



INTERNATIONAL CONFERENCE ON THE QUESTION OF JERUSALEM

“Preserving the cultural and religious character of Jerusalem”

Geneva, 27 - 28 June 2019

CHECK AGAINST DELIVERY

PLENARY III

Jerusalem: Holy to the three monotheistic religions

Challenges in the free access to holy sites

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Challenges to the Free Access to the Holy Sites

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Jerusalem

June 21, 2019

International Conference on the Question of Jerusalem "Preserving the Cultural and Religious Character of Jerusalem"

Panel 3

"Jerusalem: Holy to the three monotheistic religions"

The Committee on the Exercise of the Inalienable Rights of the Palestinian People

United Nations

Geneva

June 27 and 28

Brief Historical Introduction

The challenges to the free access to the holy sites of the respective religions in the Holy Land are not restricted to preventing the faithful from freely visiting their places of worship but have to be considered from a broader geo-political perspective. The history of insisting on the free access goes back to the Caliph Omar Bin Al Khattab who visited the Church of the Holy Sepulcher in 637 AD with Patriarch Sophronios and declined to pray at the Church when the noon call to prayer was heard. This symbolic and practical measure by the Caliph ensured for generations to come the right of Christians to their own holy places unhindered. In 1852 Ottoman Sultan Abdul Majid issued the Status Quo decree that sought to regulate freedom of access, possession and worship in the Holy Sepulcher and six other Christian sites. When General Allenby entered Jerusalem on December 11, 1917 he made a statement to the effect that the holy places will remain under the existing religious custodianship arrangements. The League of Nations ratified in 1922 the British Mandate of Palestine with the specific recommendation of "preserving existing rights and of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship." The dispute in 1929 over the Western Wall which led to violent confrontations between Arab and Jew led to the International Commission of the Western Wall which concluded that the Wall and the Pavement in front are the ownership of Muslims while Jews have full access and devotional rights with restrictions on worship such as placing of benches, etc. The GA Resolutions 181 of 1947 and 194 of 1948 recommended respectively for Jerusalem to be placed under international trusteeship and the internationalization and demilitarization of the city in order to preserve free access and protection of Jerusalem's holy sites. While freedom of access is not limited to

Jerusalem and its holy sites, the central issues surrounding freedom of access revolve around the city and its holy sites to the three monotheistic religions pre-1967 but more pressing post 1967, particularly on holy sites considered holy both by Muslims and Jews.

Following the June War of 1967 and the Israeli occupation of East Jerusalem and the West Bank, the Knesset passed the Protection of the Holy Places Law – 1967 which subscribed to protecting the holy places from desecration and ensuring freedom of access to the different religions. The same commitment was made when the Law declaring Jerusalem capital of Israel was enacted in 1981. In August 1967 the Israeli government, in a move that would impact the status of all holy sites in the Old City of Jerusalem, designated the Old City as antiquities, a step that included Al Haram Al Sharif and the Western Wall, which practically prohibited Muslims and Christians from carrying out any needed renovations on their holy sites within the Old City without the approval of the relevant Israeli authorities. Israel proceeded to take steps that would exclusively enforce unilateral Jewish claims to the disadvantage of non-Jews in holy sites that are considered sacred to more than one religion. The International community was against any unilateral measures by Israel in occupied East Jerusalem. US Ambassador to the UN Arthur Goldberg stated in the fifth UNGA special session in June 1967 that his government position on Jerusalem includes the recognition of the interests of Muslims, Christians and Jews, and that no unilateral action will be taken on the status of Jerusalem without consultation with religious leaders of all faiths and concerned parties. Special session resolutions 2253 and 2254 nullified the measures of Israel to change the status of Jerusalem. In July 1969 US Ambassador to the UN Yost told the Security Council following the arson fire set by an Australian “tourist” to Al Aqsa Mosque where the historic and priceless Minbar Salah Eddin was completely destroyed that Jerusalem occupies “a unique international standing and that no action should be taken without full regard to Jerusalem’s special history and special place in the world community.” The Organization of Islamic Conference (OIC) was formed in response to the Aqsa Mosque arson in September of 1969. UNGA resolution 3236 of 1974 calls for self-determination to the Palestinian people and Israeli withdrawal from the Occupied Territories including East Jerusalem following Arab League recognition of the PLO as sole representative of the Palestinian people. In 1980 The European Economic Community adopts “Venice Declaration” which states that “it will not accept any unilateral initiative designed to change the status quo of Jerusalem.” Knesset Basic Law Jerusalem “eternal and undivided” capital of Israel. UNSC Resolution 478 rejects Israel’s claims to East Jerusalem. IN response to Israel’s claim over East Jerusalem as part of its capital, UNSC resolution 478 rejects Israel’s claim to East Jerusalem.

