

Transcript of Sheikh Jarrah webinar

NH: Welcome Ladies and Gentlemen to this UKLFI webinar on the current property dispute in Sheikh Jarrah. We are convening in truly troubling circumstances as Israel continues to suffer under bombardment from Gaza and the toll of those killed and injured continues to climb. Our thoughts are with all of the innocent victims and their families, Israelis, Palestinians and foreign nationals, and we lament the futile loss of life caused by Palestinian terrorist groups from Gaza.

It is important to acknowledge that this is not some spontaneous escalation, rather a planned escalation by Hamas in light of internal Palestinian power struggles and Hamas has been stockpiling missiles and rebuilding its terror network with Iranian backing since the last conflict in 2014.

In the context of this terrorism, much has been made for political reasons, especially in recent days, of the property dispute in Jerusalem's Sheikh Jarrah neighbourhood. Israel's critics have distorted the facts, perverted international law and adopted a bigoted approach attempting to intimidate court and law enforcement officials into demanding that the State defy court orders and deny property owners their legal rights on the basis of the race of relevant parties. The current dispute in Sheikh Jarrah involves several properties and the litigation concerning them has been the subject of decades; it has gone all the way to the Supreme Court.

I am tremendously grateful to have with us from Jerusalem Professor Avi Bell - Professor of law at the University of San Diego and at Bar-Ilan University. He teaches both property law and international law. He is widely cited in those areas and frequently writes about the Arab-Israeli conflict, he is also a senior fellow at the Kohelet Policy Forum.

Now, please, Ladies and Gentlemen, put your questions into the questions and answers function on your screen. We will be seeking to answer as many of them as possible in the next hour. I have already had several sent in advance and we will begin with those. Professor - welcome, please could you begin by explaining what this litigation is about.

AB: Thank you very much for having me and I will do my best to explain the litigation to the non-property lawyers among you.

What we are discussing here is four different lawsuits that have been combined, by a single owner. The owner of the property is a corporation called Nahalat Shimon. There are eight different defendants in the four cases but all of them concern property that as you mention, is in the Sheikh Jarrah neighbourhood.

What must be understood is that Sheikh Jarrah was not originally one neighbourhood. It was created in the 19th century and until then it was empty land, it had several graves and there were pilgrimage sites but no housing.

In the 19th century three different neighbourhoods were formed there right next to one another, all in proximity to the relevant graves. There was an Arab neighbourhood called Sheikh Jarrah and two Jewish neighbourhoods; Nahalat Shimon and Shimon Hatzadik.

The property concerned is situated in the Jewish neighbourhood of Shimon Hatzadik, right next to one of the pilgrimage sites located next to one of the graves. It was purchased in 1875 by two Rabbis and placed in two different family trusts. This arrangement continued until 1948 when the country of Transjordan, which later became Jordan, invaded the newly created state of Israel. Transjordan captured half of Jerusalem, gaining control over all the Jewish neighbourhoods in the areas it

occupied, destroyed them completely, expelled all the Jews and handed over land of the Israelis to the Jordanian Custodian of Enemy Property.

In 1948, this property was sequestered by the Jordanian Custodian and it remained under the Custodian's sequestration until 1967.

In 1967 the Jordanian occupation ended with the Six-Day War and the Israeli official receiver took possession of the property of the Jordanian Custodian.

In 1970 Israel passed legislation ordering the receiver to release all sequestered property that had not had its ownership transferred to someone else, demanding all sequestered property be returned to its owners. In this case that meant the two family trusts.

In 1972 the family trusts went through proceedings of getting their ownership registered which consequently led to a 50-year period of litigation. The bottom line of the litigation was that at every level and in every case, the ownership of Nahalat Shimon and its predecessors in title was upheld by the court. In most of these cases on the other side were a group of Palestinian families that had received leaseholds from the Jordanian Custodian of Enemy Property.

A 1982 settlement between the owners and the tenants agreed that one side had leaseholds, that the other side was the ownership, and the leaseholds would be protected tenancies under Israeli law. This meant that as long as they (the tenants) paid rent and abided by the terms of the lease, they would be protected from eviction.

The problem here is that the tenants never paid rent and they had engaged in a range of different violations of leases. Four of the eight defendants in this case were children and grandchildren of the tenants who never paid rent (nor abided by the terms of the lease). The others simply squatted on the land. So, unsurprisingly, when the latest round of litigation had commenced, the owners were able to win eviction orders. The eviction orders were issued by the Magistrates Court and appealed to the Jerusalem District Court.

