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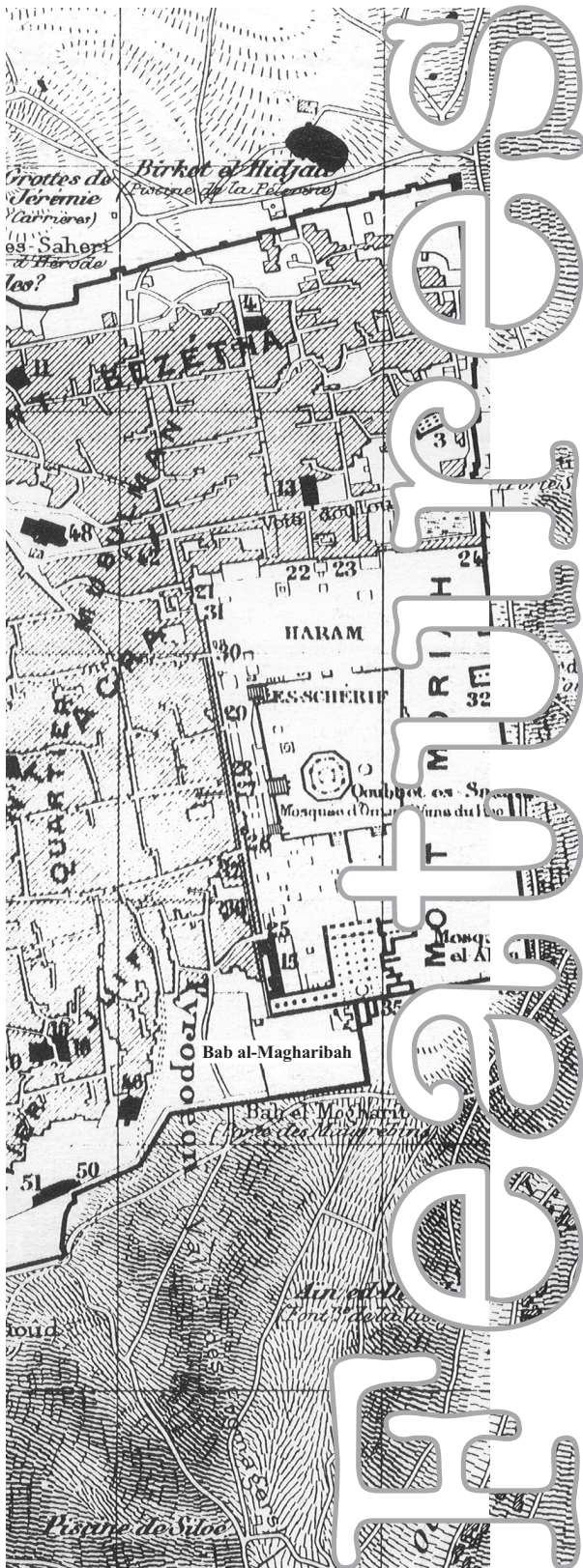


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# Bab al-Magharibah

## Joha's Nail in the Haram al-Sharif

Nazmi al-Jubeh

Even though Israel occupied the land of Arab Jerusalem in 1967, it was still not in full control of key aspects of the city. Many administrative offices of the eastern half of the city remained under Palestinian control, including the Islamic *Awqaf*, or religious endowment, Jerusalem's churches, and some municipal services.

Slowly, Israel has applied pressure on these various offices in hopes of gaining rock-solid physical sovereignty. Certainly one of the lightning rods in this struggle for control has been the Haram al-Sharif, or al-Aqsa Mosque compound. The Muslim holy site has remained a challenge to full Israeli control nagging at the agendas of successive Israeli governments, all of which have attempted to break the Palestinian grip on the area. One might say they have entered through the front gate, using the mosque's Bab al-Magharibah as an entry point for increased Israeli control over the various duties of maintaining the



Haram al-Sharif and monitoring its religious access.

