Cairo in 1948.

The library included donated collections from, for example, Ishaq Musa al-Husayni, ‘Arif al-‘Arif, Nasir al-Din al-Nashashibi, Fawzi Yusif (owner of al-Andalus Library), Farid Musa Kazim al-Husayni, Zaynab Jawwad al-Husayni, Ahmad Sa’d al-Din al-‘Alami and others. Newer books were later added to the library. For more on the history of Is’af al-Nashashibi and the center’s activities, see online at www.dta-isaaf.org/ar/1/2 (accessed 11 June 2021).

For more details on the lands, endowments and vineyards in Shaykh Jarrah, see Muhammad Hashim Ghosheh, al-Quds al-Islamiyah [Islamic Jerusalem] (Amman: Arab Thought Forum, 2009).

George Antonius was an intellectual, engineer, diplomat, and historian. Antonius was born in Dayr al-Qamar in Lebanon in 1892. He graduated from Cambridge and worked as an engineer in the Alexandria municipality. He then immigrated to Palestine where he first worked in the Department of Education, and then as secretary for the British Mandate’s government. Soon after, however, he resigned and joined the nationalistic forces to defend Palestine, and wrote his famous book Yaqthatu al-‘Arab (The Arab Awakening). He died in Jerusalem in 1942, and was buried in the Orthodox cemetery on Jabal Siyun; his grave is inscribed: “Beware and wake up, Arabs.”

Raghib al-Nashashibi (1880–1951), a Jerusalemite politician, was a representative of the Ottoman parliament, and the mayor of Jerusalem following the removal of Musa Kazim al-Husayni in 1920. He later held several official positions in the Jordanian government.

Muhammad Is’af al-Nashashibi (1885–1984) was an intellectual, Arabic linguist, and author of numerous books and articles.

A building housed the Italian Agency for Cooperation after the consulate in al-Baq’a in West Jerusalem began operations.

A building housed the French cultural attaché to the French Consulate, after the old consulate near the King David Hotel in West Jerusalem resumed its operations.

United Nations Office for the Coordination of Humanitarian Affairs (OCHA).

Friedrich Ebert Stiftung, an organization associated with the Social Democratic Party, Germany.

Friedrich Naumann Stiftung, an organization associated with the Free Democratic Party, Germany.

Khalil al-Sakakini is the new name for al-Qadisiyya school in the Old City. The original building dates to the late nineteenth century and has a beautiful view of the Old City.

The Jordanian government built it in the 1960s on endowed lands. It had several football fields, including the largest football field in Jerusalem (‘Abdullah bin al-Husayn football field). It continued to be a secondary school for boys until the Israeli Ministry of Education turned it into a girls’ school to keep the male students away from Shaykh Jarrah in preparation for the settlement expansion. The football field was closed and most of it was appropriated to expand the roads surrounding the school; a small part was left as a playing field.

The Eye Hospital was established in the Old City of Jerusalem in 1882. The current building in Shaykh Jarrah was built in 1960 on a piece of land donated by the Nashashibi family. The hospital has branches in the West Bank and Gaza Strip. St. John Charity is a British missionary charity.

The hospital was established in 1948 by the Sisters of St. Joseph.

The hotel was established in 1955 where Rashid al-Nashashibi’s palace was located.

After its closure during the second intifada, the hotel was turned into a modern office building.

Foreign representative offices at the PA are located in Ramallah, but most of the foreign staff members live in Jerusalem, especially in Shaykh Jarrah, Shu’fat, and Bayt Hanina, located on the main road connecting Jerusalem to Ramallah.

Israel considered itself to be the “legal and natural owner” for all Jordanian governmental and municipal property such as offices, hospitals, schools, empty lands, and public investments. Accordingly, it seized an important part of real estate in the eastern part of Jerusalem. When these are not enough to
facilitate their plans to control the city, “the public interest law” does the rest. The Israeli government also employs several other methods discussed later in this article.

36 The billionaire Moskowitz (1928–2016) specifically supported Jewish settlement in East Jerusalem and the creation of a Jewish majority in it. He contributed considerable funding to settlement agencies such as ‘Ateret Cohanim and El’ad in addition to front companies in Panama and elsewhere that worked to buy Palestinian property in Jerusalem.

37 The Husayni family fought a legal battle to prevent the demolition of the palace and reclaim their property. The Israeli courts kept the historical house but approved the demolition of the additional structures. See al-Jazeera’s report on the demolition and the family’s protest, online at (al-Jazeera) bit.ly/3hyvyMD (accessed 11 June 2021)

38 The approval was announced on 23 March 2007, a few hours before the summit between Prime Minister Netanyahu and President Obama took place in the White House. The approval came in response to the American demands to suspend the project in Jerusalem. See Massimo Calabresi, “Shepherd’s Hotel Demolished; U.S. Peace Efforts in the Debris,” Time, 10 January 2011, online at swampland.time.com/2011/01/10/shepherds-hotel-demolished/ (accessed 11 June 2021).