The Jerusalem District Court reviewed all of the facts and upheld the eviction orders. Presently, it is waiting for the Supreme Court to rule on the defendants' request for leave to appeal. I am unsure how the court will rule on the leave for appeal but I do think that it's highly unlikely that this will result in a victory for the defendants.

I think that given the record and the clear documentation, ultimately, the owners have rights to their properties and they will win the eviction orders. The only policy question for the state of Israel (since the state of Israel is not involved in this suit---this is a private property lawsuit between the owner and eight individuals) will be whether it upholds the law and carries out the orders or refuses to do so.

NH: Could I in the first instance pick up on the differentiation between leaseholders and owners? There have been a number of questions relating to the ownership rights of the Palestinian Arabs that are facing potential eviction, so could you clarify that distinction for our audience?

AB: I am most certain the majority of the audience is familiar with leases in general, where there is a landlord who rents out property to a tenant. We all understand that the split that this involves: the landlord maintains ownership of the property, the tenant has a temporary right of possession that lasts as long as the lease lasts.

It should be added that all leases expire eventually---in some instances, after a number of years specified in the lease, in other instances, the leases are continuing leases that periodically renew

until one side decides to terminate them. If they create a protected tenancy, they can never be ended by the landlord; they expire only when the tenant breaches the lease or when the tenant dies. In protected tenancies there is also the possibility of the children of the lease holder continuing to enjoy the lease if they reside with the tenant, but it can never go beyond the second generation.

In the present case, it is fairly clear what the rights are because the owners have the deeds dating back to 1875 and they have already demonstrated this having registered their names with the land registry. There are therefore no competing ownership claims.

What I will say is interesting in this case: the four squatters have produced a deed that they claim affects this property. They claim, (I believe around 1998) they had received a deed from an individual named Ismail that covers this land. The problem here is that whoever Ismail might be, his deed doesn't fit in the chain of title – there is no recorded activity of an Ismail purchasing the property or otherwise acquiring title. Neither were any deeds produced, demonstrating that Ismail never had any title to convey, so it is an empty deed.

This, in American law school, is referred to as a deed to the Brooklyn Bridge – it is a piece of paper that purports to be a deed but it does not convey title to anything. So in this instance, there is no actual question about title. The tenants have been able to produce documentation from the state of Jordan which are standard forms demonstrating that they had leases from the Jordanian Custodian.

What is interesting is that it appears that the tenants actually had an agreement that the Jordanian custodian would eventually transfer title to them. He was supposed to do it within three years but he never did and they never enforced their claimed rights in Jordanian court. The Jordanian custodian no longer has any rights in the property so it is no longer possible for the Jordanian custodian to fulfil his promise. However, if the tenants have a claim that someone has wronged them, the person who wronged them is the Jordanian custodian.

NH: How would the situation differ had the Jordanian custodian transferred title to these properties?

AB: Well, this gets to the nature of sequestration, what it means to sequester a property. Sequestering is not unique to Jordan or to Israel, it is something that is found throughout the world. It is actually referred to in international law encyclopedias. It is a common practice in wartime for states to sequester property of enemy aliens. This refers to citizens of the enemy states that have property within the jurisdiction. For example, there is a British Trading with the Enemy Act (there is an American Trading with the Enemy Act too, it is copied from the British one) which states that all alien enemy property may be sequestered by a custodian for enemy property. The British used this commonly during the world wars, seizing practically every German piece of property they could lay their hands on, not only in Britain itself but throughout the Empire.

In the British Mandate of Palestine there was a British Custodian of Enemy Property who sequestered these properties. The way sequestration operates is that the custodian does not take ownership, the custodian simply has possession and the right to dispose of the property. So the custodian has the right to give someone else ownership but the custodian does not himself have ownership.

In the Jordanian case, the Jordanian Trading with the Enemy Act, is the British law. It simply carried over to Jordan after Jordan acquired its independence. The way the Jordanian law operates is that the Jordanian Custodian held custody over this property and could give title to other individuals. Regarding other properties concerned, that is exactly what the custodian had done but the

custodian did not do this in this case. Therefore, the ownership interest of the original purchasers of the two family trusts that held ownership from the beginning until 1948 and onwards was preserved. It was preserved by the actions of Jordan not by the actions of Israel and it was preserved because the Jordanian Custodian never released the sequestered property or transferred title to someone else and so it simply carried through. What Israel did in 1970 was simply release custody. It did not create or restore ownership, the ownership was already present, it simply released custody.

