



# Bab Ar-Rahmeh



## *The Story of the Structure and the February-March 2019 Crisis*

### Introduction

May 2019

Bab Ar-Rahmeh (literally Gate of Mercy and also known as Golden Gate) is an integral part of the Al-Aqsa Mosque/Al-Haram Ash-Sharif. Located on the eastern wall, it is the oldest gate leading into the holy site, likely carved during the Umayyad era, and one of the Al-Aqsa Mosque's five closed gates.<sup>1</sup>

Throughout Jerusalem's history the gate and the building attached to it have been a focal point, which epitomized the unrest surrounding the holy site.

This bulletin endeavors to expand upon the features of the Bab Ar-Rahmeh complex, including a short historical review, extrapolating upon what is at stake for the holy site of the Al-Aqsa Mosque/Al-Haram Ash-Sharif vis-à-vis Israel's occupation and its claimed sovereignty of Jerusalem.

Finally, this bulletin will provide a Palestinian perspective of both the chronology and positions of key players in the 2019 crisis.

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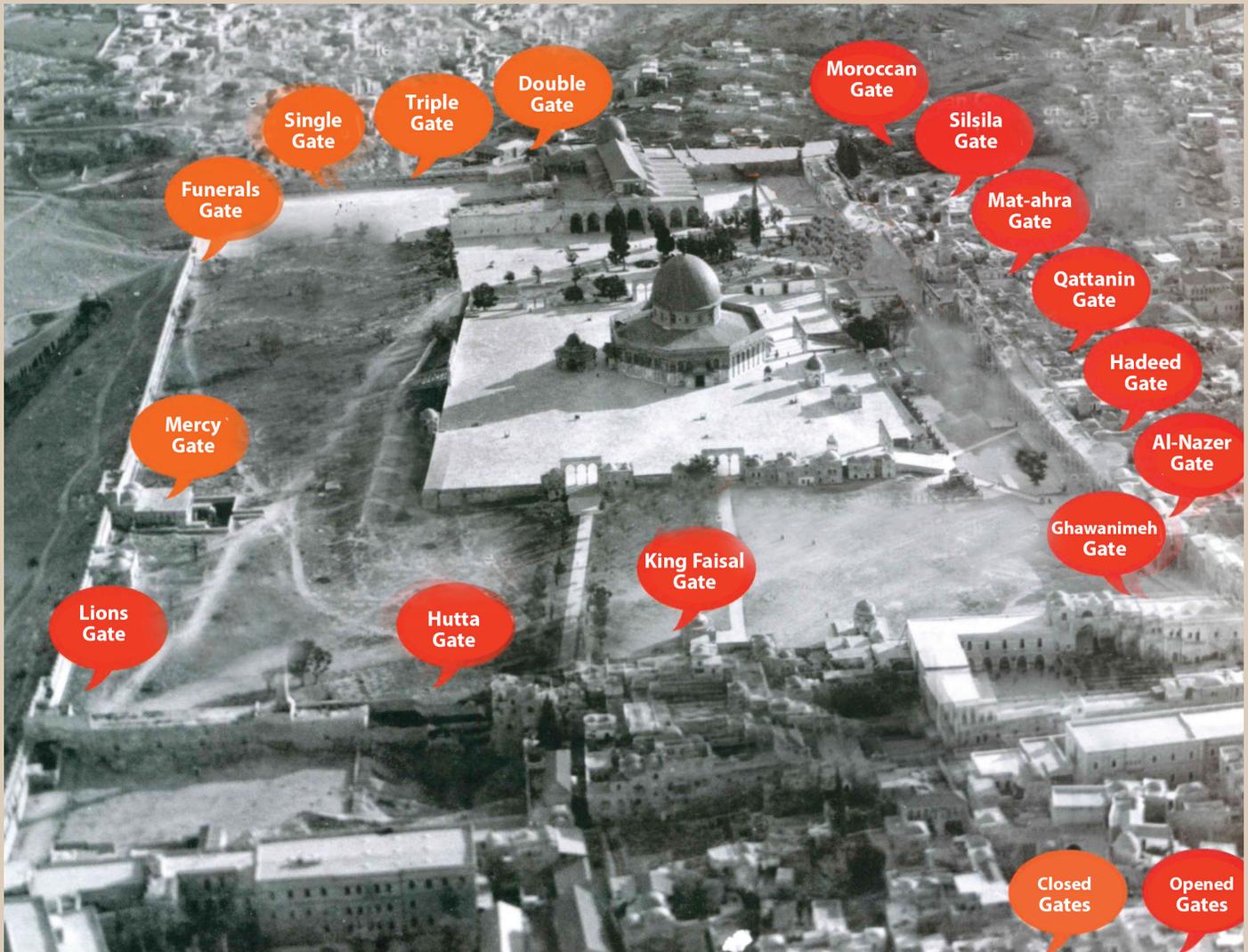
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## I. Bab Ar-Rahmeh in the Tradition and Culture



Bab Ar-Rahmeh / Mercy Gate



In Christian resources, the gate is the place where the Virgin Mary's parents met after an angel had promised her birth (annunciation). As such, it becomes symbolic in relation to the life of Mary<sup>2</sup> and her immaculate conception.