Bab al-Magharibah is located in the southern section of al-Haram al-Sharif's western wall,<sup>1</sup> and was used by the residents of the Magharibah Quarter, which was demolished by Israeli bulldozers in June 1967.<sup>2</sup> It also connects the Aqsa Mosque compound with Jerusalem's southern neighbourhoods, particularly Silwan.

It is believed that the current gate was built during the Ayyubid period and renovated and connected to the western section of the Aqsa Mosque compound during Mamluke rule. The gate was constructed around the time that the Ayyubids endowed the quarter to North Africans and Moors of Andalusia, Malikites, who were living side by side in Jerusalem. The Magharibah, as these communities were called in Arabic, lived in this area until they were dispersed with the quarter's demolition.<sup>3</sup>

### The Tendentious Western Wall

Little historical evidence of Jewish sanctification of the Haram al-Sharif's western wall has been found prior to the sixteenth century. Earlier accounts tell of Jews performing religious rituals on the Mount of Olives, facing Jerusalem.<sup>4</sup> It appears that Jewish leaders began to take interest in worshiping at the Western Wall during the Ottoman period, which was characterized by a measure of tolerance towards the Jews.<sup>5</sup>

At that time, Jews were permitted to perform their religious rituals in a small courtyard, no more than five meters wide and 28 meters long.<sup>6</sup> This section of the wall was referred to by its Arabic name, al-Buraq Wall, in reference to the wall's significance in the Prophet Muhammad's midnight journey to the seven heavens. Muslims believe that the Prophet Muhammad tied al-Buraq, the legendary flying horse, to this wall before

entering the sanctuary of the Aqsa Mosque to pray upon the prophets the night of his ascension to heaven. In the West, the space is called the "Wailing Wall" to give the connotation of mourning and separation, while more recently Jews and now Israelis call the area the "Western Wall," a new term embodying the ethos of "liberation".<sup>7</sup>

Jews continued to use this section of the wall, without ownership or the possibility of placing fixed property, until 1925 with no problems of note.<sup>8</sup> Ownership remained Muslim without debate, and Jews were permitted by the Muslims to practice their religious rites at the wall. Muslims considered the wall an inseparable part of the Haram al-Sharif, and placed great significance in its role in the Prophet Muhammad's nighttime ascension to heaven.

But in September of 1925, Jewish worshippers attempted to transform this space into a temple. They brought tables, chairs and books to the site on the grounds that the wall was part of the remains of the Second Temple, which was destroyed by the Roman Emperor Titus in 70 AD. The ensuing dispute with Muslims would have turned into a full-scale battle, compounded as it was by the rising number of Jews in Jerusalem and Zionist aspirations, if the British Mandate authorities had not intervened to end the conflict, upholding laws of "status quo" created by the Ottomans in the mid-nineteenth century.<sup>9</sup> In theory, these laws remain in place today, governing disputes that arise over religious sites, particularly the holy spaces shared by various Christian sects.

Three years later, in 1928, the dispute was revisited when Jewish groups requested abrogation of the British ruling for the status quo. This request was advanced when Jewish worshippers brought a partition screen to the site on Yom Kippur of 9 August, 1928 (the anniversary of the Second Temple's destruction). The site's British guard once



again removed the screen on the grounds that it challenged the British decision, and could dangerously tip the status quo.

That November, the first Islamic conference was convened in Jerusalem. In addition to other issues on the conference work schedule, representatives from all corners of the Islamic world reiterated Muslim opposition to any changes at the Buraq Wall. Notwithstanding, several minor incidents followed that brought the issue of the wall to the forefront, while equally expressing resistance to Zionism, Jewish immigration and the British policy of transferring Palestinian property to Jews. In August of 1929, these events culminated in the uprising known in Palestinian political lore as the "Buraq Revolt," which left some 250 Arab and Jewish dead. The Sir Walter Shaw Commission was subsequently formed to investigate the factors leading to the rebellion.<sup>10</sup>

Still, the official relationship between area Muslims and Jews, as determined by the "status quo," did not change. British Mandate officials affirmed repeatedly that all components of the Haram al-Sharif's western wall remained Islamic property alone, due to its sanctity to Muslims. The British Mandate administration also affirmed that Jews had the right to hold religious rituals at the site as prescribed by custom.

