

Six Feet Under: The Cultural Heritage of Minorities in Jerusalem

صحن القديس اليريد
للأندلس

עמק שווה
عمق شبيه
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April 2019

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Responsibility for the information contained in this report belongs exclusively to Emek Shaveh. Emek Shaveh is supported by the New Israel Fund, the European Union, CCFD, HEKS, The Swedish Foreign Ministry - FDFA, and the Norwegian Embassy. Support comes from organizations, countries, and individuals working to strengthen democracy and human rights. The majority of funding comes from foreign countries.



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Introduction

The guiding principle of human rights conventions is that all human beings, regardless of religion, race, or gender, are equal and entitled to the same system of rights. In recent decades a recognition has evolved that human rights do not necessarily accrue only to individuals and that the rights of groups must also be safeguarded in order to protect individual identity and liberty. Cultural and heritage rights were formulated for this purpose. According to the definition of the UN Committee on Economic, Social and Cultural Rights, every group of people is entitled to a self-identified common denominator: "The concept of culture must be seen... as an interactive process whereby individuals and communities, while preserving their specificities and purposes, give expression to the culture of humanity." A violation of heritage rights negatively impacts the religious belief system shared by the group, its rituals and traditions, its distinctive forms of dress, its language, and more. The recognition of cultural rights solidifies an individual's sense of belonging to his or her environment.¹ It is therefore important to examine how these rights are reflected in places of ethnic, national, or religious conflict.

This document will discuss the conservation and presentation of heritage sites in the Historic Basin of Jerusalem based on the assumption that conservation should engender a recognition of heritage rights of the composite of groups in the region. Policies and practices in relation to Jerusalem's built heritage provides an important indication regarding the authorities' attitude towards minority cultural rights in the city.

The struggle of minority groups for their rights to the built heritage in Jerusalem's Historic Basin is evident on a daily basis, because of its central symbolic role in the Israeli-Palestinian conflict as a religious center that is sacred to the three monotheistic religions.

1. [UN Economic and Social Council Committee on Economic, Social and Cultural Rights 43rd session, General comment 21, "cultural life."](#)



Damascus Gate in the Old City - view from inside the Old City

Part I Jerusalem – Legal Background

East Jerusalem was occupied by Israel at the end of the Six-Day War in 1967 and was immediately annexed to Israel by a government decree.² The city thus expanded by 70 square kilometers, of which the Old City basin, also known as the Historic Basin or the Holy Basin, constitutes an area of about six square kilometers (according to the broad definition of the Historic Basin). The Historic Basin includes the Old City, sections of the neighborhood of Silwan, including the “City of David” archaeological park, the Kidron Valley, the Mount of Olives, Mount Zion, and a thin strip north of the Old City. The area west of the Old City ending at the Muslim cemetery in Mamilla is considered the western boundary of the Historic Basin. The remaining area in the eastern sections of the city is 64 square kilometers consisting of adjacent villages annexed to Jerusalem.

The Law and Administration Ordinance

The Law and Administration Ordinance was legislated just before the declaration of the State of Israel on April 29, 1948, as part of the Jewish Yishuv’s³ preparation for the end of the British Mandate in Palestine on May 15th of that year. The Law and Administration Ordinance was intended to provide a legal basis for the establishment of the institutions of the new state. The order stipulated the separation between the legislative branch, the executive branch, and the judiciary, and defined their powers. It even annulled the laws of the British Mandate that discriminated against Jews, such as the regulations instituted as a result of the White Paper.⁴

On June 28, 1967, approximately three weeks after the Six-Day War and Israel’s occupation of the territories, the government added Section 11B to the Law and Administration Ordinance, which stated that “The law, jurisdiction and administration of the State shall extend to any area of Eretz Israel designated by the Government by order.”⁵ Thus, the State of Israel was able to annex the municipal territory of Jordanian Jerusalem and a large area around Jerusalem consisting of various villages.

2. The annexation was carried out in accordance with Section 11B of the [Law and Administration Ordinance](#).

3. Refers to the Jewish community living in Palestine prior to Israel’s establishment.

4. See the original version of the Law and Administration Ordinance [here](#).

5. See the amendment to the Law and Administration Ordinance [here](#).

Basic Law: Jerusalem, Capital of Israel

The Basic Law: Jerusalem, the Capital of Israel, was passed in the Knesset in 1980 and stated that united Jerusalem is the capital of Israel and the seat of all its symbols of government, including the Knesset, the government, the Supreme Court, and the President's Residence.⁶ The law is essentially declarative, since already when the state was established, the location of the symbols of state sovereignty had already been determined as Jerusalem, while section 11b of the Law and Administration Ordinance permitted the annexation of East Jerusalem.

