



إرث
فلسطين

THE LEGACY OF PALESTINE

**PROTECTING
CULTURAL HERITAGE
AND HOLY SITES
IN OCCUPIED
JERUSALEM**

Protecting Cultural Heritage and Holy Sites in Occupied Jerusalem

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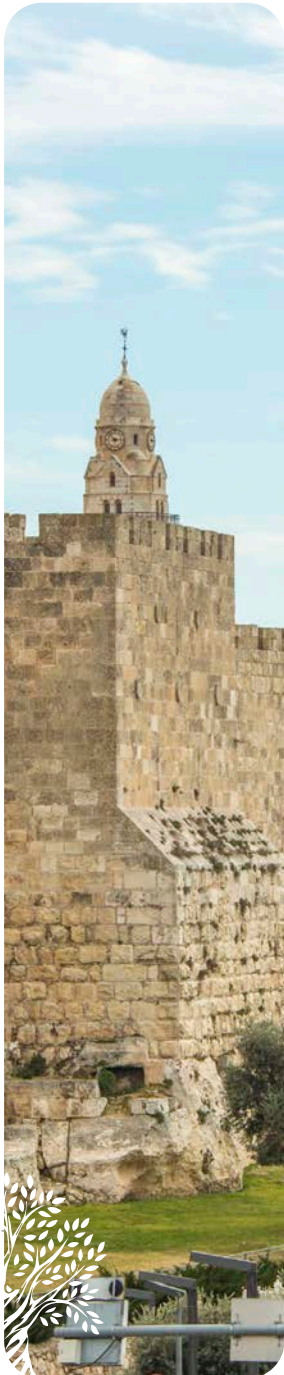
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Protecting Cultural Heritage and Holy Sites in Occupied Jerusalem

Israel, the occupying power, continues to systematically violate the Status Quo arrangements of the holy sites in Occupied Jerusalem, and the rights and responsibilities it entails. It further fails to abide by its legal obligations to respect the cultural rights of Palestinians and to protect the cultural heritage of Jerusalem.

This paper will shed light on the settler-colonial measures perpetrated by Israel, which seeks to Judaize Jerusalem and erase its Palestinian character through attempts to alter its legal status, demographic composition, and cultural characteristics. Correspondingly, it will lay out the international legal frameworks, consensus, and relevant resolutions that affirm the legal obligations and duties of the Israeli occupation authorities towards the occupied city and its people, and how accountability fits in.



Legal context of the Status Quo

Brief historical background

The Status Quo arrangement is “a set of legal rights and obligations, created over centuries of practice”¹. It originated from an Ottoman firman (decree) in 1757, to regulate the administration of Christian holy sites in Jerusalem, including ownership. It was later confirmed in another Ottoman firman in 1852 by Sultan Abdulmejid I, but this time incorporated Christian holy places in Bethlehem. In 1878, the “Status Quo” was internationally codified and recognized in the treaty of Berlin and was extended to govern all holy sites in Jerusalem and Bethlehem - not only Christian, as stipulated by Article 62 of the treaty².

In 1928, the first violation of the status quo occurred, when a group of Jewish-Zionist worshippers prayed at Al-Buraq Wall, sparking a period of significant violence that quickly developed into deadly protests, resulting in the killing of 249 Jewish and Palestinians³. Following the deadly events, the British mandate established an ad hoc commission to examine and determine the rights and claims with regard to the Al-Buraq wall. The commission determined that Al-Buraq Wall is an integral part of the Al-Aqsa Mosque (Haram Al-Sharif)⁴, hence an exclusive Islamic religious site.

Accordingly, the status quo continued to be applied during the British Mandate period and was even incorporated in the UN’s 181 partition plan (UN General Assembly Resolution 181 of November 29, 1947). Later, it was endorsed by the 1949 UN Conciliation Commission on Palestine, which declared nine sites as protected, among them is the Al-Aqsa Compound/Al-Haram Al-Sharif.⁵ According to the status quo, the administration of the Al-Aqsa Mosque belongs to the Islamic waqf, which is under the custodianship of the Hashemite Kingdom of Jordan. The purpose of this unique and delicate legal system is to prevent discord among conflicting parties.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) drafted many resolutions and decisions relating to Jerusalem⁶. However, in 2016, UNESCO passed Resolution 200 EX/25, known as the “Occupied Palestine” resolution that aroused Israel’s resentment, as it referred to the site (Al-Aqsa Compound) only by its Muslim name, expressing a stance that it is exclusively Muslim. The resolution also called on Israel to restore the historic status quo, and halt its aggression and illegal measures against “the

1) PASSIA, Heritage Protection in East Jerusalem under International Law, April 2022.

2) Ibid.