NH: . . . and had there been Arab owners registered, those would have been recognized by the 1970 law and traced through?

AB: Yes, certainly and that is what had happened with other properties. I do not have the figures in front of me, but I believe that most of the property that was sequestered by the Jordanian custody had actually had its title transferred. So, in most cases, it is not possible for the Israeli authorities to release it back to its owners. Israeli law, like any other legal system in the world, recognizes that where the custodian transfers title, that transfer is effective.

NH: Now there have been a number of claims that there are different rules at play here for Jews and Arabs and a number of the initial questions refer to this issue. Comments here that this case might open a Pandora's box because it reinforces Palestinian claims for a right of return pre-49 to property in Israel. So, are you able to comment on the distinctions here?

AB: Sequestered property doesn't give anyone immigration rights when the conflict ends. Sequestered property is either released to its owner or is otherwise disposed of. It doesn't grant anyone the right to enter a foreign state. Britain seized the various German properties during the world wars, that didn't give any German citizen a right to immigrate to Britain, to a British mandate or a British colony. The immigration laws remain as they currently stand, so it has nothing to do with the law of right of return.

In general, I can say that the Jordanian Trading with the Enemy Act is not the only act by which the countries involved in these conflicts have sequestered property. Israel also has a Trading with the Enemy Ordinance, which is left over from the mandate. It was enacted by the British mandatory authorities and it is still in force. In addition, both Jordan and Israel have means by which they can actually take title to property. There are various statutes that authorize eminent domain and it's understood that those are different sets of rules. Finally, in Israel there is something called the Absentee Property Act which sequestered properties that were abandoned by fleeing parties during the war and some other properties that are more or less similar to enemy properties. It is sequestration like every other kind of sequestration; it is held by the custodian pending the end of the conflict.

In relation to all of these cases of sequestered properties, I can say that the treatment of Israel has been roughly the same. For all of the relevant laws, Jews and Arabs are treated the same. The claim that differential treatments exist under these Israeli laws, based on whether someone is a Jew or Arab is simply false.

In all of these specified cases, the sequestered property went to an Israeli custodian. In some cases it was released to the original owners but in most cases (as with the Jordanian custodian) the Israeli custodian transferred title. So at some point, when the conflict is over, there will be property claims that Israel will have to address with which will be compensation claims. The original owners who've now lost title because the custodian transferred title somewhere else will have valid claims that they will be able to present for compensation. Again, it does not make a difference whether they are a Jew or Arab, Palestinian or Israeli.

The one unique item here is that the Israeli parliament ordered that all the properties that were held by the Jordanian custodian of enemy property be released. The simple reason behind this is that the Jordanian custodian was holding them because these were properties of citizens of the “enemy state” of Israel. It would be bizarre in the extreme if the Israeli receiver would hold these properties on behalf of Israel until the conflict between Israel and Israel ends, a simply absurd proposition. Therefore, it makes sense to have ordered the release of all of those sequestered properties because the conflict between Israel standing for itself and Israel standing in the shoes of Jordan is over. When the conflict is over, the remaining property issues will be dealt with and any claims will be raised at that point in time.

NH: That is dealt with I think five or six questions on the absentee law so thank you very much Avi. We have something framed as a basic question here, under international law, whatever that is, is the land in question under the jurisdiction of Israeli law?

AB: So that is not quite the type of question that international law has an answer for. What can be said however is that there is a claim made by critics of Israel, regarding Israel applying the laws in East Jerusalem, that it is required to treat that area as if it were belligerently occupied land. If it is belligerently occupied land, then the laws of belligerent occupation require Israel to respect the property rights of the people on that land. If one thinks this is belligerently occupied land, (I don't think it is but let's imagine that it is – that is the claim of the Palestinians) then you reach the same result - Israel is obliged to respect the private property rights of the owner. There is no ethnic disqualification in international laws of occupation any more than there is in Israeli law or in any other international law, that is simply a fabrication of the anti-Israel propagandists. So, they may have this imaginary version of international law in which Israel is forbidden to recognize Jewish rights or is required to discriminate against Jewish property owners but that is not part of international law, no such law exists.

NH: Thank you, that also deals with a question of if the claim by Jewish owners to these properties is upheld, how is this compliant with international law, given that they are located outside of the state of Israel and occupied territory?