Over the years, a number of changes have been made to the law which may be perceived as indicative of the changing attitude of Israeli society towards the idea of dividing Jerusalem as part of a peace deal with the Palestinians. After the signing of the Oslo Accords in 1993, it was determined that the provisions of the law shall not detract from or affect the implementation of the provisions of the Interim Agreement in the West Bank (1996). This indicates that there was an apparent agreement to divide Jerusalem within the framework of a future peace agreement with the Palestinians. In contrast, in 2000, the Knesset determined that no part of Jerusalem's jurisdiction could be transferred to a foreign entity. In 2018 it was determined that any change in the municipal jurisdiction of Jerusalem requires the approval of a majority of 80 Knesset members.⁷

The International Status of Jerusalem

Israeli law and international law are divided over Jerusalem's status. The Israeli legal system has created an extensive infrastructure that justifies the State of Israel's control over all parts of Jerusalem – both western and eastern. On the other hand, the UN Partition Plan of November 29, 1947, states that Jerusalem is subject to international jurisdiction under UN supervision.⁸

Despite this contradiction, until 1967 most of the countries in the world recognized West Jerusalem as the capital of the State of Israel; however, the decision to annex East Jerusalem at the end of the Six-Day War provoked widespread international criticism. Today, the world considers East Jerusalem, including the Old City, as occupied territory, like the rest of the West Bank. Following the annexation of East Jerusalem, there were

6. The Basic Law: Jerusalem, the capital of Israel, can be read [here](#).

7. [Ibid.](#)

8. The text of the Partition Plan can be found [here](#).

even proposals to subject Jerusalem to international jurisdiction under UN supervision, in accordance with the 1947 Partition Plan. These proposals never had any practical validity.

After the enactment of the "Basic Law: Jerusalem, the Capital of Israel" in 1980, criticism of Israel's policy was followed by actions. Among other things, the Security Council passed a resolution stating that the Basic Law has no validity.⁹ In addition, all Security Council members, followed by the rest of the world, transferred their embassies from Jerusalem to Tel Aviv and Ramat Gan. A change in international policy began in 2018 with the transfer of the American Embassy to Jerusalem¹⁰ followed by Guatemala¹¹ and Paraguay (though the latter reversed the move a few months later).¹² That same year, Australia recognized West Jerusalem as the capital of the State of Israel but refused to transfer its embassy from Tel Aviv.¹³

Part II International Law and Archaeology in the West Bank and East Jerusalem

Over the years, a number of conventions have shaped the approach of international law towards occupied territory in an effort to protect the rights of the local populations living under occupation.¹⁴ The protection of cultural heritage assets is enshrined in the two Protocols of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict: The First Protocol of 1954 and the Second Protocol of 1999. These protocols deal, among other topics, with the responsibilities of the occupying power during archaeological salvage excavations and its obligation to safeguard the cultural heritage of the occupied population. Israel signed the First Protocol to the Convention (1954) but refrained from signing the Second Protocol (1999).

9. To read this decision, see [here](#).

10. Bachner, M. and staff, "[You Have Made History – 'Netanyahu Hails Trump at Jerusalem Embassy Opening](#)," *The Times of Israel*, May 14, 2018.

11. Landau, N. "[Guatemalan Embassy Moves to Jerusalem to Open after U.S. Moves Theirs](#)," *Haaretz online*, May 2, 2018.

12. Ahren, R. [Paraguay Reverses Jerusalem Embassy Move ;Fuming Israel Shuts Asuncion Mission](#), *The Times of Israel*, September 5, 2018.

13. Kwai, I. [Australia Recognizes West Jerusalem as Capital of Israel](#), *New York Times online*, December 15, 2018.

14. For a detailed review of the international law's treatment of the responsibility imposed on an occupying power vis-à-vis the local population, see Stahl, Z., 2017. [Appropriating the Past: Israel's Archaeological Practices in the West Bank](#). Jerusalem: Emek Shaveh and Yesh Din.



The Givati Excavations, Silwan

In accordance with Article 5 of the First Protocol, salvage excavations can be carried out in occupied territory only when necessary.¹⁵ The article also states that excavations undertaken in occupied territory should ideally be managed by representatives of the local population.