3) Alex Winder. “The ‘Western Wall’ Riots of 1929: Religious Boundaries and Communal Violence.” *Journal of Palestine Studies* 42, no. 1 (2012): 6–23. <https://doi.org/10.1525/jps.2012.xlii.1.6>.

4) United Nations. (n.d.). Jerusalem - United Kingdom Commission Report on the western wall (1930) - Ion report/letter from Jordan - question of Palestine. United Nations. Retrieved from <https://www.un.org/unispal/document/auto-insert-183716/>

5) PASSIA, Heritage Protection in East Jerusalem under International Law, April 2022.

6) UNESCO adopts Two resolutions on Palestine. *Middle East Monitor*. (2022, April 7). Retrieved from <https://www.middleeastmonitor.com/20220407-unesco-adopts-two-resolutions-on-palestine/>



Awqaf Department and its personnel, and against the freedom of worship and Muslims' access to their holy site Al-Aqsa Mosque/Al-Haram Al-Sharif.»⁷

It is worth mentioning that the Al-Aqsa Mosque compound is not a building, but rather an open architectural complex, as it is an area of 144 dunums.⁸ The Holy al-Aqsa Mosque includes a large group of mosques, schools, Sufi Zawayyas, arwiqa, terraces, fountains, porticos, minarets, the Dome of the Rock, and al-Jame' Al-Aqsa, or what is called Al-Qibli Mosque and other landmarks.⁹

The Occupation and illegal annexation of Jerusalem:

In 1967, Israel occupied the West Bank and unilaterally annexed the eastern part of Jerusalem, where the Al-Aqsa Mosque is located, in violation of international law. Immediately after, Israel confiscated the key to the Mughrabi Gate (one of the gates of the Al-Aqsa Mosque) and razed the Mughrabi Quarter; displacing hundreds of Palestinians from its residents, as the demolition included 138 houses and many historical monuments associated with the Moroccan Islamic heritage in the city of Jerusalem, including four historic mosques¹⁰. On this destructed heritage and property, a prayer plaza for Jewish worshipers to pray in front of the Islamic Al-Buraq Wall was established. Moreover, Israel deployed its occupation forces in Jerusalem's Old City around the Al-Aqsa compound's entrances and could enter at will¹¹.

Between 1967 and 2000, the Status Quo was relatively respected by Israel. In 1994, Israel signed the peace treaty with Jordan and under Article (9) Israel acknowledged "the special role of the Hashemite Kingdom of Jordan in Muslim holy shrines in Jerusalem" and declared its intent to give priority to Jordan in negotiations on the final and permanent status of Jerusalem¹². However, in 2000, the then-Israeli opposition leader Ariel Sharon, provocatively and in breach of the status quo, stormed the Al-Aqsa Mosque under the protection of Israeli occupation forces; an event that sparked the Second Intifada.

The components of the Status Quo and its explosive potential

The status quo in Al-Aqsa regulates its possession and administration, and it includes, inter alia, three main components that are regularly violated, regulations of entry and access, the right to worship, and excavations and maintenance work¹³. Under the status quo, non-Muslims can enter the compound provided that they comply with the regulations set by the Islamic Waqf, non-Muslim prayer in the Al-Aqsa is categorically forbidden, and lastly, any work of maintenance and excavations should only be decided on and ordered by the Islamic Waqf¹⁴.

Since 2000, the above-mentioned three components have been systematically violated by the Israeli occupation authorities. During the second Intifada, they banned non-Muslims from entering the site. However, in 2003, they unilaterally allowed non-Muslims to enter without coordination with the Islamic Waqf Department or Jordan, and since then took full control of who can enter the Al-Aqsa compound¹⁵. Today, non-Muslims, including illegal settlers who carry an ideology hostile to the Al-Aqsa Mosque, can enter from the Mughrabi Gate, under the supervision of the Israeli occupation authorities rather than the Waqf.

Provocative tours and incursions by Israeli settlers and far-right politicians are also among the settler-colonial measures performed in breach of the status quo. The growing culture of impunity, due to inaction and lack of political will of the international community, has enabled these incursions to become a frequent occurrence. Many of these incursions are organized by «Temple Mount Movement» groups and facilitated by Israeli politicians, whose ultimate goal is to destroy Al-Aqsa and the Dome of the Rock, and instead, build the Third Temple¹⁶.

The Temple Movement emanates from Kahanism; a radical Jewish movement established by Rabbi Meir Kahane in the 1960s that calls for a theocratic ethnostate with minimal "Arab" presence¹⁷, who will be

7) Occupied Palestine - un.org. (2016). Retrieved from <https://www.un.org/unispal/wp-content/uploads/201908//UNESCOEX200.pdf>, point 8

8) Yusuf Said Natsheh, A Selection of Landmarks of Jerusalem's Architectural Heritage – Jerusalem Architectural Gallery, Plavision 2022.