It is also believed that Jesus passed through the gate when he came to Jerusalem on Palm Sunday,<sup>3</sup> marking the climax of his last journey before crucifixion.

In Islam, the importance of Bab Ar-Rahmeh is largely eschatological, as Muslims believe that this is where some of the events of the Day of Judgment will occur. Some leading Islamic scholars, such as Omar Ibn Kathir, interpreted a Qur'anic verse accordingly and associated Bab Ar-Rahmeh with the separation between heaven's mercy with hell's punishment.<sup>4</sup>

## II. The Bab Ar-Rahmeh Complex

The structure popularly known as Bab Ar-Rahmeh refers to three sites: the gate itself, the building connected to it, and the cemetery just outside of it.

### a) Bab Ar-Rahmeh – The Gate

Standing along the eastern wall of the holy city facing the Mount of Olives, Bab Ar-Rahmeh wal-Tawbah (its full name), is perhaps the most beautiful of Jerusalem's monumental gates. Structurally, the gate's height is 11.5 m high, with four vertical marble cylinders that dominate the middle of the gate, detailed with crown engravings.

It consists of two doors: the Gate of Mercy (Bab Ar-Rahmeh) to the South and the Gate of Repentance (Bab At-Tawba) to the North. As usual in the past, large stones were placed outside the gate to protect the entrances to the Al-Aqsa Mosque/Al-Haram Ash-Sharif.

Bab Ar-Rahmeh was initially closed in 810 AD to protect the sanctuary of the graves of the cemetery right outside of it,<sup>5</sup> and reopened in 1102 by Christian fighters during the 1<sup>st</sup> Crusade of Jerusalem. Throughout its history, the gate has been a locus of events, especially during the Crusaders' campaigns of Jerusalem.

The Crusaders attempted a series of attacks on the holy city, using Bab Ar-Rahmeh as an entrance to the Al-Aqsa Mosque/Al-Haram Ash-Sharif. Both the middle and eastern arcades were used as their leadership headquarters, while the Marwani prayer hall (Musalla) served as a stable for their horses.<sup>6</sup>

After 24 years of wars, Salah Ad-Din Al-Ayoubi (Yousef ibn Ayyub), who reclaimed Jerusalem in the decisive Battle of Hitteen in 1187, entered Jerusalem on 2 October that year. He allowed Eastern Christians to remain in the city but not the Crusader families, who, however, were granted a safe departure to return to their respective countries.<sup>7</sup> He also had the gate closed again to prevent entry of enemy forces.



Gate of Mercy/Bab Ar-Rahmeh (left) and Gate of Repentance/Bab At-Tawba (right)

After their dismantling during the Ayoubi era in 1219, Ottoman Sultan Suleiman the Magnificent (1520-1566) rebuilt and reconstructed the walls of the Old City in Jerusalem, including Bab Ar-Rahmeh, where two foundational stone pillars were erected in order to support the adjoined building complex on its southern and northern sides. In 1541, Sultan Suleiman maintained the historic position of sealing off the gate, most likely for defensive reasons.<sup>8</sup>



Ottoman Sultan Suleiman the Magnificent



Two Stone Pillars inside Bab Ar-Rahmeh Musalla

### b) Bab Ar-Rahmeh – The Building

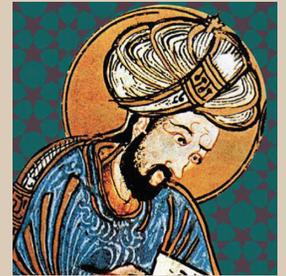
The side of the gate that is located on the Al-Aqsa Mosque/Al-Haram Ash-Sharif, itself is connected to the Bab Ar-Rahmeh building, which consists of a prayer hall (Musalla) and a gatehouse. The followers of the Hanbali school of thought – popularized by Imam Ahmad Ibn Hanbal (780-855) – used to pray there.<sup>9</sup>



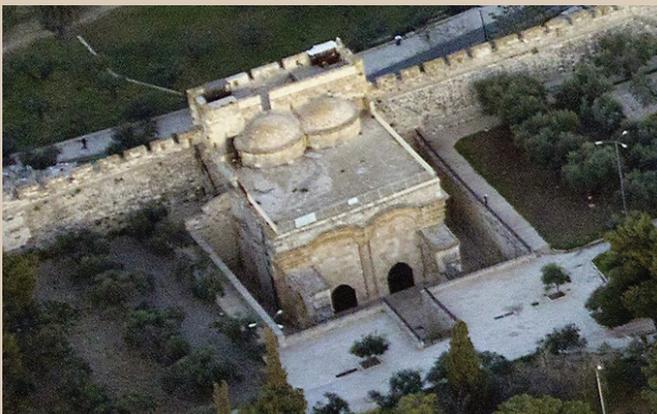
Ahmad Ibn Hanbal

and named after the Islamic scholar Ash-Sheikh Nasr Al-Maqdisi (died 1097) who had stayed there to teach jurisprudence and interpretation.