The First Protocol does not define criteria for conducting an archaeological excavation or the procedure for selecting representatives of the occupied population for their management. The ambiguity of the Convention and its lenient conditions have enabled Israel to carry out more than a thousand excavations in the West Bank and to claim their international legality.¹⁶

This ambiguity was one of the reasons for the Second Protocol to the Hague Convention of 1999. The Second Protocol explicitly specified the obligations imposed on the occupying power in the management of archaeological resources and in safeguarding the rights of the population in the occupied territory. Thus, for example, Article 9 of the Protocol prohibits the occupying power from carrying out excavations and requires it to allow the local population to manage its cultural heritage independently. Since Israel is not a signatory to the Second Protocol of the Hague Convention, it is under no obligation to follow its guidelines and continues to conduct numerous salvage excavations throughout the West Bank without the participation of the local Palestinian population.

The State's disregard of the Second Protocol's guidelines ties in closely to how archaeology is being exploited for the ongoing violation of the rights of the Palestinian residents of the West Bank, and in particular, the violation of their heritage rights. Through the Staff Officer for Archaeology of the Civil Administration and the non-profit organizations that represent the settlers, the State of Israel utilizes archaeology to expel the Palestinians from their lands and to sever them from their built heritage. Emek Shaveh has documented how archaeological excavations in Area C of the West Bank have been used as an excuse to expel Palestinian residents from their lands and homes,¹⁷ cutting them off from agricultural areas and from natural resources,¹⁸ erasing and destroying their built heritage,¹⁹ and replacing these with Jewish heritage, which sometimes has no basis whatsoever in the finds.²⁰

15. [Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention, 1954.](#)

16. Greenberg, R. and Keinan, A. 2009. [Israeli Archaeological Activity in the West Bank 1967-2007: A Sourcebook.](#) Jerusalem: Ostrakon and Emek Shaveh.

17. For instance see Emek Shaveh's report on Susya: [Susya – The Displacement of Residents Following the Discovery of an Ancient Synagogue.](#)

18. See, for instance, the dispossession of Palestinians' rights in [Nabi Anir.](#)

19. See for, example, Mizrahi, Y. and Veeder, A., 2014. [\(Tel Shiloh\) Khirbet Seilun: Archaeological Settlement in the Political Struggle over Samaria,](#) Jerusalem: Emek Shaveh; Sulymani, G., 2013. [Nabi Samwil – A Village Trapped in a National Park,](#) Jerusalem: Emek Shaveh.

20. For example, Veeder, A., Sulymani, G., and Mizrahi, Y., 2015. [The Role of Ancient](#)

The use of archaeology in East Jerusalem is even more complex and teaches us about the state's inconsistent attitude towards international law. According to Israeli law, East Jerusalem and the Old City are part of the sovereign territory of the State of Israel. Therefore, the state does not recognize the provisions of international law. Thus, for example, the Israel Antiquities Authority (a government authority) is responsible for the excavation and preservation of archaeological sites in East Jerusalem, yet the Palestinians of East Jerusalem are, for the most part, residents not citizens. Thus, a gap is created between the legal status of the Palestinian residents of East Jerusalem and that of the archaeological remains among which they live. This discrepancy engenders violations of local communities' heritage rights.

Cultural rights

Cultural rights, including rights to heritage, are intended to protect different groups' collective identity. Recognition of these rights is intended to protect the system of beliefs, traditions, language, and customs of a particular group in society. There are two main international instruments that enshrine cultural rights:

The first international instrument is the Universal Declaration of Human Rights.²¹ It was adopted by the United Nations in 1948 and deals with the determination of basic human rights for all human beings, regardless of gender, national, ethnic, religious or other identity. Although Israel is not a signatory to this declaration, Israel's High Court of Justice has referred to it in a number of rulings. It is worth mentioning Article 27 of the declaration, which states that all persons have the right to freely participate in cultural activities in the community without fear of persecution.

The second instrument is the International Covenant on Economic, Social and Cultural Rights (ICESCR),²² which was adopted by the United Nations in 1966, entered into force in 1976, and was ratified by Israel in 1991. The covenant obliges all the signatories to work towards the full realization of the rights stipulated therein, including the right to work, the right to health, the right to education, and the right to self-determination.

[Sites in the Political Struggle in the Bethlehem Area \("Gush Etzion"\) and Their Economic and Educational Potential](#). Jerusalem: Emek Shaveh; Schiff, C. 2017. [The Missing Piece: Reconstructing Narrative in Museums in the West Bank](#), Jerusalem: Emek Shaveh.