Well even taking that premise as you have done, it doesn't impact the individual property rights and perhaps it's important to stress in this context the difference between individual property rights and state property and issues of politics that attach to those considerations. In that context, there are a number of questions about the role of the Israeli government, suggesting that it has been supporting the claims of Israelis in Sheikh Jarrah. Could you comment any further on that?

AB: Well, this has been a matter of private litigation for nearly five decades. What the state of Israel has done is, it has provided courtrooms for the parties to litigate their claims. The state of Israel has not been a party to the litigation nor has it boosted one side or the other in the litigation. The state of Israel supplied laws that are neutral to all and are exactly the type of laws one would expect to see elsewhere. Frankly, other than the fact that Jordanian law discriminates against Jews, that it doesn't recognize the ability of Jews to hold and exercise property rights, this would come out the same way under Jordanian law. There is nothing unusual about a landlord-tenant dispute or about a landlord squatter dispute and they all end the same way.

If the tenant is operating within the bounds of the lease, the tenant will win and otherwise the landlord will always win against a breaching tenant or against the squatter. These are the general rules and that is precisely what is happening here and there is no unusual involvement of the state of Israel. What one can truly see in this context that is bizarre and unfortunate, is that the Israel

critics---that would be the mild way of putting it, or I would say the anti-Israel propagandists, I think that's the more accurate way of putting it---are creating law without dedicating much thought, to reach the result they wish to reach which is that Jews have no right and that Israel is always in the wrong. They more or less demand that the state jump into a private dispute and exercise its authority to deny the rights of the property owner. The mere reason for this is due to the property owner being Jewish.

NH: . . . and in that context, what are we to make of the decision to delay the final ruling on this?

AB: On 9 May the Supreme Court was expected to hold a hearing on the request for leave to appeal. The attorney general of Israel requested the court to delay the hearing and the court agreed to this. What can be seen here is a very unfortunate success of anti-Israel propagandists in intimidating Israel's legal authorities. It is quite clear that they did not want to issue a ruling immediately because they were afraid that someone might react violently, that if they were to rule as the law requires them to rule in favour of the property owners, there was a clear and express threat of Palestinians to take violent action. Therefore, the court is postponing this to a later time when hopefully the situation will be quieter and that means that they have been intimidated. I think that this is extremely unfortunate. However I am unable to blame those who bow to intimidation as much as I blame those who are actually perpetrating the intimidation.

NH: I would like to take you back, if I may, to some of the specifics of the dispute because we have had a few additional questions in relation to this. One is whether we know, did the Palestinians pay rent to the Jordanian custodians between 48 and 67. Is that something that we have records of?

AB: The records that we have of the Jordanian custodian's dealings with these tenants are incomplete. For most of the time we had no records at all and Jordan only turned over records of the lease forms recently. The Jordanian government announced that this proves definitively that the tenants are owners. The forms that they turned over do not prove this at all, in fact, they prove that they are leaseholders; however they have not turned over any other record so we do not know whether they paid rent beforehand. What we are certain of is that during the entire period of this litigation none of the tenants has paid rent.

NH: . . . and so on that basis there is an additional question of why they had agreed to pay for the lease in the first place. You mentioned in 1982 a court ruling recognizing a settlement agreement under which rent was to be paid. Do we have any indication as to why that agreement would have been reached if no rent had been paid up until then and evidently there was little indication that there was an intention to pay rent going forward?

AB: I think that the benefits to the Palestinian litigants from the settlement, or the predecessors to the defendants in this case, the benefit to them was that they had a protected tenancy which meant that they could only be evicted if; 1. They passed away and their children did not live with them, 2. Their children passed away if they had lived with them, or 3. They broke the lease. As long as they lived within the bounds of the lease they could go on indefinitely in these properties.

This was something that was more than simply an ordinary lease. An ordinary lease winds up and you're gone, so protected tenancy was an advantage to them. They certainly could not prove any rights beyond a lease so for them this was an adequate arrangement and they accepted it. What should be added is that they had signed the settlement agreement not because they were feeling particularly generous. It was in fact the settlement agreement that was generous to them in recognizing the protected tenancy without the lease documents. If they did experience some problems with this, the time to think about this was in 1982.

It is certainly possible to overturn such a settlement after the specified period if it can be proved there had been undue pressure or some other misbehaviour that led to the settlement agreement. However, they have failed to demonstrate any misbehaviour as there simply was not any. If they wanted to overturn this they could have produced proof of any kind that there was misbehaviour, however this was not done given that there simply wasn't any as was already pointed out.