In 1988 PLO Chairman Arafat declares an independent Palestinian state with East Jerusalem as its capital and acceptance of UNGA resolution 181. This was followed by Madrid Peace Conference and the eventual signing of the Oslo Accords in September 1993 with framework of negotiations that stipulated discussing the final status of Jerusalem within five years. In 1994 Jordan and Israel signed the Wadi Araba agreement that recognized Jordan’s “historic role” as custodian of Jerusalem’s Muslim holy places. In 1995 Congress Jerusalem Embassy Act to move by 1999 but American Presidents waived the implementation of the ACT until December 2017 when President Trump signed an order for its implementation. In response UN General Secretary Mr. Guterres remarked that “Jerusalem is a final status issue that must be resolved through direct negotiations.” In response one hundred and twenty-

eight countries voted in emergency session of UNGA on December 21, 2017 to null any decision or action that could alter character, status or demographic composition of Jerusalem. Call on states to refrain from establishing diplomatic missions in the city.

In September 28, 2000 Sharon visits Al Haram Al Sharif starts of the Second Intifada. In 2002 Arab League adopts the Arab Peace Initiative – peace with Israel in exchange of withdrawal to pre-1967 and a Palestinian state with East Jerusalem as its capital. In 2012 Palestine recognized by UNGA as a non-member observer state. In 2013 King Abdullah of Jordan and President Abbas of Palestine sign an agreement reiterating Jordan's role as defender and custodian of the Muslim sites in Jerusalem.

Freedom of Access: Persistent Challenges

According to a study prepared for, and under the guidance of, the Committee on the Exercise of the Inalienable Rights of the Palestinian People on the Status of Jerusalem in 1997, the challenges to freedom of access pointed out in that report continue to inhibit the full exercise of the freedom of access for Palestinians to their holy sites.

Challenges pointed out in the Report on the Status of Jerusalem by your honorable committee in 1997.

- **Freedom of Worship** – the inability of Palestinians from the West Bank and Gaza to enter Jerusalem to pray at their respective holy places remains today a problem. In spite of the presence of an Israeli permit system during Christian holy days and during Ramadan for Muslims. Yet the permit system continues to be politically manipulated by the Israeli authorities. Of relevance here is the fact that the Separation Wall, together with the Israeli permit system, has virtually divided Bethlehem from its twin city Jerusalem. Historically and for pilgrimage and touristic purposes the twin cities have never before been separated. Bethlehem sits practically at the Southern border of Jerusalem. The UN when it proposed a Corpus Separatum idea, Bethlehem and its surroundings, were also included together with Jerusalem. When Open Bethlehem organization calls for the opening up of Bethlehem, it is precisely because Jerusalem and Bethlehem cannot be separated from each other; their historic, religious and geographic complementary must be considered in any future political settlement.
- **Archaeological Excavations** which continue unabated under the Christian and Muslim Quarters as reported by Emek Shave, an Israeli archaeological group that criticizes the use of archaeology for political purposes, that describes the Israeli state attitude towards the holy as “organized mess” that enables ambiguity and administrative flexibility at the holy sites of some 160 holy sites across the country and that facilitates the eventual Judaization and gradual state takeover of these sites, in more or less formal ways. Emek Shave cites as example the “sanctification” of Zedekiah’s Cave and the “sanctification” of the Western Wall Tunnels, which are being expanded into the Christian and Muslim Quarters, the State of Israel is appropriating new areas in the Old City for the benefit of Jews.