The problem was eventually buried by the events of the 1948 War, despite its mention in Israeli-Jordanian truce talks and Jordan's subsequent decision to grant Jews right of access to the Buraq Wall. Jordan never implemented its decision, because of the ongoing state of war between it and the new Jewish state. The following years were marked by Palestinian attempts to overcome the losses they had suffered in the dispossession of their homeland. It was not until 1967 that the Haram al-Sharif was once again placed at the epicentre of the religious nationalist tug of war.

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### The Six-Day War of 1967

After its overwhelming victory in the 1967 War, Israel wasted no time in changing all of the agreements governing the "status quo". Israel appointed itself, in accordance with Israeli law and despite international opposition, the "sovereign state," and applied Israeli law (albeit without announcing "sovereignty" or using the term "annexation") to Arab Jerusalem, which it had occupied during the course of the war.

On 27 June, 1967, the Israeli Knesset passed three laws that affected the status of Jerusalem and its religious sites. Palestinians and most international parties considered these laws glaring violations of international law and norms, and a unilateral abrogation of the status quo. Concurrently, Israel used force to accomplish facts on the ground within Arab Jerusalem, and despite their lack of legitimacy, this new reality has formed the basis for current peace negotiations and affected all of their results. The laws passed in 1967 enforced the following:

- Application of Israeli law, including the Law of Antiquities, on Jerusalem "in its entirety."
- Annexation of unified Jerusalem, from Qalandiya in the north to Sur Baher in the south, to the Jerusalem municipality and dissolution of the municipality's Arab Council and placement of expanded "unified" Jerusalem under the Israeli municipality.
- Issuance of the Protection of Holy Sites Law, which provides freedom of worship and access to sacred places for all religions. The Israeli Minister of Religions was entrusted with enforcing this law.

These laws gave Israel de facto sovereignty over the city, despite the fact that they made no actual reference to the issue of sovereignty per se.<sup>11</sup> Israel's first physical changes to the status quo were the destruction of the



Magharibah Quarter and the creation of a vast plaza in front of the Buraq Wall for Jewish Israeli religious and civil use (military events are held in this plaza that aim to strengthen the "nationalist" relationship between Israelis and the wall, and this is the site where Israeli soldiers take the pledge of allegiance to their state upon completing military training). The Buraq Wall was seized after its area was expanded and registered in 1984 with the Israeli property department as property of the Jewish state.<sup>12</sup>

### **Bab al-Magharibah First**

In August of 1967, shortly after Israel had occupied Arab Jerusalem and before the al-Magharibah Quarter had been completely demolished and levelled, the Israeli defence minister at that time, Moshe Dayan, ordered the director of the Jerusalem Awqaf, the late Hassan Tahbub, to hand over to Israeli forces the keys to Bab al-Magharibah (the gate to the Haram al-Sharif). Upon consultation with members of the newly formed Islamic Council, Hassan Tahbub rejected the demand on the grounds that the gates to the Haram al-Sharif are an inseparable component of the compound. He argued that the Haram al-Sharif is solely and irrefutably Islamic property - guaranteed and supported as such by international law and the site's long Islamic history.

On 31 August, Israeli troops were then sent to the Islamic Awqaf headquarters at the al-Manjakiyya school near Bab al-Majlis to seize the keys to the gate under threat of force. The gate's keys, and hence the gate itself, thereby came under control of the Israeli forces, which stationed Israeli military police at the site. Some Israelis believed that Israeli military control of Bab al-Magharibah dashed extremist Jews' dreams of controlling the entire al-Aqsa Mosque compound.<sup>13</sup> The Islamic Awqaf, however, viewed the takeover as a break in complete Islamic control of the

site and the beginning of increasing Israeli interference in the compound's administration, freedom of worship, and Muslim access to their holy sites.