The famous Islamic scholar, jurist and philosopher Imam Abu Hamid Al-Ghazali (1058-1111) came to Jerusalem to pray and meditate in 1059. The room underneath the building's dome is believed to be the place where he took up residence, practiced Sufi exercises, and wrote his major work *Ihya' Ulum al-Din Ilhya'u Ulumid-din* (The Revival of Religious Sciences), which became the blue print of the reformed Sunnah. Henceforth, the building was also referred to as the seat of Al-Ghazali.



Abu Hamid Al-Ghazali



The Bab Ar-Rahmeh Building with its two domes from above

The arcade at the prayer hall is called the An-Nasirriah Arcade. It was established for remembrance, supplication, and the teaching of Islam,



King Abdullah II bin Al-Hussein appointing Dr. Mustafa Abu Sway as the first holder of the Integral Chair for the Study of Imam Al-Ghazali's Work at Al-Masjid Al-Aqsa, 2013.

When Salah Ad-Din (the Righteousness of the Faith) rehabilitated the Al-Aqsa Mosque/Al-Haram Ash-Sharif (restoring the architecture of the Mihrabs and the Musalla of Qubali, removing pictures and signs from the Dome of the Rock Mosque, and moving the platform initially built by order of Noor Addin Zinky of Aleppo in 1168 into the Al-Aqsa Mosque), he also renovated the chamber and the ground floor that were used as a prayer hall known as the Musalla of Mercy. Inside one of the walls of the building, Salah Ad-Din inscribed the following Qur'anic verse:

“On the day when the hypocritical men and women will say to the believers ‘Wait for us! Let us get something from your light!’ It will be said, ‘Go back to your rear! Then seek the light!’ So, a wall will be put up between them, with a gate therein Inside it will be mercy, and outside, torment.” *Sura Al-Hadid (57:13)*

In recent times, the building housed several facilities and offices, including that of the Islamic Heritage Committee, which was banned by Israel in 2003. Since then, the building has been closed by a periodically renewed Israeli police order and the Islamic Waqf Department has been prevented from using it. Muslim access to the site is also restricted, except twice a year for the Al-Aqsa school's final examinations.



Exams of Al-Aqsa school at Bab Ar-Rahmeh building.

For Palestinians, the fact that Israel has not permitted urgent renovations to be done despite the building's prolonged closure and the deterioration of its structure is a clear indication that ulterior motives exist.<sup>10</sup>

### c) Bab Ar-Rahmeh – The Cemetery

Outside of the gate, stretching on a rectangular piece of land adjoining the Old City walls, lies the Bab Ar-Rahmeh cemetery, one of the oldest Islamic cemeteries in Jerusalem, dating back more than 1,400 years.

Preserved as a historic site by the Supreme Islamic Council in 1927, the cemetery contains over 1,500 graves and is considered one of Jerusalem's most important historic, Islamic properties. Most prominently, it contains the remnants of Prophet Mohammad's (PBUH) companions Ash-Shadad bin Aws and Obada bin As-Samet. Today it is still used by the people of Jerusalem, although its Muslim identity is continually threatened.



Bab Ar-Rahmeh Cemetery

In 2005, the Israeli Public Committee against the Destruction of Antiquities on 'Temple Mount' that brings together right-wing Israeli archaeologists, scholars and lawyers, petitioned the High Court of Justice against the State of Israel for failing to enforce bans on burials on the southern part of the cemetery on the grounds that the area was declared an antiquities site and formed part of the Israeli Jerusalem Walls National Park.<sup>11</sup>

Their highly spurious claim is that digging and burials constitute damages to antiquities. As observed by the Israeli NGO Emek Shaveh this

“stands in stark contrast to the wealth invested in the Jewish cemetery on the Mt. of Olives,”<sup>12</sup> which is as little included in the “National Park” as the Christian cemetery in the nearby Valley of Jehoshaphat.<sup>13</sup> In 2009, the Israeli High Court rejected the aforementioned suit, but asserted that the authorities must protect the site from damage.

Today, Palestinians who still want to bury their deceased in the southern part of the cemetery must obtain permission from the Israeli authorities,<sup>14</sup> enabling the occupation authorities to manage the Islamic cemetery under the National Parks Act.

In recent years, the Islamic cemetery has been subjected to a series of Israeli violations, including uprooting trees, digging up graves, and fencing it off to prevent new burials, all aimed at seizing it.



Israeli violations at Bab Ar-Rahmeh Cemetery

In July 2018, for instance, a group of settlers, escorted by armed Israeli forces stormed the cemetery as Palestinians were cleaning the site.