9) Ibid.

10) The Aqsa Foundation for Islamic sacred Places Development, "Standing Firm", 2007 <https://dspace.qou.edu/contents/0104/unit6/resources/pdf.pdf>

11) Israeli Violations Against the Holy Places and the Historic Character of the Old City of Jerusalem. (2016, August). Retrieved from <https://haramalqaqa.com/wp-content/uploads/202006//israeli-violations.pdf>

12) Ibid, P.4

13) Marjieh, Mounir. Jerusalem's Status Quo Agreement: History and Challenges to its Viability. Arab Center Washington DC. (2022, June 7) Retrieved from <https://arabcenterdc.org/resource/jeruselems-status-quo-agreement-history-and-challenges-to-its-viability/>

14) Ibid.

15) Crisis Group. Defusing the crisis at Jerusalem's gate of mercy. (2019, April 3). Retrieved from <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/israel-palestine/b067-defusing-crisis-jeruselems-gate-mercy>

16) IMEU. Fact Sheet: The Temple Mount Movement. (2022, April 26). Retrieved from <https://imeu.org/article/fact-sheet-the-temple-mount-movement>

17) Sherman, C. (2022, October 7). The GOP's plan to build the Third Temple. Jewish Currents. Retrieved from <https://jewishcurrents.org/the-gops-plan-to-build-the-third-temple>



deprived of their basic rights, including the right to vote¹⁸. A political Party representing the movement under the name Kach was instituted in the 70s. Although the Israeli government banned the party in 1984, it was later revealed - through tax filings- its re-establishment via Temple Movement nonprofit affiliations¹⁹.

Comparably, the US State Department declared the Kach Party as “a foreign terrorist organization” in 2004²⁰, yet today ties between the GOP faction supporters of the Temple movement, and the Temple Mount Movement are ever-growing and have even prompted under the Obama administration a deviated political stance from the decades-aged two-state solution, referred to as “a shadow foreign policy”²¹. While during the Trump administration, official support to GOP congressmen to travel on “junkets” to Israel/Palestine was manifested in Friedman (US Ambassador to Israel) joining them on these travels, which always included storming the Holy Al-Aqsa Mosque Compound. These travels still persist and are often funded by Christian Zionist groups, while congressmen are exempted from any obligation to inform the State Department on such junkets.²²

During these incursions, leaders of the Temple Mount movement advertise to members of Congress a narrative that fits their Christian belief, namely, the second coming of Jesus, in an attempt to win their support over and maintain their ties, even if it does not necessarily reflect the movement’s Jewish belief and their settler-colonial objective²³.

Moreover, “the Temple Institute of Jerusalem” established the Holy Temple Museum in the Jewish Quarter, presenting through a variety of means, including a model of the third temple, installations, pictures and other electronic visuals, and expressing its aim to reinstate animal sacrifice therein²⁴, on the site where Al-Aqsa Mosque is located. The group’s website reads: “Our short-term goal is to rekindle the flame of the holy temple in the hearts of mankind through education. Our long-term goal is to do all in our limited power to bring about the building of the holy temple in our time.”²⁵ This extremist non-profit organization receives budgets from the state of Israel²⁶.

Alarming trends can be identified within Israel’s judicial system. Although the decision was reversed in the district court, in May 2022 the Israeli Magistrate’s Court overturned the Israeli police’s restraining order against three far-right Israelis from the Al-Aqsa Compound, after they prayed there in violation of the historic status quo.²⁷ The Judge argued that their actions are not a threat to the national, public, or individual security, as opposed to the police’s assessment.²⁸ This was the court’s second attempt to legitimize the right of Israeli Jews to practice their religious rites in the Al-Aqsa Mosque, the first in 2021. This manifests, above all, an ominous tone within the Israeli judicial system, in conformity with the state’s settler-colonial aspirations, as to the liability of the status quo.

On May 29, 2022, 70,000 Israeli settlers rallied around and through Jerusalem’s old city for an annual “flag march,” celebrating what Israel refers to as “unifying Jerusalem”, in reference to Jerusalem’s occupation and unlawful annexation²⁹. On the same day, more than 2,600 Israeli settlers- marking a record number -stormed into the Al-Aqsa, raised Israeli flags and recited Jewish prayers³⁰, accompanied by police personnel for their protection and other Israeli Parliament members (the Knesset), including PM Itamar Ben-Gvir, PM Shulamit Mu`alem-Refaeli, and PM Yehuda Glick³¹.