- **Violent Incidents** – Recurring incidents particularly at Holy Sites, and in particular at Al Haram Al Sharif, as happened on July 14, 2017 when three Arab Israelis killed two Israeli police officers on Al Haram Al Sharif compound and the ensuing standoff between masses of Muslim believers who stayed day in and day out in the vicinity and alleys surrounding Al Haram following the decision by the Israeli government to place metal detectors and other electronic devices to regulate the entry of the faithful to the Mosque Compound. Eventually and due to the pressures put on the Israeli government by, among others, the Palestinian Authority and Jordan, Israel removed the newly placed detectors and devices after a couple of weeks. Violence is expected to continue intermittently on Al Haram Al Sharif compound as extreme Israeli right wing politicians have made the visit and prayer on Al Haram Al Sharif esplanade their cause celebre as Emek Shave points out.
- These violent incidents point to the sensitivity of Al Haram al-Sharif but as Emek Shave rightly argues “it is a mistake to perceive the esplanade in isolation from its surrounding environment, and to limit the discourse on maintaining the status quo to the esplanade itself. Israeli activity aimed at transforming the area surrounding the esplanade —whether through archaeological excavations or development of sites curated to highlight the periods associated with Jewish history into tourist attractions —also greatly impacts the dynamics on the esplanade itself.”
- Since 1967, according to this respected archaeological group, “extensive changes in the area surrounding the Mount, have isolated the Temple Mount/Haram al Sharif from its environment creating a discrepancy between the cultural-historical characteristics of the Temple Mount/Haram al-Sharif and that of its immediate environment which have contributed to the instability of the status quo.” The group cites the destruction of the Mughrabi neighborhood in 1967, the prohibiting burial in the Muslim cemetery in Bab el-Rahma[4], east of the compound, and the archaeological excavations to the south, west and north of the compound as having served the purpose of creating a belt of archaeological-tourist sites prominently featuring a narrative of Jewish belonging, which coupled with Land Expropriation and Settlement seeks to present a uni-dimensional representation of Jerusalem to the exclusion of its Arab Palestinian citizens and their history and heritage, including their right to free access of their holy places.

Pertinent Questions to the Freedom of Access

Questions on Free Access

- Separation of Bethlehem from Jerusalem
- Intentionality – Sacredness of one holy site to more than one religion; fear that the intent is not simply to visit but to take over the place.
- Someone raised the question of the loyalty of the Waqf guards in the Al Haram Al Sharif is it to Jordan or is it to the Palestinian Authority? What difference does it make if the guards perform their duties as they are instructed to do. Loyalty becomes secondary.

- Some religious Jews argue that they should have the right to pray at Al Haram Al Sharif. In answer the Waqf says that they are welcome to visit but not to unfurl the flags and start dancing and performing rites.
- Muslims are not allowed access for devotional purposes at the Buraq (Western Wall) or at Rachel's Tomb, both sacred to them and at same time the Abrahamic Mosque in Hebron is divided time and space between Muslims and Jews and this is enforced by Israeli police and border guard.
- Judaism and Islam have both the same sacred sites. This creates friction especially since the Israeli government is intent on making some of these sites exclusive holy sites for Jews. This is the fear of Muslims and Palestinians when it comes to Al Haram Al Sharif. To divide access to the site time and space-wise so that Muslims would lose the status quo control of the site. The attempts to pressure Jordan to relinquish its custodianship to Al Haram Al Sharif goes towards this plan of time and space division of Al Haram Al Sharif. A high-ranking American administrator recently denied that the US Administration is putting pressure on Jordan to relinquish its custodianship role over the Holy Places in Jerusalem.
- Under current prevailing conditions, Israel will continue to do what it wants with the holy sites driven by the more extreme religious settler groups.

