

THE RISK OF LEASING OUT ARMENIAN PATRIARCHATE OF JERUSALEM LAND

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By Prof. Z. S. Andrew Demirdjian, Los Angeles, 6 September 2021

According to an opinion piece ("Scandal at the Armenian Patriarchate of Jerusalem," published in Keghart.org on August 31, 2021), Archbishop Nourhan Manougian and Fr. Baret Yeretsian, the Director of the Real Estate Department of the Patriarchate of the Armenian Apostolic Church of Jerusalem, have signed several times lease agreements with the Jerusalem Municipality of Israel and other entities.

In March 2020, Abp. Manougian and Fr. Yeretsian signed a 10-year contract with the Jerusalem Municipality allowing the "Goveroun Bardez" area located in the historical Armenian Quarter to be used as a parking lot for Jews visiting the Western Wall in the Old City. This parking lot was officially opened in May of 2021.

Then, in July of 2021, a new contract was signed between the Armenian Patriarchate and Dany Rubinstein, an Australian businessman, leasing the "Goveroun Bardez" (which is the entire southwestern section of the Armenian Quarter), for 99 years. Rubinstein's plan is to construct a hotel on that land and give a small percentage of the profit to the Church within five years' of the hotel completion.

Supposedly, Abp. Manougian and Fr. Yeretsian had conducted all of the negotiations about the deal without the consent of the Synod. For three years, the Synod had not held any meeting nor had it voted on this important deal. In so doing, the Patriarchate has supposedly violated the legal and jurisdictional procedures and laws that govern it.

I will not talk about the veracity of the laws of the Patriarchate being violated. Rather, I will share with you the risk of such leasing out a piece of land which has a prime real estate location--being close to the Wailing Wall of the Jewish faith, which is considered a national shrine, including a brief discussion of how to save this land.

The risk of losing this property through eminent domain is real. When a private piece of real estate has present or future benefit for the society, there is a real risk to lose it. The government steps in to buy it in the name of public good by invoking the law known as Eminent Domain. This was done to my family twice, once in the province of Antioch (present-day Turkey) and another time in Lebanon.

The rationale for building a hotel would be based on the assumption that the pilgrims must have a convenient place to stay, when they are visiting the Jewish holy shrine. Previously, it was a vacant lot and the Armenian Patriarchate was not using it. It was sitting idle. The Israeli Superior Court will listen to both sides and naturally decide for pilgrim's use. Usually, a vacant lot invites the government to expropriate it for other uses.

In the United States, the power of eminent domain is founded in the Fifth Amendment to the U.S. Constitution, which is a kind of a "Bill of Rights" muscle that affords the government the right to take private property for the public good at a fair market price.

That means, as long as a fair price is established, roads, courthouses, schools, and utilities can be erected on the land on which even a private home or business exists. More often than not, private commercial development that is considered a benefit to the community can be built on somebody else's private land as well.

Eminent domain, therefore, is a right granted under the Fifth Amendment of the U.S. Constitution. Similar powers are found in most common law nations. For example, it is called "expropriation" in Canada, "compulsory acquisition" in Australia, in the UK, New Zealand, including Ireland eminent domain is known as "compulsory purchase." In Israel, it is called "appropriation".

The Israeli eminent domain have similarities to U.S. eminent domain Laws, but there are differences as well to be noted. In the United States, the government must show that the taking of the property in question has a public use. Allowable public uses range from the construction of highways and schools to the cleaning up of urban blight in order to promote economic development.

While in Israel, the Superior Court has had a track record of appropriations that were more clearly intended to simply benefit one social "group" (e.g., Jewish settlers) by taking land from another (e.g., Palestinian Arab property owners).

In the Israeli case, Armenians will be one social group vs. Jewish group. The Superior Court would have the tendency to favor the latter over the former. The whole intention of Israel is to convert the country into a purely Jewish state regardless how long a minority has been living there. Armenians are already considered as second-class citizens. The prospects of Armenians in Israel seem dim, but we need to continue with our millennia-old tradition of having a piece of the Holy Land as the first nation in the world to have accepted Christianity as its state religion.

The inherent risk is that the Israeli Supreme Court would very likely use eminent domain and take the Armenian property for the benefit of public use. Armenians would lose valuable land once more. It is a risky proposition to lease for 99 years. At the end of this term, perhaps there will be only a handful of Armenians left in Jerusalem to care about the Patriarchate.

