

AKHRAM ABDALHAK WAS LIVING IN ISRAEL ILLEGALLY WITH TWO WIVES AND 10 CHILDREN; HE'S AN AMERICAN CITIZEN; THE COURT WAS NOT EXPECTED TO RULE IN HIS FAVOR

Dramatic ruling paves way for thousands of East Jerusalemites to regain residency rights

Since 1967, over 14,500 Arab residents of Jerusalem have had their right to live in the city revoked. Unanimously accepting a long-shot petition, the Supreme Court rules that, as native born Jerusalemites, they deserve better

By [DOV LIEBER](#) | 22 March 2017, 2:36 pm



Israeli security forces stand guard as Palestinian Muslim worshippers take part in Friday noon prayers in the East Jerusalem neighborhood of Ras al-Amud on September 18, 2015. (AFP PHOTO/AHMAD GHARABLI)

When Akhram Abdalhak was 9, his family moved from Jerusalem to the United States. Years later, grown up and married, Abdalhak decided he wanted to move back to his native city. He found that he didn't have the right to do so.

He came back to Israel anyway 20 years ago. But his move was deemed illegal by the Israeli authorities. Until last week.

Now 58, Abdalhak is one of over 14,500 East Jerusalemites who have had their permanent residency statuses revoked by Israel, with the vast majority of such cases taking place since 1995. In most of the cases, the Interior Ministry cited a prolonged absence from Jerusalem — usually over seven years; in some, East Jerusalemites lost their residency status after obtaining residency or citizenship in another country.

East Jerusalemites became permanent residents when Israel captured their neighborhoods from Jordan in 1967; Israel subsequently extended full sovereignty to the area. (Resident status allows East Jerusalemites to live and work in Israel, but not to vote in national elections.)



Palestinian children pose for a photo on top of cement blocks placed by the Israeli army in the East Jerusalem neighborhood of Ras al Amud, on October 21, 2015. Photo by Hadas Parush/Flash90

Last Wednesday, Abdalhak won his residency status back in the High Court of Justice. The unanimous and precedent-setting ruling in his case established a new legal protection for the residency rights of East Jerusalemites.

The justices ruled, for the first time, that Israel must consider the unique status of East Jerusalemites as native-born when deciding whether to restore their residency status.

The sharp rise in recent decades of the number of revoked residency statuses has caused widespread concern among East Jerusalemites, who fear their right to live in what is now Israel is in constant jeopardy, according to human rights groups and lawyers familiar with the subject.

Adi Lustigman, an experienced immigration lawyer who litigated the case for Abdalhak alongside lawyers Amir Hasan and Tamir Blank, told The Times of Israel the ruling should come as a great relief to East Jerusalemites.

In theory, she said, it creates a context in “which many East Jerusalemites can regain lost Israeli residency rights.”

She cautioned, however, that only time would tell if the apparent precedent will hold.

The Interior Ministry argues it is simply carrying out the law when it revokes residency statuses.

The ministry also says it is battling a widespread trend in which Palestinians who actually live in the West Bank claim to be living in East Jerusalem in order to have access to Israeli civil and social services.

An underdog case

Abdalhak was, to put it mildly, the underdog in his legal case, and an extremely unlikely agent of change.

When he appealed for restored residency status to the Supreme Court in 2014, he was already an American citizen. His residency had been revoked 27 years earlier. He had been living in Israel illegally since 1997. According to the Interior Ministry, he was married to two women, which is illegal under Israeli law, and both of those wives were also living illegally in Israel. So were his 10 children.

Indeed, the Interior Ministry saw Abdalhak’s case as so extreme it argued that granting his appeal would amount to “negating” the whole set of laws connected to revoking residency statuses.

Yet the court ruled unanimously in favor of Abdalhak.

The three justices who presided over the case, Uzi Fogelman, Menachem Mazuz and Supreme Court president Miriam Naor, attacked what has long been criticized by Israeli human right groups as a blatant unfairness in Israeli law: that East Jerusalemites are afforded only the same legal standing, in terms of their rights to live in Israel, as a foreigner who comes to Israel and attains permanent residency status.

An American who moves to Israel to play on a basketball team, for instance, and an East Jerusalemite born in the Old City were considered equal under the law — with equal rights, and equal risks and conditions for losing those rights.