For Palestinians, the Al-Aqsa Mosque (Al-Haram Al-Sharif) is both a religious and national symbol, in which many believe their last stand will be. The recurrent breaches of the status quo and the attacks against the Al-Aqsa Mosque sparks outrage among the Palestinian people, already living under a cruel settler-colonial

18) Mergui, R., & Simonnot, P. (n.d.). Israel’s Ayatollahs: Meir Kahane and the Far Right in Israel. Web.archive. Retrieved from <https://web.archive.org/web/20090219141224/http://kahane.org/meir/interview.htm>

19) Sherman, C. (2022, October 7). The GOP’s plan to build the Third Temple. Jewish Currents. Retrieved from <https://jewishcurrents.org/the-gops-plan-to-build-the-third-temple>

20) “Country Reports on Terrorism 2004.” US Department of State Office of the Coordinator for Counterterrorism, n.d. <https://20092017-state.gov/documents/organization/45313.pdf>. P102

21) Sherman, C. (2022, October 7). The GOP’s plan to build the Third Temple. Jewish Currents. Retrieved from <https://jewishcurrents.org/the-gops-plan-to-build-the-third-temple>

22) Ibid

23) Sherman, C. (2022, October 7). The GOP’s plan to build the Third Temple. Jewish Currents. Retrieved from <https://jewishcurrents.org/the-gops-plan-to-build-the-third-temple>

24) “Holy Temple Museum.” Temple Institute, n.d. <https://templeinstitute.org/holy-temple-museum/>.

25) “About Us.” Temple Institute, n.d. <https://templeinstitute.org/about-us/>

26) The Jerusalem Post, “Report: State Funds Groups That Advocate Building Third Temple201.” August 4, 2013. <https://www.jpost.com/Diplomacy-and-Politics/Report-State-funds-groups-that-advocate-building-Third-Temple-321990>.

27) Middle East Eye, “Israeli Court Rules against Allowing Jewish Prayer on Al-Aqsa Compound.” May 26, 2022. <https://www.middleeasteye.net/news/israeli-court-rules-against-allowing-jewish-prayer-al-aqsa-compound>.

28) Ibid

29) Peoples Dispatch. “Thousands of Extremists Allowed to Storm Al-Aqsa during so-Called ‘March of Flags,’” May 30, 2022. <https://peoplesdispatch.org/202230/05//thousands-of-extremists-allowed-to-storm-al-aqsa-during-so-called-march-of-flags/>.

30) Fabian E., and Boxerman A. “In Record, More than 2,600 Jews Visit Temple Mount on Jerusalem Day.” The Times of Israel, May 29, 2022. <https://www.timesofisrael.com/in-record-more-than-2600-jews-visit-temple-mount-on-jerusalem-day/>

31) Wafa, “Extremist Rabbi Glick Leads Settlers in a Provocative Tour of Al-Aqsa.”, June 15, 2021. <https://english.wafa.ps/Pages/Details/125030>.



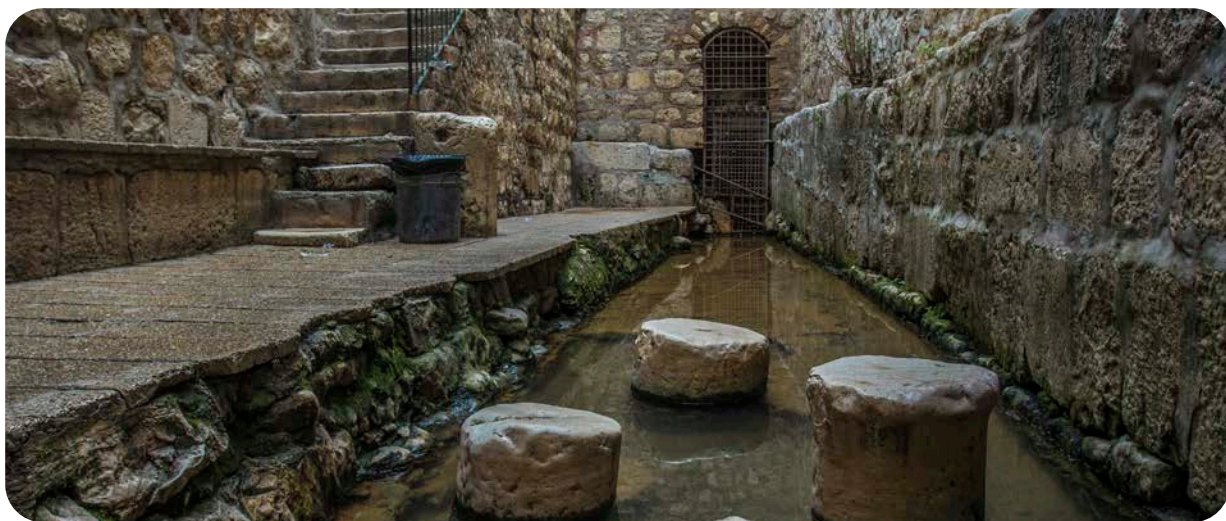
and apartheid regime that systematically targets their Palestinian identity and all its components. This fuels resentment among Palestinians, who organically express their dissatisfaction with the prolonged occupation through resistance, which is suppressed by the Israeli occupation forces that usually resort to unduly force, ostensibly to achieve public order, but it actually pursues Jewish-Israeli control and domination.