The tug of war between the Islamic Awqaf and the Israeli government over Bab al-Magharibah began to manifest itself through a variety of incidents, escalating with the burning of the Aqsa Mosque on 21 August, 1969. Immediately afterwards, Israel closed the gate for fear that Jews would rush the compound upon seeing smoke rise from the mosque building. Likewise, the Awqaf closed all of the compound's gates to non-Muslim visitors, and demanded that Bab al-Magharibah be returned to Islamic control before the compound was reopened to non-Muslim guests.

The Islamic Awqaf linked the fire to Israeli control of Bab al-Magharibah, on the grounds that the arsonist had smuggled in the materials used to set alight the mosque's wooden ceiling and dome via that particular gate, within eyesight and earshot of the Israeli forces. On that basis, the Islamic Awqaf insisted that control of the gate be returned to its offices. Israel, on the other hand, had its own fears that the Islamic Awqaf had solidified control over the entire al-Aqsa Mosque compound by charging that the burning of the mosque had inflamed the emotions of Muslims around the world.

The incident gained such importance that the Israeli government held a cabinet meeting on 19 October, 1969 to discuss the issue at length. The cabinet decided to re-open the compound to visitors in order to "return normalcy to the area." Indeed, the following day, Israeli forces opened Bab al-Magharibah to non-Muslim visitors in a direct challenge to the Islamic Awqaf. Doing so underscored that control over the Haram al-Sharif was not entirely Muslim, or at least not recognized by Israel as being completely under Awqaf control.



One month later, the Awqaf attempted to reassert authority by opening the remaining compound gates. At the same time, it kept the mosques themselves closed to visitors, allowing them to enter only the compound's courtyards. This lasted until 24 October, 1972, when the Awqaf decided to reopen both of the mosques (the Dome of the Rock and the Aqsa Mosque) to non-Muslim guests.

The Islamic Awqaf did not, however, stop its loud declarations, made both locally and internationally, that it feared and rejected out of hand any Israeli control over Bab al-Magharibah. To give one example of these protestations, on 18 February, 1976, the Islamic Council issued a statement addressing the gate's condition: "...it suffices to say that the Islamic Awqaf, which is entrusted with protecting the Aqsa Mosque, does not possess effective supervision over its entrances and gates, for the (Israeli) authorities continue to this day to hold the keys to one of the main gates, Bab al-Magharibah."<sup>14</sup>

Nor did the Islamic Awqaf hesitate to follow up. On 9 August, 1977, it sent a letter to the United States secretary of state protesting the confiscation of Bab al-Magharibah's keys and other Israeli measures.<sup>15</sup> The Islamic Awqaf viewed even the smallest attempt to alter circumstances to be a serious transgression of its control over the compound. It issued a statement on 29 December, 1978 protesting the fact that Israel had painted and renovated the wooden door to Bab al-Magharibah, despite that the door remained the property of the Islamic Awqaf.<sup>16</sup> This incident was considered a further Israeli attempt to weaken the Islamic Awqaf's control over the Haram al-Sharif.

On 28 April, 1982, an Israeli soldier attacked the Dome of the Rock, firing a machinegun both inside the mosque and around it. The Islamic Awqaf subsequently closed the compound once again to non-Muslim visitors, on the basis that the soldier had

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entered the compound with his weapons via Bab al-Magharibah. The Awqaf issued a statement that read, "The practice of opening and closing the gates of the al-Haram al-Sharif is solely the right of Muslims."<sup>17</sup>

Israel subsequently used that same incident to secure Israeli control over the remaining gates by positioning Israeli border guards (under supervision of the Israeli police) at all of the compound's entrances. Those guards controlled movement to and from the Haram al-Sharif. The Israeli police also controlled which of the compound's gates were open or shut, under the pretext of making security arrangements to protect the compound from extremist Jews.

This situation had serious ramifications for Muslim freedom of access to holy sites. Muslims waited in long lines before the compound's gates at prayer times, particularly on Fridays, in order to be searched by the Israeli police. The concept of protecting the compound's gates gradually expanded to allow Israeli border guards and police into the compound's courtyards, where they conducted armed patrols.