21. The text of the Universal Declaration of Human Rights can be accessed [here](#).

22. The text of the International Covenant on Economic, Social and Cultural Rights may be found [here](#).

Article 15 of the covenant enshrines the right to culture and states that all persons are entitled to take part in cultural life and to enjoy the benefits of progress.

In recent years, the question of how to promote cultural rights, including built heritage rights, has become more pronounced. In 2010, the UN Human Rights Council appointed a special rapporteur on cultural rights to refine the concept and provide the organizations involved in the promotion of cultural rights with the ability to identify violations and protect the various communities.²³

Among other things, the rapporteur deals with the following subjects:

- > Violation of the rights of communities to access and benefit from their cultural heritage assets.
- > The right to knowledge, and in particular the right to information about the cultural heritage of the area where the individual lives, and the right to take an active part in collecting that information.
- > The right of the community to present its heritage in line with its perspective.
- > Trends towards extremism and intolerance resulting in the exclusionary approach towards the Other's unique cultural heritage.²⁴

What these issues have in common is the understanding that heritage rights reflect the importance of the social, national and religious stratification in society in all its variety. This understanding dictates a different approach to the past and to the heritage of a place. In order to promote heritage rights, a system of laws and arrangements is required for the sake of communities and their conception of their own heritage in the locale.²⁵

The Israeli-Palestinian conflict in Jerusalem manifests inter alia in the desire to strengthen the physical and symbolic control over the narratives that each group attaches to the place. A Palestinian initiative adopted by the UNESCO Executive Council in October 2016, which related to the holy sites of the Jewish and Muslim religions, drew harsh criticism in Israel: The Muslims sought to ignore the fact that the Haram al-Sharif is known to the Jews as the Temple Mount, and that al-Buraq is also the Western

23. See [Report of the Independent Expert in the Field of Cultural Rights, Ms. Farida Shaheed, Submitted Pursuant to Resolution 10/23 of the Human Rights Council](#).

24. The reports published by the special rapporteur may be browsed [here](#).

25. <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID&11312=LangID=E>

Wall.²⁶ Alongside other political and diplomatic events, this initiative and others led Israel to announce its withdrawal from UNESCO in 2018, which came into force in January 2019.²⁷

On the other hand, after the murder of two policemen at the entrance to the Temple Mount / Haram al-Sharif in July 2017, the Israeli government placed metal detectors at the entrance to the site. This decision was met with widespread opposition from Palestinian citizens of Israel and residents of the Occupied Territories. The metal detectors were seen as an attack on the sanctity of the Haram al-Sharif and a violation of the status quo between the state and the Islamic Waqf, which is responsible for managing the site.²⁸

These two cases exemplify the sensitivity of Israelis and Palestinians to the symbolic importance of Jerusalem and the heritage values of the city's sites.

Jerusalem as a UNESCO World Heritage Site

UNESCO is the United Nations body responsible for promoting education, science and culture in the world. Within UNESCO is the World Heritage Center which is responsible for adding sites to the World Heritage List. These sites reflect universal values in human heritage and are chosen according to a number of criteria.²⁹ The first sites in the list were declared in 1978. As of January 2019, 1,092 World Heritage sites have been declared worldwide.³⁰

The need for recognition of World Heritage Sites arose following the destruction of many archaeological sites in the 1950s and 1960s, as a result of accelerated development and industrialization around the world. A notable example is the damage caused by the building of the Aswan Dam in 1954 to important archaeological sites along the Nile River Basin. In its wake, the Convention Concerning the Protection of World Cultural and Natural Heritage was introduced in 1972.³¹

According to Article 19 of the Convention, the list shall include only sites in the territory of a state that has ratified it. Israel ratified the Convention

26. To read the text of the full decision, see [here](#).

27. Ahren, R. [69 years after joining, Israel formally leaves UNESCO](#), The Times of Israel, January 1, 2019.

28. [Israel Removes Temple Mount Metal Detectors That Enraged the Muslim World](#). Jerusalem Post, July 25, 2017.

29. For the list of criteria, click [here](#)

30. For statistical information on the UNESCO World Heritage List, see [here](#).

31. For the text of the convention, see [here](#).

in 1999 and ten sites from its territory entered the list,³² but Jerusalem was already included in the list as early as 1981, proposed by the Kingdom of Jordan. The inclusion of Jerusalem in the list reflects the contradiction between Israeli law, which applies full sovereignty over East Jerusalem and the Old City, and international law, which views the area as having been occupied from the Kingdom of Jordan and its connection to Jerusalem as still valid.