NH: Now a point of clarification perhaps, taking you back to the to your opening remarks. There is a question as to whether the properties are in Sheikh Jarrah or in one of the other two suburbs you mentioned. Is it the case that there is a continuing distinction between these areas, or have they been amalgamated?

AB: Now when Jordan occupied East Jerusalem, it wiped out all the Jewish neighbourhoods and Nahalat Shimon and Shimon Hatzadik, which were side by side with the Sheikh Jarrah, were simply all combined into one big neighbourhood called Sheikh Jarrah. This is what Israel calls it today, Sheikh Jarrah. The Jews who live there prefer to call these areas Nahalat Shimon and Shimon Hatzadik but the municipality does not recognize those as separate neighbourhoods, they are all one neighbourhood, Sheikh Jarrah.

NH: We have had about three or four questions asking why in fact it has taken so long. This is a process through the support of the district courts reaching the Supreme Court. Is it simply the Israeli legal system or are there other factors at play that have caused such a delay for decades?

AB: Israeli courts are extremely reluctant to issue eviction orders even where it is absolutely clear that the tenants are in the wrong. I can base this on personal experience, having the misfortune of handling a case for my cousins in Tel-Aviv. The case had involved a tenant who is in breach of the lease, it was a decade of litigation before we ultimately reached a settlement. Although I believe that the breaches of the lease were absolutely clear (to add, no rent had been paid), it's in general a very long process.

The Israeli courts bend over backwards for tenants and they are doing so here. Among other things, Israeli courts continually prod the tenants that are in breach to resolve the breaches, come back into compliance and the court will forgive their old breaches.

So, the tenants in this case have been repeatedly invited by the courts to pay the rent and then the breaches will be forgotten; however, they refused to do so. Evidently, there are many opportunities to rectify matters and Israeli courts are prepared to defend them, defend their rights. This I think, is the reason this has taken so long. Let us also understand that the protected tendencies provided them the right to delay matters even further, over a lengthy number of years. Protected tenancies are designed to enable tenants to stay at the property for a very long period.

Therefore, what allows the tenants here such a long period of time to go through court proceedings is exactly the reason why they will ultimately lose as their rights are not infinite, their rights are finite but they last a long time.

NH: Now we have referred to many of the tenants collectively. There are questions here as to whether all of these tenants are in fact continually living in these properties, or are they absent tenants and if so are their rights in any way impacted by that status?

AB: One of the tenants here is apparently not in residence. She has an alternative residence in Ramallah and it is therefore claimed that she is no longer residing in this unit and instead resides in Ramallah. What that means is that she has given up the tenancy - If one is no longer using it as her

residence then the nature of the protected tenancy is that it is no longer in existence. So that would be sufficient grounds for terminating her tenancy.

The court said it did not need to rule on this issue because there were ample other grounds for terminating the tenancy---among them, non-payment of rent---so the issue has not been litigated to the end. There are other allegations in the cases of unlawful subletting of the apartments to others but again, the court did not feel that it was required to go too far along that line because there were ample grounds for an eviction order without going into it any further.

NH: There are those in the audience that I can see, say they are still puzzled by what is termed an abrupt dismissal of the relevance of international law. So perhaps we could take a moment to return to that. You've spoken about the application of the Geneva Conventions, you've also spoken about the operation of international law with respect to the issue of sequestered property.

Are there any other aspects of international law that could impact on these proceedings? If not, why is it that international law is being cited evidently wrongly as having relevance to this dispute?

AB: I am actually going to take the long way around answering that I want to bring you give you an example from an entirely different context. I have been using this for the past few years just to give an illustration to people of how international law is used in public discourse.

The case concerned an archaeology conference that was going to be held by the Palestine Exploration Fund, which incidentally is a British organization. It was going to be held in Jerusalem. However the event was cancelled because the organizer of the conference, (the head of the Palestine Exploration Fund, a man by the name Philip Davies, a scholar of history who recently passed away) had rejected all submissions to the conference by Jews. He wrote an editorial in his journal to explain why it was that he had dismissed all submissions by Jews and he said that it was not his choice, blaming international law which he said had required him to take this step.

He claimed that the UNESCO Convention on the Means of Prohibiting and Prevent the Illicit Import, Export and Transfer of Ownership of Cultural Property prevented him from dealing with the results in any way of Jewish excavations in East Jerusalem. I have read that convention many times and it states nothing whatsoever about academic papers and conferences. In fact, it doesn't even talk about illegal excavations, what it talks about is protecting items that are found in excavations. It talks about illegal trade of archaeological artifacts, which has nothing to do with what Davies claimed.