#### Dramatic Transformations

Following the Palestinian-Israeli Oslo Accords of 1993, Israeli attempts to consolidate its control over Jerusalem only increased. During this period, Israel attempted to create facts on the ground and pre-empt the outcome of planned final negotiations (including negotiations over the city's future), by reinforcing its control over land and by superimposing symbols of Israeli sovereignty on the holy city.<sup>18</sup>

Despite top level Israeli and American representation at negotiations at both Camp David II and Sharm al-Sheikh,<sup>19</sup> it has been argued that the talks over Jerusalem's future never reached complete seriousness. At those negotiations, it was proposed that the city be



divided into two areas of sovereignty, one Israeli and the other Palestinian, using as a guideline the Israeli and Palestinian presence in the city at the time of the talks. The reality was, however, that Israel's perpetual expansion and rather public policy of Judaization has turned Jerusalem into a city difficult to separate.<sup>20</sup>

Just before those talks commenced, in 1997, the Islamic Awqaf began the rather daring process of renovating "Suleiman's Stables"<sup>21</sup> (now known as the Marwani Mosque) in the southeast corner of the Haram al-Sharif. This was accomplished by excavating the ground in that section of the compound's courtyard, an area of 4,500 square meters below the level of the Aqsa Mosque. Doing so created a third mosque with an area larger than that of al-Aqsa and the Dome of the Rock combined, thereby providing a vast new space for additional worshippers. The project also stymied plans promoted by some Israelis to turn part of the Haram, that under renovation, into a Jewish temple. Moreover, the mosque connects directly to the outside of Jerusalem's Old City via several sealed gates that are easy to open and link to the Buraq courtyard.

This endeavour intensified the struggle for sovereignty over the Haram al-Sharif. Since the work began, the Islamic Awqaf has consistently refused to allow any interference from the Israeli Antiquities Authority in the renovation or the opening of the gates to Suleiman's Stables. The Awqaf has held firmly to its position that it retains the sole right to undertake renovation and maintenance of al-Haram al-Sharif, on the grounds that it enjoys total sovereignty over the compound, and on the basis of the operative British Mandate and Jordanian antiquities laws.<sup>22</sup> These laws do not allow the Jordanian antiquities department to interfere with the affairs of holy sites. The relevant religious authorities, in this case the Islamic Awqaf, retain sole rights.

As a result, Israel kicked up quite a fuss. The government has enlisted Knesset members, "antiquities experts" and clerics to support its opposition to the Awqaf project.<sup>23</sup> Some of these parties went so far as to claim that the Islamic Awqaf was destroying the remains of the Second Temple when in September of 1999 it opened three gates leading from the compound's plazas into the Marwani Mosque. The charges were made when construction crews disposed materials that had filled the stable area over decades, but Awqaf officials insist that the earth removed was merely dirt and rubble with little archaeological significance.

Enter Ariel Sharon. On 28 September, 2000, the then opposition Likud party leader (now Israeli prime minister) used Bab al-Magharibah as his entry point to "visit" the Haram al-Sharif, igniting a firestorm of protest. One day later, several worshippers were killed in the compound's courtyard when clashes broke out and Israeli troops fired live ammunition after Friday prayers. In retaliation, the Awqaf closed the al-Haram al-Sharif to non-Muslim visitors, expressing that it alone retained control over the site. Israel responded by tightening its soldiers' control over the compound's gates, intensifying the search of worshippers, and preventing worshippers under the age of 45 from entering the Haram, particularly on Fridays. The most serious of Israel's decisions, however - and one that remains in effect at the time of writing - is Israel's prohibition on renovation materials entering the holy site.