According to Israel, the Kingdom of Jordan did not have the authority to propose the Old City of Jerusalem to the list of World Heritage Sites, and the reasons for its proposal were purely political.³³ Israel did not cooperate with UNESCO representatives who wished to see whether its values were properly upheld,³⁴ and as a result, together with the tension surrounding the excavations of the Western Wall tunnels, in 1982 UNESCO declared Old Jerusalem and its walls as a World Heritage Site in Danger.

The status of the Old City of Jerusalem as a World Heritage Site, as well as Israel's ratification of the UNESCO World Heritage Sites Convention led UNESCO to monitor and criticize Israeli activity in Jerusalem's Old City. In 2003, UNESCO initiated a plan for the preservation of Jerusalem's heritage sites (Action Plan for the Safeguarding of the Cultural Heritage of the Old City of Jerusalem),³⁵ in cooperation with representatives of the government of Israel. A delegation from the World Heritage Center was scheduled to arrive in Israel in 2013 to examine the plan, but canceled at the last minute due to mutual accusations between Israel and the Palestinians of a political bias in the work plan.³⁶ Even earlier, in 2011, UNESCO recognized Palestine as a member state and enabled the Palestinian Authority to nominate World Heritage sites in the West Bank. In the past decade, relations between Israel and UNESCO deteriorated, until the termination of Israeli membership in January 2019.

32. <https://whc.unesco.org/en/statesparties/il>.

33. Although Israel was not allowed to participate in the discussion on the inclusion of Jerusalem in the list of World Heritage Sites, the US statement can be seen as a representation of its position. See [here](#).

34. Ricca, S. 2007. *Reinventing Jerusalem: Israel's Reconstruction of the Jewish Quarter after 1967*, 145-155. London, New York: I.B Tauris.

35. See [here](#).

36. Giannoulis, K. [Israel Called off the Mission](#). *New Europe*, May 20, 2013.

Part III

Three Case Studies

We present three archaeological sites that are not perceived as holy sites: the underground tunnels beneath the village of Silwan; “The Journey to Jerusalem” exhibition in the Western Wall Tunnels, beneath the Muslim Quarter of the Old City; and the area of archaeological excavations in the “City of David” archaeological park, known as Area G. While historically these sites point to the multicultural character of Jerusalem, the manner in which they are presented to the public highlights only their Jewish heritage and context.

Tunnels beneath the neighborhood of Silwan

Tunnel excavations have been central to the archaeological project in Silwan since 2004. The first tunnels excavation began after the discovery of remains in a location that was identified as a pool from the Roman period, on the southern slopes of the City of David archaeological site. Later, a section of an ancient Roman street was discovered there. During the excavation of the area surrounding the pool, it was decided to excavate a horizontal tunnel to expose the remains of a sewage system which served the ancient Roman street. Following the excavations, the pool was closed off to the local residents and annexed to the City of David tourist complex. The Palestinian residents were thus forced to take a roundabout route to reach the mosque and the kindergarten located on the other side.³⁷ This decision demonstrates how the shaping of the heritage sites in Silwan is divorced from the priorities of the local Palestinian population, and portrays them as exclusively important and relevant to the history and identity of the Jewish people.

Since the unearthing of the tunnel in 2004, excavations have been underway mostly in tunnels underneath the main street and under the homes of the residents of Silwan.³⁸ The excavations extend along the entire length of Wadi Hilweh Street to the foot of the foundations of the Western Wall / Temple Mount / Haram al-Sharif in the Old City.³⁹ They are being carried out by the Israel Antiquities Authority for the

37. Please read [here](#).

38. Reich, R. 2011. *Excavating the City of David: Where Jerusalem's History Began*. Jerusalem: Israel Exploration Society.

39. For additional reading, see Emek Shaveh's 2015 report, [Underground Jerusalem: The Excavation of Tunnels, Channels, and Underground Spaces in the Historic Basin](#).



Excavations under Wadi Hilweh road

Nature and Parks Authority and the Elad Foundation, which operates the site. Elad's declared goal is to expose the underground street, which is presented to the public as "the pilgrim's route," identified with the route of the Jewish pilgrims who came to the Temple at the end of the Second Temple period. The identification of the street and its dating, however, are under dispute. The accepted excavation method is stratigraphic, digging vertically from the surface down, enabling the recording and transition from one stratum to the next, and the collection of the finds in context. However, the excavation of the "pilgrim's route" it is being carried out horizontally in a method that makes the task of distinguishing the ancient layers almost impossible and irreversibly damages the archaeological remains.