So why did Davies write in this editorial that the reason he was discriminating against Jews was because international law required him to do it? The answer, I think, is the same as what anti-Israel propagandists claim, when they claim that international law is important here. This is because these individuals use international law rhetoric as the instant excuse for their discrimination, with the understanding that nobody in the audience will have a clear understanding of what is actually meant by international law. People will automatically assume that international law requires discriminating against Jews and that's exactly what is happening in this instance. I may stop using Davies as my example and instead use Sheikh Jarrah as my example.

As much as I rack my brain, I cannot fathom what is the international law claim that critics of Israel are attempting to make here. Put simply, there is nothing in international law that permits, let alone requires, Israel to deny private property rights of the owners simply because they are of Jewish origin.

There are those who claim that it is because it concerns occupied territory. Assuming it is occupied territories, one would still reach the same result - Israel is still required to respect the private property rights. There are those who claim that these are settlements and the Jews there are settlers --- Those are terms by the way not found anywhere in the Geneva Conventions. When critics claim that settlements or settlers are illegal, they are referring to a provision of the Fourth Geneva Convention that forbids deporting or transferring domestic populations.

There is no transfer here. There is no conceivable argument that international law requires Israel to discriminate against the property owners, lest Jews will move from somewhere in Israel to somewhere where they are renting or owning property in so-called belligerently occupied territories. These are merely imaginary arguments, not capable of relying on anything. It places me in the impossible position where I must invent a provision of international law that Israel is allegedly breaching and then explain why I believe the breach is acceptable. I simply do not have any such provision. I can't even conceive of what it is they are claiming that Israel is doing wrong. There just is no such provision of international law.

The one thing that deals with this in all of the Geneva Conventions is an approval of sequestration of enemy property during wartime. It can be seen, in the commentary, the official commentary on the Fourth Geneva convention (I believe you can find it after Article 80). The commentator states that in the cases of conflict most states sequester enemy property and then it moves on to another issue. So it is clear that it is done and that it is perfectly legal to have a sequester. I therefore do not understand what the other international law dimension is here, that is allegedly relevant and requires Israel to violate the private property rights of the Jewish owner here.

NH: Well, following on from that, there are a number of questions on the optics and notwithstanding the fact that the law is with the owners and how this is being portrayed as ideological and political. So, one of the questions that we have, given the explosive potential here - do you think it is sensible to persist with evictions when presumably, well this individual presumes, that the owners have no great need for the property. So is there an advantage perhaps in throwing property law and property rights out of the window due to the presentation of this issue?

AB: I am in Jerusalem right now. Every so often, I have to run down to the bomb shelter because of rockets that are being launched by terrorist groups in the Gaza strip. They have done so notwithstanding the fact that the eviction orders which were issued years ago have not yet been carried out. The idea that somehow another these terrorist groups will say never mind, everything is fine, if in this one case the state of Israel will violate the property rights of the owners and quash their legal rights and the eviction orders they have received. I think it just defies everything I know about the conflict. I think that if anything, what you will see is the exact opposite. If the threats and the violence forces Israel to abridge the private property rights of individuals merely because they are Jewish, we are going to see more threats and violence like that continuously.

As far as public opinion, I think that those who are inclined to believe Philip Davies' claim that it is illegal to accept papers by Jews in an archaeology conference, or those who are inclined to believe that international law demands that Israel deny private people the right to enforce their property rights if they are Jewish, those kinds of people are not amenable to rational persuasion. There's no point in addressing arguments to them and there is certainly no reasonable basis for discriminating against individuals and denying their civil rights simply in order to attempt to get these irrational bigots to recognize that something is wrong.

NH: Avi, if you will permit me, I think it is important that we be absolutely clear on the origins of this latest round of violence and push back on the suggestion that there is any link to the private property disputes that you have been so helpfully addressing us on.

If anything, the evidence is that this latest round of violence arises from a struggle between the Palestinian terrorist groups of Hamas, Islamic Jihad and with Fatah. An internal conflict between Muhammad Deif and Yehiyeh Sinwar sparked by Mahmoud Abbas' decision to cancel elections because he thought he wasn't going to win, when we note that he was in the 16th year of his four-year term. None of that of course has anything to do with the property rights that the owners have in this part of Jerusalem. Of course you and I both know that the month of Ramadan is usually tense due to extreme incitement by Arab leaders over the course of that month. We have been seeing attacks in Jerusalem on Jews randomly in the street, encouraged substantially over social media which escalated very rapidly into the riots that we saw at the Temple Mount, then throughout Israel unfortunately in many mixed cities, together with, of course, the rocket fire that you have mentioned.