While both sides acknowledge that renovations are necessary on the southern wall of the Aqsa Mosque compound, also the southern wall of Jerusalem's Old City,<sup>24</sup> those repairs have been impeded by Israeli attempts to establish a precedent. When the Awqaf attempted to renovate the wall, Israeli authorities rejected the effort and subsequently tried to make the repairs



themselves on the grounds that the wall posed a threat to public safety and the preservation of antiquities. The Islamic Awqaf, for its part, charged Israel with exaggerating reports on the site's hazards - reports that said the wall was near collapse. In the end, the two sides "agreed" after multilateral intervention, that the Jordanian government would either renovate the walls or supervise their renovation.<sup>25</sup>

The keys to Bab al-Magharibah have become "Joha's nail"<sup>26</sup> in all dimensions. With these keys, Israel has imposed a "partnership" on the Haram al-Sharif, later using that partnership at the Camp David negotiations to demand joint sovereignty over the mosque area, as well as Palestinian recognition of world Jewry's religious and historical ties to the site. Should such recognition be granted, it will undoubtedly lead to subsequent material claims.

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#### Endnotes

<sup>1</sup> It is necessary to differentiate between the Haram al-Sharif gate called Bab al-Maghariba and the southern Old City gate of the same name. Both of these gates connected to the al-Maghariba Quarter; the first led from the al-Maghariba Quarter to the al-Aqsa Mosque compound, while the second led from outside the southern walls into the Old City via the al-Maghariba Quarter. This article discusses the former.

<sup>2</sup> For more information on the Maghariba Quarter, the endowment of Abu Mudin al-Gauth and the whole-scale Israeli destruction of the area, see Tibawi, A., *The Islamic Pious Foundation in Jerusalem* (London: 1978).

<sup>3</sup> Ibid.

<sup>4</sup> See Peters, F. E., *The Distant Shrine* (AMS Press, 1993), 242-243.

<sup>5</sup> "The Herodian-era Wall, known to Jews since the age of the Second Temple as possessing 'the presence of God,' was used as a regular site of prayer after Sultan Sulayman (1520-66) ordered that a space between the Moroccan Quarter and the Wall be cleared for such

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purposes. Before the era of Sulayman, however, the evidence of regular prayer at the site is somewhat ambiguous." See Tom Abowd, "The Moroccan Quarter: A History of the Present." *Jerusalem Quarterly File*, Issue 7 (Jerusalem:2000).

<sup>6</sup> Editor's note: This edition of *Jerusalem Quarterly File* includes two slightly differing historical accounts of Jewish worship at the Western/al-Buraq Wall. Please see "Haj Amin and the Buraq Revolt."

<sup>7</sup> Deliberate confusion was created over the use of these terms in the 2000 Israeli-Palestinian negotiations held at Camp David and Taba. Former United States President Bill Clinton, as well as the Israelis, used the term "Western Wall" when proposing a model for a political solution. This term, however, can be read to infer the entire western wall of the Haram al-Sharif, while the term "Wailing Wall" or "al-Buraq Wall" only refers to a section of al-Haram al-Sharif's western wall not exceeding 28 meters in length and three to four meters in width. These specifications were recognized from the sixteenth century until 1967, when the wall section was expanded to its current 60 meters with the demolition of the Magharibah Quarter. In contrast, the entire western wall of al-Haram al-Sharif, including the Buraq Wall, is approximately 470 meters long.

<sup>8</sup> Hudson, Michael C. "The Transformation of Jerusalem 1917-1987," *Jerusalem in History: 3000 BC to the Present Day*, ed. Kamil Asali. (London: KPI Press, 1989) 245.

<sup>9</sup> On the status quo laws see Dumper, Michael. *The Politics of Sacred Space: The Old City of Jerusalem in the Middle East Conflict* (Colorado:2002) 18-27. See also Shmuel Berkovitz, *The Temple Mount and the Western Wall in Israeli Law* (Jerusalem:2001) 83-9.

<sup>10</sup> For more details, see Dumper, Michael. *The Politics of Jerusalem since 1967* (New York: 1997) 199ff and the listed references.

<sup>11</sup> This issue has been discussed in Israeli legal studies. See Berkovits, S. *The Battle for the Holy Places* (Hebrew), (Jerusalem: 2000) 246.

<sup>12</sup> A length of 155 meters, a width of 1.5 meters and the entire height of the Haram al-Sharif's western wall was registered as property of the State of Israel after official expropriation measures were carried out in accordance with Israeli law. This was done despite the fact that the wall was registered by the British Mandate as the property of Muslims, and later confirmed as such by the rulings of various Mandate courts. See Berkovitz, S. *The Temple Mount and the Western Wall in Israeli Law* (Jerusalem: 2001) 95.