At first, the lack of professionalism of the excavations in the underground tunnels in Silwan aroused opposition in the IAA.⁴⁰ However, the archaeologists who carried out the excavation claimed that this method is not problematic, because the strata located above the "pilgrim's route" are soil deposits and not layers representing earlier levels of civilization. However, as in many archaeological sites in Israel and around the world, scientific excavation in these strata could have been very useful in understanding the changes that took place in the City of David throughout the generations. The street – like the site in general – is presented by the Nature and Parks Authority and Elad as part of the history of the Jewish people and the single focus on the street ignores the layers that do not relate to the site's Jewish connection. The Israel Antiquities Authority has also adopted Elad's views on these excavations and has, over the years, become a full partner to this endeavour.

Underground tunnel mining enables the creation of two parallel spaces; with the visitors turned into a captive audience to a tour of Jewish pilgrimage to the Temple, but oblivious to the Palestinian neighborhood above the tunnel. In addition, the tourists are unaware of the archaeological discourse around the ancient Roman road, and the skepticism surrounding its identification as an ancient pilgrims' route to the Temple.

Finally, cracks were found in many Palestinian houses located above the route of the tunnels. In some cases, the houses are in danger of collapse which forced the evacuation of the residents.⁴¹ Even if the connection between the cracks and tunnels dug beneath the homes of the

40. Please see documents [here](#) [in Hebrew].

41. Hasson, N. [Silwan Residents Blame Right-Wing Group for the Collapse of Tunnel Near Mosque](#), Haaretz. Dec. 28, 2011.

residents is purely circumstantial, the lack of plans that indicate where digging is permissible obviates any legal course of action to resisting the excavations, leaving the Palestinian residents powerless regarding construction taking place beneath their homes.

"The Journey to Jerusalem" Exhibition

The "The Journey to Jerusalem" exhibition is an underground display beneath the Ohel Yitzhak Synagogue, on the eastern side of the Western Wall plaza, adjacent to Ha-Gai Street (al-Wad Street) in the Muslim Quarter. This is a virtual exhibition that invites visitors to trace the journey of their ancestors from the destruction of the Second Temple until the establishment of the State of Israel.⁴² The exhibition space was exposed in archaeological salvage excavations carried out in the framework of the reconstruction of the Ohel Yitzhak synagogue in 2004–2007 (the synagogue was built in the 18th century and destroyed by Jordanian forces in 1948).

During excavations at the site, a number of major strata were exposed, beginning with the Early Roman period (first century BCE) and until the present. One of the most impressive phases that was almost entirely exposed is a bathhouse (hamam) , part of a Mamluk khan built in the 14th century, and identified as the Daraj al-'Eyn Khan.⁴³ The compounds were part of the building works of the governor of Damascus in Jerusalem, Sayf al-Din Tankaz, who contributed significantly to the growth of the city and oversaw the construction of the Cotton Market – one of the largest commercial centers in the Old City to this day – and other khans and bathhouses. The bathhouse was intended for Muslims who wished to pray at the mosques on the Haram al-Sharif, and there is evidence that Jews also visited this and other bathhouses throughout the city.⁴⁴

In 2007, as part of work on the Western Wall Tunnels sites, works had begun to preserve the bathhouse and ready it for visitors. Conservation works included sections of the bathhouse and the khan adjacent to it and the preservation of remains from earlier periods. Today, the bathhouse is divided into two spaces. According to the excavation plans, one of the chambers includes an area of the bathhouse's dry room and sections of

42. For further information, see the exhibit website [here](#).

43. Hervé, B. and De'adle, T. 2007. [Jerusalem, Ohel Yizhaq Synagogue](#), Hadashot Arkheologiyot - Excavations and Surveys in Israel, Volume 119.

44. Ben-Arieh, Y. 1979. *A City Reflected in its Times: Jerusalem in the Nineteenth Century*, Part 2 - New Jerusalem - The Beginnings, Jerusalem, Yad Ben-Zvi, 1979, 78-109.

the rooms adjacent to it. These rooms have been converted into a banquet hall called "Beyond Our Wall." According to the procedures published on the website of the Western Wall Heritage Foundation, this hall is available for educational purposes, for events related to the activities of the Western Wall Heritage Foundation and for its marketing and promotional activities; for official state events; for private events for people donating over \$36,000 to the Western Wall Heritage Foundation; and for activities of the yeshivas "Netiv Aryeh" and "Aish Hatorah."⁴⁵ The space is thus preserved in perpetuity as identified only with groups with a Jewish-religious identity. No information is provided about the original use of the bathhouse as part of a Mamluk khan. In a tour attended for the purpose of writing this report, none of the guides leading the tour knew about the history of the structure.