Change of Landscape : The Cable Car Project and the Takeover by a Settler Group of the Jaffa Gate Properties of the Greek Orthodox Church

On third June this year a controversial Jerusalem Cable Car Plan cleared the hurdle when the Israel National Infrastructure Committee gave its consent by rejecting a number of petitions presented against the project. The Cable Car when completed will connect West Jerusalem from the site of the former train station, First Station Complex, to the Western Wall passing over the Arab neighborhood of Silwan and eventually will be extended to the Mount of Olives overlooking the Old City. Environmentalists, prominent urban planners and archaeologists, architects, Palestinian residents and religious minority groups protested that the project is culturally and politically irresponsible while its proponents argue that it is the most economically feasible way to get up to three thousand visitors per hour from the First Station Complex to the Western Wall. The project needs the approval of the Israeli government and Prime Minister in order to proceed.

https://alt-arch.org/en/im_cable_car_en/

Emek Shave in a study published in December 2018 argued in opposition to the project that "in historic cities, it is accepted that the values of landscape and preservation should be protected, and not sacrificed in favor of gimmicks and innovations that are foreign to the city's historical character." Furthermore, the project is harmful to the landscape and architecture. According to the 2018 study, "The planned cable car route to Mount Zion is designed to cross the Ben-Hinnom Valley. A section of the route leading to the Kedem Center will run parallel to the southern wall of the Old City. The developers are offering a traffic rate of approximately 72 cars per hour. Many support pillars will be fixed between the stations. According to this plan, the cable car line will become a very busy traffic artery involving cars

moving along the Old City walls at almost any given time, amid an ugly landscape of support pillars and thick cables. This would constitute unprecedented harm to the landscape of the Old City and the Ben-Hinnom Valley. While currently the valley comprises a minor traffic route and a green belt preserving the natural beauty and antiquities, it will transform into a main transportation artery that will damage the famous city skyline. Many conservation experts and architects along with many within the general public are protesting the "Disneyfication" of the Historic Basin and the aesthetic blight of cars hovering over the Old City walls."

A number of negative effects of the project is highlighted by Emek Shave: When completed it would "funnel" visitors to sites such as the City of David and the Western Wall tunnels where they would be subject to a "closed" narrative of a national-religious nature and which conceals the non-Jewish parts of Jerusalem's past. "The presence and story of Christians and Muslims in Jerusalem, past and present, disappear as if they never existed as visitors walk underground in a "Second Temple reality" or arrive by air directly into tourism and information centers run by organizations with a controversial national-religious agenda."

From an economic perspective the project would shift point of entry to the Old City from Damascus Gate and the Old City markets and result in economic profits to Elad and the Western Wall Heritage Foundation which will charge an entrance fee to the City of David and the Western Wall tunnels. Besides the detrimental effects on the residents of Silwan will affect their quality of life adversely as dozens of cable cars will be hovering over their homes every hour of the day. Besides damaging the facades of houses, some of the pillars supporting the cable cars will be built on land belonging to these residents and to churches and monasteries.

Emek Shave concludes that "archaeological tourism development in Jerusalem's Historic Basin has become inseparable from the settlement enterprise. The archaeological parks, tunnels and new transport projects are turning ancient sites into national monuments intended to redraw geopolitical boundaries and secure exclusive Israeli sovereignty over Jerusalem's Historic Basin. The cost of this trend is enormous, both because it is eroding the physical evidence of Jerusalem's diverse past and because it is detrimental to any future political compromise."

The Greek Orthodox Properties in Jaffa Gate

The Imperial and Petra Hotels Greek Orthodox Properties on Omar Ibn Al Khattab Square at Jaffa Gate and Al Muazmiah house in Bab Hutta Jerusalem were the subject of a lease deal by three fictitious foreign real estate companies belonging to the Ateret Cohanim settler group in 2004. Berisford Investments Limited purchased a 99-year lease renewable for the Petra Hotel. The second transaction, under similar lease terms, Richards Marketing Corporation acquired the adjacent two-story Imperial Hotel, with the stores below. In the third transaction, Gallow Global Limited acquired the rights to a structure called Beit Azmiya, in the Bab Hutta neighborhood of the Old City. The whole deal came to around US\$2million while the actual values of the properties run into the millions. The director of the finance department of the Patriarchate was accused by the Church of corruption and receiving bribery to effect the deal and the Church went to court in order to dispute and to annul the sale. The Patriarch

under whose tenure the lease deal was performed was deposed in 2005 and a new Patriarch elected. The legal battle continued for 14 years at the end of which the Israeli court system by a ruling of the High Court, on June 10th, 2019, that the lease deal was legal and that “there is no disputing the fact that the plaintiffs i.e., the Greek Orthodox Church were paid the full consideration for the transactions.”