Of course, this was planned, as I indicated right at the start. There were several suggestions that when this initially began on Saturday 24 April. You will of course remember that 36 rockets were fired then and there was strong advice from the military that the situation needed to be dealt with in order that it did not escalate. Israel's politicians opted for restraint and we are where we are today. But the suggestion that any of this can be boiled down to the dispute that you have taken us through is something that I think those in the audience, those listening now with a better understanding of what it is that is being dealt with in Sheikh Jarrah, will have hopefully future opportunities to push back robustly against.

In that vein, we have got a number of questions on the international media and one here says that there are reports of several hundred evictions so is it correct that the case only involves 31 individuals? If so, why is this point not being made to the media? Well, I am sure, Avi Bell, that you are making this point at every opportunity . . .

AB: If I may, let us understand that there are other disputes between landlord and tenants in Israel. Among all these disputes, in some cases the landlords are Jews and the tenants are Arabs, in some cases the landlords are Arabs and the tenants Jews, in some cases they are both Arabs, both Jews. But of course, other lawsuits are taking place besides this particular one. In this one case that we are referring to there are eight defendants, one owner.

NH: Thank you. We have got a follow-up question as to why this has necessarily erupted in the last few days and weeks, a question as to whether that is opportunism? I don't know if you have any further thoughts on . . .

AB: I most certainly do. We are not referring to anything that is new. This is litigation that has been continuing for decades. It is not simply this one case with the eight defendants, there are many other property disputes. There are property disputes in Sheikh Jarrah, there are property disputes in the Old City of Jerusalem, there are property disputes virtually everywhere; it's just the nature of these disputes which last a long period of time.

What we are effectively dealing with right now is a round of Palestinian attacks. The smaller ones are the ones that were involved with mostly Arab kids attacking visibly orthodox Jews, beating them on video and then distributing the videos by Tik Tok. Those are attacks that began with the beginning of Ramadan and they were encouraged explicitly by Mahmoud Abbas, by the Palestinian Authority and the Fatah party.

Then, the next round of attacks, where worshipers on the Temple Mount attacked Jewish worshipers down below in the Western Wall, and where the terrorist groups in Gaza strip started launching rockets. These begun several weeks into Ramadan and were the result of Hamas trying to compete with Fatah over who is going to take a stronger stand against Israel.

None of this fits the narrative of innocent Palestinians rising up against oppressive Jews who are trying to push them out of their lands and so none of that makes for a good media narrative in places such as the Guardian or the BBC and so they prefer a different narrative. The narrative that is of preference to them is that of Palestinians losing their homes. So, what can be seen here is that they have taken this case and dressed up imaginary facts around it and placed it at the beginning as the cause of the terrorist violence against Israel. The unfortunate point about this fake narrative is that at least one thing is true: the litigation in Sheikh Jarrah preceded the violence because it had been around for decades and so you can always pretend that the violence is the result of this litigation.

NH: I am going to review as many of the questions that we have received in the last ten minutes Avi, a few of them are asking about media references to the property owners as settlers with therefore no right to own the property. So, could you address the term of settler that has been used for these property owners and separately, we have had a question as to whether the owners are Jewish or Israeli and whether that ought to make any difference.

AB: With reference to the term settler, I believe I had mentioned this previously, but I will reiterate it. Settler is not a legal term. There is nothing in the Geneva conventions about settlements or settlers. A settler is a political term that is in vogue among critics of Israel because it has a connotation of illegitimate residents. Effectively, the settler is someone who should not be there

How we refer to the residents indicates whose rights we want to recognize by ethnicity or something else. One describes conflicts of settlers versus Palestinians to show that there is an illegitimate side and a legitimate side. It is important to stress that it is not a legal term and it does not have any meaning. Whether or not they are considered settlers is not something that I would know the answer to since the term does not mean anything. It is quite impossible to say you know the answer to this question as it is similar to asking whether they are people of good character – I would not know as I have not met them.