The holy Al-Aqsa Mosque itself has also been subject to Israeli violence directly. During the events that unfolded in Jerusalem during Holy Ramadan 2021 and 2022, the Israeli occupation special forces stormed into Al-Qibli praying hall on multiple occasions, stepped on the mosques' carpets, disregarding the sanctity of the site to Muslims, and even launched stun grenades and tear gas grenades into the praying hall³². The courtyards of Al-Aqsa became an area in which the Israeli occupation forces systematically applied indiscriminate and unproportionate force against Palestinians, including men, women, children, Waqf personnel, and even journalists and medical staff that were present there to help the injured. The Israeli occupation forces relentlessly beaten Palestinians with batons, shot them with rubber-coated metal bullets, threw stun grenades and tear-gas grenades at them, and as perverted as it may sound launched gas grenades on worshipers from drones³³. Among the damage that resulted to the holy site, the historic windows of the Al-Aqsa Mosque were destroyed, some of which date back to the Abbasid and Fatimid eras³⁴.

Often, the repairing of such damage is impeded or denied altogether due to the Israeli occupation authorities' restrictions against the Islamic Waqf Administration's rightful authority to carry out renovations and maintenance to the Al-Aqsa Mosque compound. In contrast, the Israeli occupation- through the Israeli Antiquities Authority (IAA) and Elad settlement group - has been conducting excavations, digging, tunneling and other illegal underground projects in and around the Holy Al-Aqsa Mosque since 1968 - in total 58 excavations³⁵. Recently, Al-Mufti has warned that these ongoing and unlawful excavations are threatening the collapse of the Holy Al-Aqsa Mosque³⁶.

Many international legal instruments include provisions for the protection of religious sites. Article 56 of the Hague Regulations stipulates that the destruction or willful damage of property dedicated to religion is forbidden, and should be made subject of legal proceedings³⁷. While the Rome Statute of the International Criminal Court Article 8(2)(b)(ix), states clearly that unless for military objectives, intended attacks against religious sites constitute a war crime³⁸.

Critically, Israel, as the occupying power, is prohibited under international humanitarian law to apply its laws to the occupied territories. Instead, it must respect the laws enforced in the territory it exercises power over, including the Status Quo, as it is part of the legal system therein."³⁹



32) Marjeh, Mounir. "The Use of Excessive Force against Palestinians in Jerusalem during the Holy Month of Ramadan 2021." Community Action Center ("CAC"), April 17, 2022. <https://cac.alquds.edu/en/news/the-use-of-excessive-force-against-palestinians-in-jerusalem-during-the-holy-month-of-ramadan-2021.html>.

33) Murphy, Maureen C. "Israel Deploys Tear Gas Drones against Al-Aqsa Worshipers." The Electronic Intifada, April 22, 2022. <https://electronicintifada.net/blogs/maureen-clare-murphy/israel-deploys-tear-gas-drones-against-al-aqsa-worshippers>.

34) Bishara, Hakim. "Israeli Forces Damaged the Historical Stained-Glass Windows of Al-Aqsa Mosque." Hyperallergic, April 15, 2022. <https://hyperallergic.com/725191/israeli-forces-damaged-the-historical-stained-glass-windows-of-al-aqsa-mosque/>.

35) Eleyan, Nuha. "Serious Cracks around Al-Masjid Al-Aqsa." Palm Strategic Initiatives Centre, August 11, 2022. <https://palmstrategic.org/post/3427/Serious-Cracks-around-Al-Masjid-Al-Aqsa#:~:text=The%20occupation%20opened%20the%20tunnel,which%2088%20Palestinians%20were%20martyred>.

36) Wafa, "The Grand Mufti Warns Israeli Excavations Could Cause the Collapse of Al-Aqsa Mosque," June 27, 2022. <https://english.wafa.ps/Pages/Details/129851>.

37) <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/ART/195200066-?OpenDocument#:~:text=56-,Art.,be%20treated%20as%20private%20property>.