This disregard is even more blatant in the second chamber, which functioned as the dressing room, but today houses the exhibition "The Journey to Jerusalem," a virtual presentation of the journeys Jews made throughout the years of exile. Visitors to the exhibition sit at a personal computer and choose the stations through which – according to their estimate – their ancestors travelled over the generations, from the destruction of the Temple and until the establishment of the State. According to the publications of the Western Wall Heritage Foundation, the exhibition was set up following years of research into the wanderings of the Jewish people from the destruction of the Second Temple until their return to Jerusalem in modern times.⁴⁶

The exhibition includes videos depicting scenes that apparently characterized the life of the Jews through different periods. They express Jewish longing for Jerusalem and, using a fictional, representative Jewish character for each historical setting, emphasize the character's inability to integrate into the non-Jewish surroundings. Even when scenes center on a Jew who was well-integrated into society, the integration is presented as temporary.

The videos in each "chronological station" also refer to the situation of Jerusalem at that period, and touch on the question of whether the Jews were allowed to enter Jerusalem, ignoring the processes that characterized the city's development throughout time. This narrative presents a city in decline, suggesting a link between the experience of alienation in the diaspora and the wretched state of the city since the destruction of the

45. <https://www.thekotel.org/hakeren/nehaim/klale> [Hebrew]

46. See [The Journey to Jerusalem](#) website.

Second Temple. Ignoring the processes of development in the city is particularly noticeable in relation to the displays representing Mamluk and Ottoman periods, which do not mention any of the extensive development that took place during these periods, and which has shaped the physical The exhibition "The Journey to Jerusalem" and its adjacent events hall are a means of ignoring and erasing the multicultural history of Jerusalem. The use of a homogenous subterranean space to present the history of Jerusalem and the Jewish people since the destruction of the Second Temple, serves as a substitute for the actual city, which is teeming with life above the heads of the visitors. The Mamluk structures are hidden from sight, even though the exhibition takes place within their walls.

In this manner, the Israel Antiquities Authority has enabled the transformation of a site of historical importance, which encompasses the history of the city in the 14th century onward, into a private resource by an organization that tells a very partial and distorted narrative.



Events Hall "Beyond Our Wall", Ohel Yitzhak

Area G in the City of David

Area G is the name given by the excavators to the archaeological area at the top of the City of David mound. Today, this area lies at the foot of the visitors' center and stands at the heart of controversy that preoccupies most of the archaeologists who have excavated in Jerusalem, particularly in Silwan / City of David about the size and the contours of the city during the reign of King David.

Area G was excavated several times by various scholars, including McAllister, Kathleen Kenyon,⁴⁷ Yigal Shilo,⁴⁸ and Eilat Mazar.⁴⁹ The excavations revealed a terraced structure with later structures that

47. Kenyon, K. 1974. *Digging Up Jerusalem*. Praeger: New York.

48. Shiloh, Y. *City of David Excavations (Qedem 19)*, Hebrew University, Jerusalem, 1984 [Hebrew].

49. Mazar, E., 2010. Excavations in the Upper Part of the City of David and in the Ophel, 2005-2010. *Qadmoniyot: A Journal for the Antiquities of Eretz-Israel and Bible Lands*, Vol. 140: 80-88 [Hebrew].

intersect it at different points. Archaeologists disagree about the dating of the terraced structure: some date its construction to the 10th century BCE, some to the 9th century BCE, and others to the 8th century BCE.⁵⁰

This dispute casts doubt on the ability to determine the size and strength of Jerusalem during the reign of David. The monumental dimensions of the building attest to a society with complex social stratification and a strong central government, which set in motion impressive construction projects. But the scarcity of other finds in the City of David from the 10th century

50. For a detailed discussion of the dating of the Stepped Structure in Area G, see Gadot, Y. and Uziel, J. 2017. "The Monumentality of Iron Age Jerusalem Prior to the 8th century BCE," *Tel Aviv: Journal of the Institute of Archaeology of Tel Aviv University* 44(2): 123-140; Knauf, E.A, 2000. "[Jerusalem in the Late Bronze and Early Iron Ages](#)," *Tel Aviv: Journal of the Institute of Archaeology of Tel Aviv University* 27(1): 75-90; Finkelstein, I., Koch, I., Lipschitz, O. 2011. "The Mound on the Mount: A Possible Solution to the 'Problem with Jerusalem,'" *The Journal of Hebrew Scriptures* 11: 2-24.