One such sad example of a precedent of taking of land from the Armenian Patriarchate of Jerusalem is the present police station. The land on which the station is built now once belonged to the Armenian Patriarchate of Jerusalem. When its lease expired, it became automatically a permanent Israeli property.

In December of 2020, the Armenians and Palestinian Arabs in Bethlehem demonstrated against the leasing of Armenian land for a parking lot to be used by Jewish residents of the old city and perhaps by the visitors of the Whaling Wall. The Armenian Patriarchate, however, termed the deal as simply a financial operation and not a selling of land transaction.

Then, we have the leasing of the Patriarchate land for 99 years to a business man from Australia, who wants to build a hotel on that land.

Some say the die is cast, the contract is signed, and so nothing can be done. Fortunately, no contract in the world is cast in stone. There are a few strategies to follow in order to reverse or nullify the contract.

1. To nullify the contract, the following argument should legally be used that the Armenian Archbishop Manougian had no authority to sign a deal with Dany Rubinstein. The archbishop should have taken the approval of the Synod before making any decisions to sign the risky contract.
2. Since the lease agreement is causing concern for the Palestinian leadership, the Armenians of Jerusalem should join forces to demonstrate again and again against the deal and ask for the cancellation of the contract.
3. The Armenians of Diaspora should organize a campaign against such a risky deal of leasing land for 99 years into the murky political future of that conflict ridden world. The Diaspora should sign a petition and submit it to the government of Israel to consider a humanitarian act of nullifying the contract.
4. The Synod should take disciplinary action against the Abp. Manougian and Fr. Yeretsian for making the deal without their consent.
5. For the benefit of all Armenians, Abp. Manougian and his right hand man, Fr. Yeretsian should abdicate to show to the Israeli government that they had erred in signing a contract without the approval of certain authorities such as the Synod.
6. All of these strategies should be used for maximum effect on the Israeli government to rule against the ill-conceived, illegal contract of leasing out Armenian land for 99 years.

Due to scarcity of urban land everywhere in the world, a vacant land becomes subject to eminent domain takeover by the government. The Patriarchate land should have been used for an orchard, a recreation area, including the burial of some worthy archbishops. Like in the United States and most other places in the world, a burial ground is considered to be sacred and the government would have a hard time to take it from those who own the property. For example, the Native Americans (or American Indians) would put up a big fight if the government tries to take their burial property for public use. The wise thing to do is to not leave any of the Church's property vacant.

I am sure that there are more strategies than the ones listed above to follow, but let us stop here and make sure we organize to see how many people are willing to work on a world-wide petition signing strategy to save our precious Armenian Patriarchate of Jerusalem property.

Additionally, Armenian attorneys in Jerusalem and in the Diaspora, should take the case to court to show to the Israeli Superior Court that the deal was illegally transacted and, therefore, the contract should be null and void.

The Armenian Patriarchate belongs to all Armenians. That means it also belongs to the Diaspora. As Ararat is a national symbol, so is the Armenian Patriarchate of Jerusalem is an important religious

center of the Armenian people around the world. We should all rally to saving our religious treasure from diminution, fragmentation, and eventually disappearance. Through unity, we can accomplish our goal of saving of our properties in the Holy Land.

Comments



Mark – 2023-01-29 16:50:13

Perhaps the Diaspora, the Armenian government, and the two branches of the Armenian church should all work together (may be set up a permanent body that will have an ongoing, active monitoring of and support for such critical issues) and - if and when necessary - provide funding for (re)development projects in order to prevent any loss of what is really more than just a piece of the land. It is beyond belief to see such an uncoordinated, unorganized approach to addressing issues that should be on top of the mind for political, community and religious leaders... Just like there is one Armenia, one Artsakh, there is also one Jerusalem. Let Christ guide our leaders on all matters sacred for our nation and Christians all over!



Varbed – 2021-09-16 01:22:15

The message they are sending to Armenia is that diaspora is as corrupt as Armenian government in Armenia, and that everything Armenian is for sale if the price is right.



Patrick DONABEDIAN – 2021-09-09 15:38:45

I agree with your argumentation. We must protect the Armenian heritage in Jerusalem.