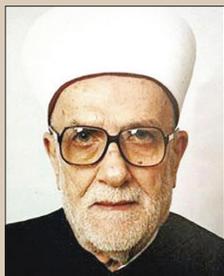
Intent on provocation, the settlers performed Talmudic prayers and the soldiers threatened to arrest any protesting Palestinians.<sup>15</sup> After Israeli authorities seized control of the western wall of Al-Aqsa Mosque (Al-Buraq Wall for Muslims, the Wailing Wall for Jews) in 1967, and of its southern side, where they have conducted extensive excavations in search of remains of “a Temple” (though only Umayyad-era palaces were found), Palestinian see the Israeli actions at Bab Ar-Rahmeh cemetery as a clear attempt to also encroach on the eastern side of the Al-Aqsa Mosque/Al-Haram Ash-Sharif. This is part of Israel’s attempt to judaize the area around the Mosque and transform it into a religious/Talmudic park.

### III. The Status Quo of Al-Aqsa Mosque/Al-Haram Ash-Sharif

The often referred to *Status Quo* is a legal system that applies to the principal holy places, religious buildings and sites in the Jerusalem area and describes the arrangements between different religious groups over shared or contested sites. Its set of legal rights and obligations were created over centuries of practice and are now considered binding international law. Initially, it was set out in an Ottoman decree in 1757, which applied a *modus vivendi* to certain holy places with different claims over ownership and the right to hold religious services. It was confirmed in another Ottoman decree in 1852, and internationally codified by the 1856 Treaty of Paris and the 1878 Treaty of Berlin, which proclaimed the 1852 decree to be inviolable and extended it to other, non-Christian holy sites.

The *Status Quo* arrangements were applied throughout the duration of the British Mandate, then enshrined in the 1947 UN Partition Plan’s Statute on Jerusalem, and endorsed by the 1949 UN Conciliation Commission on Palestine.

Following the 1967 occupation, the Supreme Islamic Committee, headed by Sheikh Abdel Hamid Al-Sayyeh,<sup>16</sup> in turn endorsed via a *fatwah* that the Al-Aqsa Mosque/Al-Haram Ash-Sharif, all buildings, the gateways to Al-Haram, the Islamic Shari'a courts, and the Waqf properties will continue to be controlled, protected and administered by the Muslim religious authority (the Islamic Waqf) independently of the Israeli occupation authorities.



Sheikh Al-Sayyeh

On 17 June 1967, then Israeli Minister of Defense Moshe Dayan made an "arrangement" with the Supreme Islamic Committee according to which they would remain in charge of maintaining and administering Al-Aqsa Mosque/Al-Haram Ash-Sharif.<sup>17</sup> However, this arrangement included the establishment of an Israeli post (normally managed by Arab policemen), Israeli presence, supervision and control of one gate (Mughrabi Gate), and an observation post on the roof of the Shar'ia Court (Mahkameh).<sup>18</sup> Nevertheless, the Islamic Waqf Council continued demanding the return of the keys and control over both the Mughrabi Gate and the Mahkameh.



Moshe Dayan, Yitzhak Rabin and Uzi Narkiss in the Old City of Jerusalem, June 1967

Jews were permitted to visit but not to pray which was emphasized in a halakhic message broadcast by the Chief Rabbis of Israel warning that Jews were not permitted to enter the holy

site so as not to desecrate it.<sup>19</sup> This was reiterated a few days later by the Chief Rabbinate, which ordered the placement of signs to this effect at the gates leading to the Haram Ash-Sharif.

Since then, Israel has vowed to respect the *Status Quo*, accepting *inter alia* the Islamic Waqf's administration of the holy site of the Al-Aqsa Mosque/Al-Haram Ash-Sharif.

The State of Palestine has affirmed its commitment to the *Status Quo* on several occasions, including in the historic Palestine-Holy See Agreement of June 2015.

The internationally recognized status of the Al-Aqsa Mosque/Al-Haram Ash-Sharif, which, as stated before, includes the Bab Ar-Rahmeh gate and building, was established and confirmed on the following occasions:

1. In 1921, the British Mandate authorities established the Supreme Islamic Council with notables from all major Palestinian governorates and appointed Haj Amin Al-Husseini as the Grand Mufti of Jerusalem as well as chairman of the Council.
2. In 1924, several Palestinian delegations, consisting of the head of the Arab Executive Committee (Mousa Kazem Hussein), the Grand Mufti of Palestine (Haj Amin Hussein) and other notables from Jerusalem, Nablus, Hebron, and Gaza, went to Aqaba, Jordan, and entrusted the Hashemite Sharif of Mecca, Hussein bin Ali, with the custodianship of the holy places in Jerusalem.



The Hashemite Sharif of Mecca, Hussein bin Ali receiving a Palestinian delegation in Aqaba 1924.