38) Elements of crime, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/ART/195200066-?OpenDocument#:~:text=56-,Art.,be%20treated%20as%20private%20property>. P.259

39) Article 43 to the Hague Regulations



Endangered Cultural and Historical Heritage

Jerusalem is home to the three monolithic religions, Judaism, Christianity, and Islam, and has 220 historic monuments⁴⁰. In 1981, the Old City of Jerusalem (and its Walls) was inscribed on the List of World Heritage. One year later (1982), upon the request of Jordan, it was added to the List of World Heritage in Danger and remains until this day⁴¹. The status of the sites was found to correspond to the predetermined criteria set by the International Council on Monuments and Sites (ICOMOS), which included criteria (e) significant loss of historical authenticity and (f) important loss of cultural significance, as far as «ascertained danger» is concerned⁴².

In UNESCO's 2021 report, it was determined that among the current factors further endangering the property of Jerusalem are the urban environment and visual integrity; the impact of archaeological excavations; Identity, social cohesion, changes in the local population and community; and management activities⁴³.

Archeology and Tourism:

In Palestine, archeology is used as a political tool by Israel to practice land takeover and cultural erasure. It does so through cooperating with settler organizations, discriminatory policies, and the application of Israeli domestic laws in occupied territories in violation of international law. In 2010, the Israeli government adopted a settler-colonial project called the "National Heritage Sites Project". It works towards altering the identity and history of scores of sites in the West Bank, including East Jerusalem to create a "pretext" for land takeover; mostly religious-based claims/narrative. However, the promoted goal by the Israeli government is to strengthen the Jewish connection to "the land of Israel" by targeting the development and promotion of 150 sites divided into two categories; historical – to "revive" the history of Zionism, and archaeological – to "mark" the Jewish presence across the centuries⁴⁴. The list included 37 archeological sites with the City of David Park in East Jerusalem being among them.

The City of David Archaeological Park is located in the Palestinian neighborhood of Silwan in the southern area of the holy Al-Aqsa Mosque. The project tries to "prove" the Jewish presence/religious narrative that dates back to 3,000 years ago, while distorting the history of the place and excluding other relics, especially from its archaeological/excavation findings⁴⁵.

Originally, the Park was supposed to solely be managed by the Independent governmental body Israel Nature and Parks Authority (INPA), however, it agreed to co-manage it with the settler organization Elad Foundation, while the excavation work is conducted by the Israel Antiquities Authority (IAA).⁴⁶ Through such cooperation, Israeli governmental bodies are involved in the advertising of Jerusalem as a mono-ethnic city.

Elad— also known as Ir David Foundation is a settler organization that has been working since 1986 towards Palestinian land and home theft, with the purpose of expanding Jewish settlement in the heart of Palestinian neighborhoods, and more recently towards "strengthening the Jewish connection to Jerusalem"⁴⁷ through "invisible settlement"⁴⁸ or at least a less coercive one, namely, archaeological excavation and tourism/educational development.

Indeed, Elad is the funder of the site's excavations and is responsible for the visitor center in the park⁴⁹. The tours and curation in the underground tunnels, which mainly target Israelis including students and foreign tourists, work on tailoring and promoting an exclusive Jewish historical narrative that supports the settler-colonial Zionist project, while eliminating the history and cultural heritage of Christian and Muslim Palestinians. It also works on excluding/denying the current rightful presence of Palestinians who reside just right above the tunnels, and their connection to Silwan and to the whole of Jerusalem; in an attempt to legitimize Israeli settlement, and portray Palestinians as intruders rather than as indigenous to the land.

Furthermore, not only Palestinians of Silwan were not informed from the beginning about the excavation work under their houses, but are also excluded from any public benefit. In addition, these excavations and

40) UNESCO World Heritage Convention. "Old City of Jerusalem and Its Walls." n.d. <https://whc.unesco.org/en/list/148/>.

41) UNESCO World Heritage Centre. "State of Conservation (SOC)," n.d. https://whc.unesco.org/en/soc/?action=list&id_site=148.

42) UNESCO World Heritage Convention. "Threats to the Site (1982)", n.d. <https://whc.unesco.org/en/list/148/indicators/>

43) UNESCO World Heritage Centre. "State of Conservation (SOC 2021) Old City of Jerusalem and Its Walls," n.d. <https://whc.unesco.org/en/soc/4039/>.

44) Emek Shaveh, "Israel's 'National Heritage Sites' Project in the West Bank: Archeological Importance and Political Significance." September 13, 2013. <https://emekshaveh.org/en/heritage/>.

45) Israeli Violations Against the Holy Places and the Historic Character of the Old City of Jerusalem. (2016, August). Retrieved from <https://haramalqaqa.com/wp-content/uploads/202006/israeli-violations.pdf>

46) Emek Shaveh. (n.d.). An Alternative Guide to the City of David Archaeological Park. https://emekshaveh.org/en/wp-content/uploads/201912/visitors_info_web_eng.pdf

47) <https://www.guidestar.org.il/organization/580108660>.

48) Ofran, Hagit. "Invisible Settlements in Jerusalem ." PIJ.ORG. Accessed November 18, 2022. <https://pij.org/articles/1283/invisible-settlements-in-jerusalem>.