The court concluded that East Jerusalemites merit more generous consideration.

Justice Fogelman wrote: “When the minister must review a request to restore a permanent residency status to an East Jerusalemite, he must consider the unique situation: these residents — as opposed to immigrants who come to Israel and request the status — have strong ties to where they live, as someone born in this area — where sometimes their parents and grandparents were born — and where they established familial and communal life for years.”

Lustigman said the ruling marked the first time this logic was set out “loud, clear and formally.”

Mazuz wrote in the ruling: “[Abdalhak] ought to be viewed as someone who has renewed [his] affinity to Israel, and considering the special status of East Jerusalemites as indigenous — as opposed to those who won the right to permanent residency by license after immigration — has enough to justify his request to renew recognition in his status as a permanent resident.”

Naor concurred, but highlighted the fact that each case would still need to be reviewed on its specific merits.

Fogelman argued that the period Abdalhak spent in Israel illegally, which began only after Israel rejected his first request to restore his residency in 1989, was to his legal credit. It proved he was committed to living in Israel, and if that was indeed the case, the judge went on, the interior minister should restore his residency as he was born in Jerusalem.

Fogelman also argued that the Interior Ministry itself had opened the door for the court’s ruling, but had not taken its own logic far enough:

During the trial, the ministry argued that it has already enacted a more lenient policy specifically for East Jerusalemites. This “widened” policy allows East Jerusalemites who have attained citizenship or residency status in a foreign country to regain their residency status in Israel, as long as they can prove they intend to live in Israel and do not pose a security threat. Abdalhak himself will now be both an American citizen and a resident of Jerusalem.

In essence, then, Fogelman noted, the ministry had already distinguished between East Jerusalemites and immigrants who became permanent residents, and acknowledged the former’s unique circumstances.

According to Lustigman, this lenient policy began around the end of 2014, although the ministry did not formally announce its existence.

Evolution of the revocation policy

When Israel captured the eastern half of Jerusalem in 1967, it did not want to give its residents citizenship. And most of those residents, who generally considered Israel’s presence in their neighborhoods illegitimate, did not want to be naturalized into the Jewish state.

Instead, a census in East Jerusalem was quickly carried out, and all those who were registered in it were given “permanent residency status.”

This status was established by the “Entry into Israel” law, created in 1952. This legislation was formulated to accommodate non-Jews who wanted to live in the nascent Jewish state. Yet that same law, with its strict requirements for keeping residency status, has been applied to East Jerusalemites, despite the fact they were born in Israel.



Adi Lustigman (Courtesy)



Illustrative photo of a school in East Jerusalem. June 16, 2015. (Hadas Parush/Flash90)

The law grants East Jerusalemites the right to apply for Israeli citizenship — like any foreign non-Jewish immigrant — but it also gives the Interior Ministry full discretion to strip or restore permanent residency status.

Until the 1990s, relatively few East Jerusalemites applied for Israeli citizenship, and the Interior Ministry revoked the permanent residency status of relatively few East Jerusalemites.

But in 1995 the Interior Ministry began demanding East Jerusalemites prove the capital was their center of life. Retroactively, thousands of families were legally liable to have their residency statuses revoked — and that's what happened, with revocations in many subsequent years reaching numbers beyond anything East Jerusalemites had previously experienced.

This policy hit its peak in 2008, during which an unprecedented 4,577 East Jerusalemites had their residency statuses revoked, according to Interior Ministry statistics obtained by Hamoked, an Jerusalem-based rights group. This was nearly four times more than in any year since 1967.

The following year, the number of applications by East Jerusalemites for citizenship jumped from 1,025 to 1,656 — a 61% leap and by far the highest increase since 1967.

Since 2003, 14,629 permanent residents of East Jerusalem have applied to become Israeli citizens.

Lustigman, among others, has argued that the sharp rise in East Jerusalemites seeking citizenship stems from their fear that one day their permanent residency statuses could be taken away.

The past few years have seen a dramatic fall in the number of permanent residency statuses revoked. [As shown in a recent Times of Israel investigation](#), however, they have also seen the processing of citizenship applications for East Jerusalemites come to an almost complete halt.

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