3. A British Inquiry Commission concluded in its December 1930 report that although Jews have free access to the Wailing Wall for religious reasons, “the ownership of the Wall, as well as the possession of it and of those parts of its surroundings belong to the Moslems and that the Wall itself, as an integral part of Al-Haram Ash-Sharif area, is Muslim property.”<sup>20</sup>
4. During the period from 1949 to 1967, the Jordanian custodianship renovated, maintained and protected the Al-Aqsa Mosque/ Al-Haram Ash-Sharif through the Ministry of Waqf in Amman and a special Committee for the Renovation of Al-Aqsa Mosque; major renovation works commenced in 1953, 1956, 1958 and 1964.
5. After 1967 and Israel’s occupation, Jordan remained in charge of the custody of the Muslim and Christian holy places through the Waqf administrations (and retained it after disengaging from the West Bank in July 1988).
6. In 1968, UNESCO strongly condemned Israeli excavations in the Old City and any attempts to alter its “cultural and historical character, particularly with regard to Christian and Islamic religious sites.”<sup>21</sup> During subsequent years UNESCO repeatedly condemned Israel’s non-compliance with its legal provisions, which continued in the wake of the Old City of Jerusalem and its walls being added to the UNESCO World Heritage List in 1981 (as proposed by Jordan a year earlier) and named a World Heritage Site in Danger in 1982, and even after Israel’s acceptance of the World Heritage Convention in 1999.<sup>22</sup>
7. In 1994, the Israeli and Jordanian Washington Declaration ending the state of war between the two states (Article 2.3) as well as the subsequent Treaty of Peace (Article 9.2) safeguarded Islamic control over the Muslim holy sites of Jerusalem, with Israel respecting “the present role of the Hashemite Kingdom of Jordan in the Muslim Holy Shrines in Jerusalem. When negotiations on the permanent status will take place, Israel will give high priority to the Jordanian historic role in these shrines.”
8. On 15 February 2000, the Basic Agreement between the Holy See and the Palestine Liberation Organization called, *inter alia*, for safeguarding “The Regime of “Status Quo” in those Holy Places where it applies” (Preamble, 9).



King Abdullah at Al-Aqsa Mosque/  
Al-Haram Ash-Sharif, 1950s.



King Hussein Ibn Talal  
in Jerusalem in the 1960s.



Washington Declaration 1994.



Pope John Paul receiving  
President Arafat, August 2001.

9. In 2013, the PLO-Jordanian Agreement on the Jerusalem Holy Sites recalled the importance to Islam of Jerusalem in general and of the Al-Aqsa Mosque/Al-Haram Ash-Sharif in particular, solidifying the historical role of Jordan and the Hashemite dynasty in preserving and administering the holy sites as well as ensuring access to them.



President Mahmoud Abbas and King Abdullah II bin Al-Hussein signing the 2013 Agreement

10. On 20 April 2015, UNESCO adopted a resolution reaffirming the definition of Al-Aqsa Mosque as the entire sacred complex surrounding it, and calling on Israel to cease all excavation work and demolitions within the Old City walls.
11. On 10 October 2018, UNESCO adopted a resolution on Jerusalem, reaffirming that “all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the ‘basic law’ on Jerusalem, are null and void and must be rescinded forthwith.”



### IV. The February-March 2019 Events at Bab Ar-Rahmeh

In a meeting on 14 February 2019, the Chairman of the Islamic Waqf Council, Sheikh Abdul-Azim Salhab announced the Jordanian government’s decision to appoint a new Islamic Waqf Council and informed the appointees accordingly.

The new Council was expanded by eight members to a total of 19<sup>23</sup> and included religious leaders, academics, civil society figures and former PA/PLO ministers in order to reflect the diversity of the society, empower the Council, and strengthen its standing within the community.<sup>24</sup>

All appointees accepted the responsibility bestowed upon them, considering the position a national duty, and vowed to continue the efforts to defend Al-Aqsa Mosque/Al-Haram Ash-Sharif (*ribat*).

The ceremony was concluded by a collective noon prayer (*zuhr*) at the prayer space of the Bab Ar-Rahmeh building.



Islamic Waqf Council members at Bab Ar-Rahmeh Musalla during noon prayer, February 2018.

Afterwards, the Islamic Waqf Council members inspected the site, which has been closed by Israel since 2003, for water leaks.

It should be noted that there had been a period of relative calm at the Al-Aqsa Mosque/Al-Haram Ash-Sharif since July 2017, when religious leaders and worshippers protested the Israeli authorities’ attempts to introduce electromagnetic gates to its entrances.

While there was no major flare-up in violence, Israel has continued through legislative, judicial and martial means to exert pressures that flagrantly violate the holy site's *Status Quo*.

These include, *inter alia*, the prevention of essential Islamic Waqf Council-led maintenance and repair works as well as the promotion, facilitation and protection of extremist Jewish organizations and individuals provocatively touring the area of the Al-Aqsa Mosque/Al-Haram Ash-Sharif,<sup>25</sup> at times even performing religious prayers, which is forbidden by Israeli authorities.

The current crisis that kicked off with the noon prayer on 14 February 2019 must be seen in this context. The increasing frequency and number of Jews entering the Al-Aqsa Mosque/Al-Haram Ash-Sharif, are turning a fringe phenomenon into a practice accepted by the mainstream Israeli-Jewish society<sup>26</sup> (whilst the vast majority of Palestinians are not allowed to visit or pray there).

There has been an increasing suspicion amongst Palestinians that the Israeli authorities want “to share” by force the holy place and to build a synagogue on the site, much like what happened in Hebron’s Ibrahimi Mosque (the Tomb of the Patriarchs).