49) Ibid



tunnels have caused damage to the upper structures in the area, including to the walls and grounds of Palestinian houses, and public routes such as stairs. In 2020, 38 Palestinians housing units were found to suffer from damage varying in severity depending whether it's a ground-floor house or an apartment on higher floors⁵⁰.



50) "Fissures and Cracks – Damage to Homes in the Wadi Hilweh Neighborhood of Silwan." Emek Shave, March 18, 2020. <https://emekshaveh.org/en/fissures-and-cracks/>.



Israeli excavation work in the West Bank, of which Jerusalem is part, is carried out with impunity and in breach of international provisions on the protection of cultural heritage. The Delhi UNESCO recommendation of 1956 provides that “any Member State occupying the territory of another State should refrain from carrying out archaeological excavations in the occupied territory.” In 2015, the City of David Project was condemned by UNESCO, along with other archaeological and heritage activities that are further endangering the Old City of Jerusalem⁵¹. On the contrary, on January 18, 2021, the US - through its embassy in Jerusalem and the United States Commission for the Preservation of America’s Heritage Abroad - recognized the City of David and described it as “a testament to America’s Judeo-Christian Heritage and founding principles.”⁵²

Furthermore, in 2019, both Israel and the US officially withdrew from UNESCO due to considering the institution an active agent in “fostering anti-Israel bias”,⁵³ and until the present moment, as specified in the World Heritage Committee in its Decision (44 COM 7A.10), Israel persistently refuses to appoint a permanent representative to UNESCO in occupied East Jerusalem.⁵⁴

Archeological work extended: Museums and Archives.

Israeli Museums in Occupied Jerusalem are another space where biased interpretation of history and exhibition of Jerusalem’s cultural heritage can be practiced. They are central sites for representations or lack of – according to what serves the settler-colonial context best.

In 1984, the Museums Law was passed by the Knesset. The law enables the Minister of Culture to recognize under a set of conditions museums as “cultural institutions” that can benefit from state funds⁵⁵. According to its website, the Israel Museum is considered the largest cultural institution in “Israel”, and is rated among the world’s leading museums of art and archeology⁵⁶. Notwithstanding, the Museum exhibits archeological findings that endeavor to create a link between the “modern state of Israel” and the “Israelite” period as an attempt to justify their settler-colonial presence based on a religious narrative⁵⁷. Furthermore, questions surrounding the authenticity of pieces exhibited have been raised multiple times.

Besides the alleged archeological findings, the Museum hosts architectural structures that aids attempts of appropriation of Palestinian heritage. A prime example is the 1:50 scale model of Jerusalem during what is known according to the Jewish religious narrative as the alleged “Second Temple period”, which the Israel Museum has been hosting since 2006. It was originally commissioned by Hans Kroch, the owner of the Holyland Hotel, as a memorial to his son who died in the 1948 war.⁵⁸ The model was not designed based on archaeological evidence, but rather on historical and literary sources. Even so, some of the Herodian architecture it displays was found to be inaccurate. For instance, according to historical research, the red tiles used for the roofs of the rich were not yet invented during that period.⁵⁹

The model is located near “the Shrine of the Book”; an architectural structure that displays seven ancient scrolls (biblical manuscripts) that are claimed to have been discovered in an area to the northern shore of the Dead Sea called Qumran Caves⁶⁰, which are among the sites Israel has declared as a “National Heritage Site” to Jews. This exhibition, the Shrine of the Book, adds even greater value to the purpose the model attempts to serve; to prove the Jewish exclusivity and their religious rights over the compound where Al-Aqsa Mosque currently sits, and encourage efforts to build the temple, in clear violation of international law, and the heritage of Palestinians and Jerusalem.



51) “City of David Project Condemned by UNESCO.” Archaeology Wiki, July 17, 2015. <https://www.archaeology.wiki/blog/201517/07//city-david-project-condemned-unesco/>.

52) “Recognizing the City of David as a Testament to America’s Judeo-Christian Heritage and Founding Principles.” U.S. Embassy in Israel, January 18, 2021. <https://il.usembassy.gov/recognizing-the-city-of-david-as-a-testament-to-americas-judeo-christian-heritage-and-founding-principles/>.

53) Adamson, Thomas. “U.S. and Israel Officially Withdraw from UNESCO.” PBS, January 1, 2019. <https://www.pbs.org/newshour/politics/u-s-and-israel-officially-withdraw-from-unesco>.

54) UNESCO World Heritage Centre, “44 COM 7A.10 - Decision.” 2021. <https://whc.unesco.org/en/decisions/7639>.