39 Manna’, History of Palestine, 111–12.

40 A huge project is being planned for Wadi al-Jawz, but the exact boundaries of the plan remain unclear. The project means the demolition of around two hundred Palestinian commercial and industrial establishments. The announced goal is to “develop” the area of Wadi al-Jawz, but we know that this actually means settlement. The municipality of Jerusalem approved the plans in 2020 and sent eviction notices to affected residents and shop owners. This means that a new battle will start very soon in Wadi al-Jawz, which is at the doorstep to the Old City compared to Shaykh Jarrah. See Jamil al-Salhut, “Bidun Mu ‘akhatha: Tahwid Wadi al-Jawz in Jerusalem” [Shamelessly Judaizing Wadi al-Jawz] online at www.palestine-studies.org/ar/node/1650868 (accessed 11 June 2021).


46 Reiter and Lehrs, The Shaykh Jarrah Affair, 17.

47 Sanhedrin is a Jewish Consultative Council.

48 I was not able to see this document, so I cannot verify its authenticity. It is impossible to ignore it, however, since the settlement was built as a result of it. What needs to be verified is whether the contract was a purchase contract or a long-lease (hikr) contract.

49 This settlement is not discussed in detail here, although it is located in the same area and faces the same fate. It may be addressed in a separate article in the near future.

50 Reiter and Lehrs, The Shaykh Jarrah Affair, 18–19. The authors obtained the information from Hebrew sources and documents of the Zionist movement. Unfortunately, there are no Arabic sources and thus we cannot compare the information. The registration deed was not found in the Ottoman archives, and the Shaykh Jarrah lawyers’ efforts to locate it were unsuccessful.

51 Most likely the cave had been a quarry, judging from its inside walls.

52 The location of Ramban’s gravesite is not known, although it has been mentioned variously that it is in Silwan, Hebron, and ‘Akka. If the grave location has not been identified, how could it be known that he prayed in the cave? This shows how even tenuous myth is used to facilitate settlement. Moshe bin Nahman (1194–1270) (alias Ramban) was a famous Sephardi clergyman, physician, and philosopher from Catalonia
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(Spain) who still has followers today. He immigrated to Jerusalem and started the Jewish community in Jerusalem during the Ayyubid era.


55 The families say that there was an understanding with Jordan that the Tabu deeds would be registered in the name of the residents. However, the long and complicated procedures were not yet completed in June 1967, leaving the process suspended.

56 Before this date, there were several hearings in various courts that in general rejected the claims of the settlement agencies, but they continued to file lawsuits. Some of the court decisions confirmed that the Jordanian procedures were sound and they acknowledged that they were legal since Jordan had jurisdiction.

57 The Israeli journalist Nadaf Shargai said that the Sephardic Council in Jerusalem and the Synagogue Commission in Israel sold the property to Homot Shalem, a settlement agency that aims to Judaize Shaykh Jarrah, for USD 3 million. See Nadaf Shargai, “Plan to Uproot the Arab Residents from Shimon HaTzadik’s Neighborhood,” Haaretz, 12 October 2001.


59 “The Ottoman records do not include any documents that explain the format of the contract, nor are there records of this piece of land in the Tabu. It is difficult to know for certain whether the contract was a genuine purchase contract or a long-lease contract (hikr). It is also unclear if the land was private property or a family waqf,” phone interview with Khalil al-Tafakji, land documentation expert in Jerusalem, 23 May 2021.

60 Israeli law sometimes allows compensation for private property at its November 1947 price, but it does not allow owners to reclaim their property. Palestinians rarely accept compensation, since they are demanding the right to return to their property.

61 They were not granted the status of Palestinian refugees, and therefore were not eligible for UNRWA benefits.

62 ‘Adnan ‘Abdul Razzaq, who documents Palestinian property in West Jerusalem reports that 33 percent of the area there is Palestinian property (his documentation lists 4,503 Palestinian properties), 30 percent Jewish property, and 15 percent Christian organization properties, while the rest of the area comprises public buildings, roads, parks, and railways. See ‘Adnan ‘Abdul Razzaq, Architectural Property in Occupied West Jerusalem (Jerusalem: Arab Studies Society, 2021), 85. His book is an important source for information about Palestinian real estate and raises these issues for international and local awareness.