On 16 February, two days after the common noon prayer at Bab Ar-Rahmeh, Israeli forces locked the upper entrance of the building with chains. Rejecting this provocative move, thousands of worshippers broke the chains and prayed in its prayer hall, triggering a series of clashes with Israeli forces which resulted in the arrest of dozens of Palestinians.



The upper entrance of Bab Ar-Rahmah building locked up with chains by Israeli forces.

What followed were hasty Israeli-Jordanian negotiations to prevent further escalation based on which the locks at the entrance of the Bab Ar-Rahmeh building were subsequently removed.

Between 17 and 21 February young Palestinians repeatedly broke the gate into the building of Bab Ar-Rahmeh and prayed in there, even on 20 February, when the Islamic Waqf Council placed their own chain locks at the building’s entrance.



Palestinian youth breaking chain locks at Bab Ar-Rahmeh on 18 February 2019.

On 20 February, the Islamic Waqf Council released a statement (Decision #31/2019) in which it declared “all Israeli occupation authorities’ actions at the Holy Al-Aqsa Mosque, especially at Bab Al-Rahmah, null and void, and that these actions contravene international laws and universal principles.” It further reiterated:

“that the Holy Al-Aqsa Mosque, including all its courtyards, facilities, above the ground and subterranean prayer halls, including Bab Al-Rahmah, with the total area of 144 dunums, is an exclusive right that belongs to all Muslims around the world. It is an Islamic *waqf* that cannot be shared, and that non-Muslims have no rights to it, and that no law could be applied to it or implemented in it, whether by the Israeli occupation authorities or any other authority.”

# Bab Ar-Rahmeh

The Story of the Structure and the February-March 2019 Crisis



Palestinians entering the Musalla of the Bab Ar-Rahmeh building for Friday prayers, 22 February 2019.



Palestinians staging a sit-in at Bab Ar-Rahmeh building on 21 February 2019.

On 21 February, hundreds of Palestinians staged a sit-in at Bab Ar-Rahmeh to demonstrate that the Al-Aqsa Mosque/Al-Haram Ash-Sharif symbolizes Palestinian faith and identity as well as a stronghold in the city which is not controlled by Israel.

The next day, 22 February, Palestinians prepared for Friday prayers to be conducted at the Bab Ar-Rahmeh Musalla.

On 24 February, the Israeli police, in an unprecedented act, arrested and interrogated for 12 hours Sheikh Abdul Azim Salhab, the chairman of the Is-

lamic Waqf Council in Jerusalem, and Sheikh Najeh Bkeirat, the Deputy Director of the Waqf Department. They were released at the end of the day with an initial ban from the Al-Aqsa Mosque/Al-Haram Ash-Sharif for one week, which the police extended to 40 days on 3 March.



Sheikh Abdul Azim Salhab and Sheikh Najeh Bkeirat (center) after their release from Israeli interrogation, 24 February 2019.

The Minister of Islamic Waqf Affairs in Amman, Sheikh Abdul Nasser Abu Al-Basal, strongly condemned the arrest, calling the detention of Waqf officials a direct affront against the Jordanian role in safeguarding the holy city of Jerusalem and its holy shrines.



Sheikh Abdul Nasser Abu Al-Basal.



Friday prayers at Bab Ar-Rahmeh Musalla on 22 February 2019.

The same day at an Israeli court hearing defending Palestinians who were banned from the Al-Aqsa Mosque/Al-Haram Ash-Sharif, Palestinian lawyers noted that the closing of the Bab Ar-Rahmeh building was not due an official judgement of the court but only a police order.



Hatem Abdul Qader and Dr. Mahdi Abdul Hadi at Bab Ar-Rahmeh building, February 2019



Israeli police arresting Waqf guards at Al-Aqsa Mosque, February 2019.

On 1 March, two other members of the Waqf Council, Hatem Abdul Qader, former Minister for Jerusalem Affairs, and Dr. Mahdi Abdul Hadi, Chairman of PASSIA, were brought for questioning and subsequently banned from the Al-Aqsa Mosque/Al-Haram Ash-Sharif for one week.

This process of questioning Council members continued on 4 March with Adnan Husseini, then PA Minister for Jerusalem Affairs and a PLO Executive Committee member.



Adnan Husseini

On 2 March, right-wing Jewish extremists called for a mass demonstration on 23 March to demand the dismissal of the Islamic Waqf Council. Meanwhile, Palestinians called for a sustained effort to maintain and protect the historic and religious *Status Quo* of the Al-Aqsa Mosque/Al-Haram Ash-Sharif, thereby emphasizing the importance of non-violence.

On 3 March, PLO Secretary General Saeb Erekat sent an urgent message to the Arab League, the Organization of Islamic Cooperation, and Arab and Islamic countries regarding the latest dangerous developments in the Bab Ar-Rahmeh area and the Israeli attacks against and arrests of worshipers which “affected the national and religious symbols in the city, including the removal of Sheikh Abdul Azim Salhab, head of the Jerusalem Waqf Council and his deputy, Sheikh Dr. Najaf Bakirat.”<sup>27</sup>



Dr. Saeb Erekat.