55) The Israel Museum Law (1983) (Heb)

56) “The Israel Museum Jerusalem.” Imj.org.il. <https://www.imj.org.il/en/content/welcome-israel-museum#:~:text=The%20Israel%20Museum%20is%20the,leading%20art%20and%20archaeology%20museums>.

57) Hawarip, Mahmoud. “The Citadel of Jerusalem: A Case Study in the Cultural Appropriation of Archaeology in Palestine.” Present Past. <https://presentpasts.info/articles/10.5334/pp.25/>.

58) Zandberg, Esther. “Rock of Our Existence, at a Scale of 1:50.” Haaretz - Israel News, June 29, 2006. <https://web.archive.org/web/20070211063731/http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=732574>.

59) Ibid

60) Zandberg, Esther. “Rock of Our Existence, at a Scale of 1:50.” Haaretz - Israel News, June 29, 2006. <https://web.archive.org/web/20070211063731/http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=732574>



The current purposes and projects Israeli Museums intend to achieve violate the regulations on protection of cultural property manifested in Article 9 (1) (c) of the 1999 Second protocol to the 1954 Hague Convention stipulating that the occupying power must prohibit and prevent in relation to the occupied territory “any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical, or scientific evidence”⁶¹.

Lastly, IHL provisions aim to prevent the occupying Power from altering the occupied territory’s legal status, character, and demographic composition against the interests of the population living there⁶². In this regard, UN Security Council passed resolution 476, which declared that “all legislative and administrative measures and actions taken by the Israeli occupation which purport to alter the character and status of the Holy City of Jerusalem have no legal validity and constitute a flagrant violation of the Fourth Geneva Convention»⁶³.

Recommendations:

According to Common Article 1 to the 1949 Geneva Convention, and Article 1 of the 1977 Additional Protocol, all states have an obligation to “respect and ensure respect” for IHL in all circumstances. Correspondingly, we (Palvission) recommend the following measures and actions to be taken by third states to hold Israel accountable.

We call on third States to:

- Abstain from directly financing, favoring, or facilitating settler-colonial economic activities, and holding companies complicit in IHL violations accountable.
- Pressure Israel to abide by its legal obligations as an occupying power, respect its duties under (IHL) to protect and respect historical and cultural heritage in the oPt, and cease its unlawful practices, including systematically breaching the historic Status Quo.
- Pressure Israel to cooperate and respond to UNESCO’s request to appoint a permanent representative to be stationed in East Jerusalem and report on regular bases on the situation.
- Ensure that private companies and non-profit organizations within their jurisdiction do not provide financial or any other support to Israeli settler organizations such as Elad, or contract to implement tourism activities and projects in the occupied Palestinian territories in a way that aims to change the landmarks of the city of Jerusalem, its Status Quo, or obliterate its Palestinian identity.
- Recognize and declare that the archaeological excavations in occupied Jerusalem are in breach of IHL, and are promoting illegal settlement and racial domination that constitute to a war crime and a crime of apartheid respectively.
- Support the work of the International Criminal Court and other legal mechanisms that work towards ensuring justice and accountability.

We urge the US to:

- Withdraw its recognition of Jerusalem as the Capital of Israel and the consequent measures including moving the US Embassy to Jerusalem.
- Terminate their support and involvement in activities that advances the settler-colonial project in Jerusalem, including the privately-sponsored trips to the occupied territories, which involve incursions to Al-Aqsa Compound, members of congress go on.
- Review the Congress’s House Rules that elevate any obligation on members of Congress to report to the US State Department and take the necessary legal measures against those who get involved in activities harmful to the Status Quo, and to the overall cultural, religious and historical heritage.

To International Mechanisms:

- We call on the prosecutor of the International Criminal Court and the UN Commission of Inquiry (Col) on the OPT to investigate Israel’s unlawful practices, policies and attacks on protected holy sites governed by an internationally codified status quo arrangement, and on Palestinian cultural rights and heritage.
- We call on the Col to give special attention in its upcoming report to Jerusalem, and the current Israeli breaches to the status quo and the settler-colonial activities threatening the cultural heritage of the city, including archeological excavations, and incursions led by settlers.

61) https://en.unesco.org/sites/default/files/1999_protocol_text_en_2020.pdf, p.6

62) Annexation under international law, State of Palestine Ministry of Foreign Affairs and Expatriates, Israeli Violations, Sunday, January 17, 2021, available at: http://www.mofa.pna.ps/en-us/mediaoffice/israeliviolations/annexation-under-international-law#_ftn15

63) UNSCR Resolution 476 (1980) <http://unscr.com/en/resolutions/doc/476>



Palestinian Vision Organisation
Al-Rashid St. Jerusalem Arab Chamber of
Commerce Building - Jerusalem

Tel: 02-6285080 | info@palvision.ps | www.palvision.ps

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