Area G, City of David

BCE, when King David apparently lived, makes it difficult for researchers to prove the historical accuracy of the Old Testament and to attribute the structure to David's reign.

The Israel Nature and Parks Authority, which manages the site, rarely discloses the academic controversy to the public. The official tours by the organization managing the site present the interpretive view that the stepped structure in Area G is proof of the veracity of the Old Testament, including the narrative of a powerful Jerusalem during the reign of David.

Although David and Solomon are the only two monarchs to have the status of prophets in Islam, the presentation bases the story of David on the Old Testament alone, as the king who founded and united the people of Israel. Thus are Palestinian visitors conceptually excluded from this space, their historical narratives completely erased.

This trend has intensified in recent years, following Elad's decision to enclose Area G within a locked compound beyond the park's hours of operation, on Sabbaths and Jewish holidays. The decision was made despite a status quo agreement in place since the British Mandate period, which determined that this area should serve as an open archaeological park for perpetuity, and the Israel Nature and Parks Authority's instruction that these areas will be open to the public all year round.⁵¹ Following a petition by Emek Shaveh, filed in cooperation with the residents of Silwan, the Nature and Parks Authority was asked to explain why the area is closed on certain days of the year. To date, no response has been received.

The fence turned the archaeological site of the City of David into a heritage site that is fundamentally no different from the separation barrier. It is likewise perceived by the Palestinians as a means of further tightening the grip of the occupation by cutting off and enclosing their villages in East Jerusalem. The site goes even further by inviting visitors into a Palestinian neighborhood without identifying it to them as such, turning the Palestinians into foreigners in their own home.

51. See the [press release](#) issued by Emek Shaveh following the High Court ruling on this petition.

Summary and Conclusions

A series of laws that began with the establishment of the State of Israel in 1948 and continued with the annexation of East Jerusalem in 1967 created structural discrimination towards the Palestinian residents favoring the ancient built heritage in their neighborhood. While international law provides redress for this violation of rights, Israel systematically disavows it with regard to the built heritage sites.

Archaeology does not stop at investigating the past in this instance; it is often manipulated almost openly to erase the identity of the Palestinian residents of East Jerusalem and make them feel that they don't belong.

The case studies presented demonstrate how the built heritage in Jerusalem is interpreted and presented, and how the sites are exploited to the detriment of the heritage rights of the Palestinian population in the Historic Basin of Jerusalem.

The use of the built heritage in these sites detracts from the sense of security and belonging of the Palestinians in the area, especially in the vicinity of the tunnels where the underground "pilgrim's route" is excavated, above which cracks were discovered in many houses.⁵² The arbitrary closure of areas without prior notice, such as Area G and others, and the plan to build a cable car⁵³ over the rooftops of Palestinian homes, are severely detrimental to their way of life, their heritage and their livelihood.

A prerequisite for the advancement of cultural rights is the inclusion of all communities, especially indigenous populations, in the process of collecting information, accumulating knowledge, and presenting it to the general public; but the Palestinians are consistently excluded from these processes. The Israel Antiquities Authority and the Israel Nature and Parks Authority, the two state bodies entrusted with the collection and presentation of knowledge in the Historic Basin of Jerusalem, chose to cooperate with the Elad Foundation, a settlers' organization, and the Western Wall Heritage Foundation, which exploit the antiquities to strengthen their status at the expense of the heritage rights of the Palestinian residents.

52. Hasson, N. [Silwan Residents Blame Right-Wing Group for the Collapse of Tunnel Near Mosque](#), Haaretz. Dec. 28, 2011.

53. For more information about the controversial plan to build the cable car between the first station compound and the Kedem compound in Silwan, see [here](#).

The “Pilgrim’s Route” and “The Journey to Jerusalem” relate only to interpretations linking them to Jerusalem’s Jewish history, even if the association is tenuous or even questionable. While archaeological finds are awarded a legal status and perceived as an expression of Israeli sovereignty in the area, Palestinians are seen as illegitimate residents and have no cultural, symbolic or religious connection to the area. Slowly but surely, through archaeological derogation of cultural rights, a narrative becomes gradually more entrenched, portraying Palestinians as the enemies of the Israeli public, creating a zero-sum game in which only one side can win.

Israel not only ignores the rights of the residents but also prevents Israelis from learning about and acknowledging Jerusalem’s history of thousands-of-years and the multiple periods that have shaped the sites that are so important to both peoples.