On 4 March, the Israeli police appealed to the Israeli Magistrate Court to re-issue a closing order for the Bab Ar-Rahmeh building and the court gave the Islamic Waqf until 10 March to present reasons why the closure order should be lifted.

The Islamic Waqf Council and the people of Jerusalem in turn maintained their position that throughout the last 52 years of occupation Israeli courts have never had and do not have legal jurisdiction over the Islamic holy places and that Israel’s imposition of its legislation upon the Al-Aqsa Mosque/Al-Haram Ash-Sharif has never been and will not be accepted nor acknowledged.

On 5 March, Israeli police allowed 30 Jewish extremist to enter Al-Aqsa Mosque/Al-Haram Ash-



Jewish extremists at Bab Ar-Rahmeh building, March 2019.

Sharif and perform Talmudic rituals near Bab Ar-Rahmeh. At the same time, Jewish ‘Temple Mount’ groups called for invading the building’s prayer area and called for a ban on the Islamic Waqf’s renovation works.

On 8 March, over 40,000 Muslim worshipers gathered for Friday prayers at the Al-Aqsa Mosque as Israeli police forces were deployed across the holy site. Dozens of Palestinians, who were banned entry into the Al-Aqsa Mosque by Israeli authorities in recent days or weeks, performed Friday prayers outside the mosque at Lion’s Gate in protest.



Friday prayers at the Al-Aqsa Mosque, 8 March 2019.

On 10 March, the Jerusalem Magistrates Court decided to postpone its decision on the closure of the Bab Ar-Rahmeh building for one week in order for international negotiations to come up with a solution.

On 17 March, the same court ordered the building’s temporary closure for 60 days, during which the Islamic Waqf Council may respond to the case and a diplomatic agreement may be reached.

The court order was widely seen as “buying” time so as to postpone the final decision to after the Israeli elections on 9 April.

The Jordanian Ministry of Foreign and Expatriates Affairs issued a statement rejecting the Israeli court decision and confirming that the entire Al-Aqsa Mosque/Al-Haram Ash-Sharif, including the Bab Ar-Rahmeh building, was part of East Jerusalem and thus of the Palestinian occupied territory, which as such is not under any legal jurisdiction from Israel.



Jordanian Foreign Minister Ayman Safadi.

This was echoed by several Jordanian and Palestinian officials, who also confirmed that the Jerusalem Islamic Waqf Council is the sole authority relating to the holy site.

In its negotiations with the government of Israel, the Jordanian Ministry of Foreign Affairs consequently insisted that the Israeli court order be cancelled, holding Israel responsible for the dangerous consequences of changing of the sensitive religious, cultural and historic *Status Quo*.<sup>28</sup>

On 12 March, Israeli police claimed that two Palestinian youths allegedly set off a firebomb inside the police station located on the Al-Aqsa Mosque/Al-Haram Ash-Sharif, using this as pretext to evacuate the entire site in an unprecedentedly coordinated move, during which four Muslim worshippers were injured and hospitalized.



Alleged fire inside the police station located on the Al-Aqsa Mosque/Al-Haram Ash-Sharif, 12 March 2019.

The subsequent Israeli closure of the gates leading into Al-Aqsa Mosque/Al-Haram Ash-Sharif remained for 11 hours during which Israeli police searched the holy site, was deplored in the strongest terms by both Jordan and the Palestinians.



Palestinians pray as Israeli border police close entrance door of Al-Aqsa Mosque/Al-Haram Ash-Sharif, 12 March 2019.

Despite the ongoing political negotiations between Jordan and Israel, Palestinian youths removed the doors restricting access to the Bab Ar-Rahmeh building on 15 March in order to enable prayers at the Musalla. However, the Islamic Waqf Council decided to put the doors back up, fearing that police-protected settlers may otherwise intrude on the site.

On 17 March, the Jerusalem Magistrates Court ordered the Bab Ar-Rahmeh building closed for 60 days during which the Islamic Waqf Council was asked to respond. Jordan, the Palestinian leadership, and the Jerusalem-based Islamic Waqf Council all reconfirmed their position that this was illegitimate - because East Jerusalem, including the Al-Aqsa Mosque/Al-Haram Ash-Sharif, is occupied territory and as per international law, not subject to Israeli jurisdiction. They further stated that the closure was in violation of international treaties<sup>29</sup> that affirm the status of the holy site as Islamic, under the custodianship of the Hashemite Kingdom of Jordan, and under the administrative authority of the Islamic Waqf Council. As such, all Israeli decisions are considered null and void.

That same day, Israeli police summoned Waqf Council member Dr. Imad Abu Kishek, President of Al-Quds University, and interrogated him for three hours.



Dr. Imad Abu Kishek

On 18 March, the Jordanian Parliament hosted a special session on Jerusalem and the Al-Aqsa Mosque/Al-Haram Ash-Sharif, asking the government to withdraw the Jordanian ambassador from Tel Aviv and to ask the Israeli ambassador in Amman to leave the country.