<sup>13</sup> See Awzi Ben Ziman, *Jerusalem: A City without Walls* (Jerusalem: 1976).



<sup>14</sup> Statement published in *al-Quds* newspaper on 18 February, 1976.

<sup>15</sup> See the letter in Saad al-Din al-'Ilmi, *Documents of the Supreme Islamic Council 1967-1984* (Arabic) 268. The letter was signed by Sheikh Hilmi al-Muhtasib, president of the Supreme Islamic Council at that time, and outlines the circumstances surrounding the Haram al-Sharif, as well as the Haram al-Ibrahimi in Hebron, while also addressing other political issues.

<sup>16</sup> See the statement in the records of the Islamic Council, *Ibid*, 280.

<sup>17</sup> See the statement issued by the Islamic Council on that date, Islamic Council Archives, Jerusalem, and the *al-Quds al-Arabiya* newspaper issued that day.

<sup>18</sup> The growth of Israeli settlement activity in Jerusalem and its surroundings since Oslo can be taken as an example of such preemptive activities. See the report on settlement in Jerusalem prepared by the Jerusalem technical committee in the Palestinian negotiations department, published in *al-Quds* newspaper on 19 November, 2002.

<sup>19</sup> For more details on Jerusalem in the negotiations, see the comprehensive and illuminating book by M. Klein, *Shattering a Taboo: The Contacts toward a Permanent Status Agreement in Jerusalem 1994-2001* (Hebrew), (Jerusalem: 2001), particularly Chapter 3. It is worth noting that Israel did not attempt to demand sovereignty or even split sovereignty of the Haram al-Sharif prior to the Camp David II negotiations. During the negotiations, Israel exerted serious efforts to prevent control being granted to the Palestinian side, even if Israel lost sovereignty as a result. Israel suggested sovereignty above the ground and below the ground, or granting sovereignty to a third party - forms of sovereignty previously unheard of.

<sup>20</sup> For more information on Israel's lack of seriousness in these negotiations and the measures taken to impose facts on the ground, see al-Jubeih, Nazmi, "The Ghettoization of Arab Jerusalem" in *Jerusalem Quarterly File* 16 (Jerusalem: November 2002) 5-11.

<sup>21</sup> It is most likely that this name came into use during Crusader control of Jerusalem (1099 to 1187). The name continued to be used in subsequent periods, only to be transformed during a Jerusalem initiative of the mid-nineties to name the area the Marwani Mosque.

<sup>22</sup> The Islamic Awqaf in Jerusalem does not recognize Israeli law, which was unilaterally imposed on Jerusalem. To this day, it only honors Jordanian law and therefore does not deal with Israeli rulings, and if forced to, does so only indirectly.

<sup>23</sup> On the Israeli response see, Shragai, N. "Robinstein: The Opening on the Temple Mount is a Kick on Jewish

History," *Ha'aretz*, December 2, 1999.

<sup>24</sup> The Haram al-Sharif, which is located in the southeast corner of Jerusalem's Old City, shares its walls with that of the city.

<sup>25</sup> A similar idea was proposed by Ehud Barak (the Israeli prime minister, who led negotiations at Camp David and Taba) and other segments of the Labor Party, when it was proposed that a third party, neither Israeli nor Palestinian, hold sovereignty over the Haram al-Sharif. Jordan was discussed in this regard, and it is worth noting that Jordan's interests in the Haram al-Sharif were respected in the Israeli-Jordanian peace accords. Moreover, Jordan did not entirely let go of the Haram al-Sharif when it cut its official ties to the West Bank. It preserved its relationship to the Islamic Awqaf responsible for the compound.

<sup>26</sup> Editor's note: Joha is a well-known character in popular Arabic lore. In the story of Joha's nail, he asks permission to hammer a nail into the wall of a house, and then insists upon entering the house every day to visit his sole possession in it: the nail.