In this particular piece of litigation, the owner in question (a single owner for these cases that are before the Supreme Court) is a corporation, the Nahalat Shimon corporation. I do not know who the owners are except that this is a corporation that is a wholly owned subsidiary of an American corporation. The American corporation is called Nahalat Shimon International and is registered in the State of Delaware. The shareholders of Nahalat Shimon International are unknown except that we can guess by the name that they are Jewish. There are of course other cases where we do know who the owners are but in this particular case that is as much as we know about the owners.

NH: Taking you back, somewhat, there is a question asking whether following the release by the Israeli custodian to Israeli owners---I think we might need to clarify the release of the custodian--- Well, the question, and that is one that has been posed by a number of people is why rent was not demanded from that time by the landlord. So, do you know from what point rent was being demanded across the lengthy process that you have described?

AB: First, just about the technicalities of this, how this works: Sequestered property is held by the custodian until after the conflict and then releases discretionarily.

In this case, the Jordanian Custodian of Enemy Property lost control of it in 1967 when the Jordanian occupation ended. The State of Israel, pending resolution of the property issues, handed it over to the Israeli receiver of properties, who generally deals with properties of the bankrupt and the like but in this case held the properties of the Jordanian custodian.

In 1970, Israel passed a law ordering the receiver to release custody to the owners. So it was the Israeli receiver who released custody to the owners shortly after 1970. At that point the registration process began where parties came forward to say they are the owners, showing their proof of ownership, showing proof of the deeds and went through the process of registering where their claims were published. Anyone with competing claims was invited to come and present their documentation and then finally there was a ruling on whether they can register or not.

Now, the theory of these residents being tenants was new to the owners. The Jordanian custodian's records were not handed over to Israel. The residents who were there did not clarify their status willingly about anything.

So, the initial round of litigation was to evict squatters. It was only after a long round of litigation on that question, (one in which the Israeli Supreme Court recognized the ownership of the registered owners, of the Jewish owners), it was only at that point that the Palestinians came forward with the theory that they were actually tenants from the Jordanian custodian. They didn't have any documentation at the time but nonetheless they reached a settlement agreement in which the courts agreed to create that status. Part of that status was that they should not only pay rent going forward, they should have paid back rent - They never paid rent, not backwards and not forwards.

NH: Finally, perhaps, we will see how we do with time, but there is a separate issue that has been raised and it is in relation to demolition orders for properties that are constructed without planning permission. In relation to that, our questioner asks whether it is more difficult for Israeli Arabs to gain planning permission than Israeli Jews?

AB: Well, that is a very difficult question to answer and I will explain the reason for this. My impression is that it is difficult for everyone to get planning permission. It is difficult in the following sense, if you have the rights under the relevant plans, it will take years to get the relevant license but if you have the right under the plans you will eventually get it in 100% of the cases. The cases that are more interesting is where you do not have rights according to the plans and you are asking for some kind of variance, permission to build outside of the plans. In those cases, it really depends on what sort of variances you request. If you are requesting a variance to build a ten-story building where the plan permits one story, then it is unlikely that you are going to get a variance. Whereas, if you are requesting for the ability to expand your porch by one square meter, it would be highly likely.

So, you cannot quite compare percentages without getting into the fine details about what is being requested. The truth of the matter is that in almost all cases in Jerusalem, and certainly if you go outside of Jerusalem to Area C of the West Bank, Arabs simply do not request building permits. This is due to the fact that they are encouraged, among others, by the Europeans and the Palestinian Authority to not do so because that would recognize Israeli authority. They therefore build illegally with the assurance that the Palestinian Authority or the Europeans will pay for the litigation afterwards for the prosecution.

But there are vast amounts of unlawful construction both by Jews and by Arabs. There is a very small percentage of the illegal construction that gets eviction orders. So far as I have seen of the figures,

the number of demolition orders is much larger for Jewish illegal construction than it is for Arab illegal construction.

NH: Professor Bell, we have come to the end of our time together, but I am incredibly grateful as I am sure are our audience, with record numbers joining us for this session.

It is a complex topic and one which is not being dealt with in any way appropriately in the media. I very much hope, that armed with your incredible in-depth explanation and expertise, those who have been watching and I am sure will continue to watch over the coming days and weeks, will be better armed to deal with the pressing questions and misrepresentations over this particular legal dispute.

I say that I am very grateful for your participation and for our audience. I hope they will join us for our forthcoming webinars and in the interim, I wish you and everyone watching us from Israel a very safe and peaceful coming days, so thank you very much indeed.

AB: Thank you and thank you everyone for joining us.