On June 14th, 2019 the thirteen Patriarchs and Heads of Local Churches in Jerusalem issued a statement on the Israeli High Court ruling recognizing the 99-year renewable lease of the Imperial Hotel, Petra Hotel and Al Muazmiah house as legal. The document is signed, among others, by the Greek Orthodox Patriarch Theophilos III of Jerusalem, by Archbishop Pierbattista Pizzaballa, Apostolic Administrator of the Latin Patriarchate of Jerusalem, and by Father Francesco Patton, Custos of the Holy Land.. In their statement, they recalled that two years ago, upon the Jerusalem District Court ruling on the properties, they had expressed their “deep concern about breaches of the Status Quo that governs the Holy Sites and the rights and privileges of the Churches.” In reference to Ateret Cohanim as a radical group, the statement said: “The actions of this radical group do not just mean an assault on the property rights of the Greek Orthodox Church, but an assault on the Status Quo protections for all Christians in this holy city of Jerusalem and deeply threatens the Christian presence in our beloved Holy Land.” Worrying about access, the statement continues: “If the radical group now manages to evict the protected tenants and take over those properties, Christians and pilgrims would lose their main access into the Christian Quarter of the Old City of Jerusalem and more crucially the main access to the Church of the Holy Sepulcher.” The Heads of Churches reaffirmed in their statement: “our belief that a vibrant Christian community in Jerusalem is an essential element in the preservation of Jerusalem’s historically diverse society, and a prerequisite for peace in this city; Jerusalem must maintain its multi-cultural and multi-religious mosaic character, being home to the three Monotheistic religions.”

The Cable Car Project and the Acquisition of Church Properties on Jaffa Gate are most recent examples of the persistent efforts of the Israeli government to allow for the national-religious settler movements to change the landscape of the Old City of Jerusalem. Changing the landscape has the purpose of highlighting not only the Jewishness of the city but of placing the agenda of national-religious exclusivist settler groups over and above the wholeness of the city and its rich multi-cultural and multi-religious heritage. This process would negate the history and heritage of the various communities that make up the city and would pose challenges to the Freedom of Access and its significance to Christians and Muslims.

What Should be Done?

- The Cable Car Project should be addressed by government to government diplomacy as well by the international community highlighting the harm that would come to the landscape and archaeology of the Old City of Jerusalem.
- The respected archaeologists, urban planners and architects and the other opponents of the project should be encouraged to keep at it in presenting their case to the Israeli government so that it would not approve the project.
- On the properties of the Greek Orthodox Church, the church intends to challenge the ruling of the High Court but it is doubtful that this would help in the long run. Government to

government contacts as well as insistence by the international community that the present tenants of the properties should not be forced to leave them should be the focus of the efforts while exploring how the ruling of the Israeli courts can be overturned if new evidence, as the Church says, points to bribery and corruption in the lease deal.

- Overall the attempts by settler groups and national-religious Jewish movements to take over Arab properties in the Old City should be considered an infringement on the Status Quo, including right to access and the traditional community building near the Holy Places by generations of Christians and Muslims throughout history.
- The International Community needs to persist in monitoring infractions on the right to free access to holy places by Palestinians, Muslims and Christians alike.
- The role of Jordan, in specific the Hashemites, as Custodians of the Holy Places of Jerusalem should not be weakened and should remain a factor in respecting the Status Quo of the Holy Places, in specific Al Haram Al Sharif but other sites as well.
- Maintaining the Status Quo, in spite of talk that circumstances and conditions have changed, should be the basis in regulating relationships to sacred holy places. This is important especially when there are holy sites sacred to more than one religion.
- The need for a political solution remains paramount. Without such a solution that would include East Jerusalem as the Capital of the Palestinian State and without respect for international resolutions, conventions and agreements, the Freedom of Access will remain subject to the manipulation of Israel while it continues to encourage the more extreme religious elements among the settler groups to change the character of the city to their advantage and without regard to the rich Muslim and Christian heritage of the city.
- Jerusalem remains a universal city and the international community should do whatever in its means to ensure this character of the city and to ensure access to the relevant holy sites for the different religious communities.

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