Jordanian Parliament

On 20 March, King Abdullah II of Jordan in a meeting in the city of Zarqa, reconfirmed the Hashemite Monarchy's stance, defining the status of Al-Aqsa Mosque and Jerusalem as a "clear red line" – a position supported by Muslims across the world.



King Abdullah II at Zarqa.

On 21 March, the Islamic Waqf Council in Jerusalem held a joint meeting with EU diplomats and heads of missions in Jerusalem and Palestine, reaffirming the following:

- "The importance of upholding the *Status Quo* for the holy sites in Jerusalem."
- The need "to prevent any escalation and to work towards restoring the dignity and safety of the holy site."

- The need for "continued dialogue between the parties to ease the tensions."
- "The EU position on Jerusalem remains unchanged: the aspirations of both parties must be fulfilled and a way must be found through negotiations to resolve the status of Jerusalem as the future capital of both states."<sup>30</sup>



Waqf Council meeting with EU officials in Jerusalem

## V. The Positions of the Parties

### a) The Islamic Waqf Council:

1. The entire Al-Aqsa Mosque/Al-Haram Ash-Sharif stretching over 144 dunums is an exclusively Islamic site for prayer.
2. Bab Ar-Rahmeh building is an integral part of the Al-Aqsa Mosque/Al-Haram Ash-Sharif and must remain open to serve as a prayer hall (Musalla).
3. The Jerusalem Waqf Administration, according to international law, is the only authority that has the exclusive jurisdiction for managing all affairs related to the Al-Aqsa Mosque/Al-Haram Ash-Sharif.
4. Urgent renovations must be performed as soon as possible under the sole guidance and supervision of the Islamic Waqf Council.
5. The Council will not agree to deal with the Israeli courts as Israeli jurisdiction does not apply on any part of the Al-Aqsa Mosque/

Al-Haram Ash-Sharif; therefore, the Israeli court case against the Islamic Waqf should be withdrawn immediately.

6. The Hashemite Kingdom of Jordan, as the custodian on the holy sites in Jerusalem, is the sole official responsible religious authority which supervises the Al-Aqsa Mosque/Al-Haram Ash-Sharif in its entirety. Jordan remains the address for solving disputes and negotiating understandings or agreements.
7. The continuous attacks by the Israeli police against the Al-Aqsa Mosque/Al-Haram Ash-Sharif and its buildings and facilities must end and the right of Muslims coming to pray there must be upheld.
8. The Israeli government must respect all covenants, conventions and agreements with the Jordanian government related to the Al-Aqsa Mosque/Al-Haram Ash-Sharif.

### **b) The Israeli Position:**

1. Pursuing a carrot-and-stick-policy: The Jerusalem Magistrates Court's decision to (temporarily) close the Bab Al-Rahmeh building is the legal 'stick,' the increased police presence the military 'stick,' while continued negotiations with Jordan are the political 'carrot'.
2. Renovation works need to be supervised by Israel's Antiquities Authority, which is ultimately in charge of such activities.<sup>31</sup>
3. Possible acceptance of the Bab Ar-Rahmeh building's use (after renovations) as a site for offices (potentially also as the Chair of Al-Ghazali) but not as a "mosque" or a prayer hall (*musalla*).
4. Strengthening the visible presence of the Israeli police in the holy city of Jerusalem and on all entrance gates of the Al-Aqsa Mosque/Al-Haram Ash-Sharif is a demonstration of who is in control.

### **c) The Jordanian Position:**

The same as the position of the Islamic Waqf Council, in addition to:

1. The historical and religious *Status Quo* of the holy places, in particular regarding the Al-Aqsa Mosque/Al-Haram Ash-Sharif, remains valid, and both the Islamic holy places and Jerusalem are a clear red line.
2. The Government of Israel must cancel the decision to close Bab Ar-Rahmeh building and bear "full responsibility for the dangerous consequences"<sup>32</sup> otherwise.

### **d) The Position of the International Community:**

1. Following closely the unfolding of events in Jerusalem and the Al-Aqsa Mosque/Al-Haram Ash-Sharif and holding frequent meetings with members of the Islamic Waqf Council.
2. Maintaining the legal, political and historical *Status Quo* is important as is the acknowledgment of Israel as an occupying power, and the upholding of the two-state solution.



Musalla Bab Ar-Rahmeh, March 2019.

## Endnotes

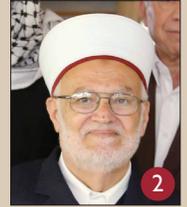
- 1 The other four, closed gates being: The Funerals Gate, the Double Gate, the Triple Gate/the Huldah Gate and the Single Gate.
- 2 See, for example, Hamilton Burgoyne, Michael, *Mamluk Jerusalem: An Architectural Study*. Jerusalem: British School of Archaeology in Jerusalem, 1987, p. 273-298.
- 3 Bible, Mark 11:8-11, Luke 19:35-38, John 12 12-15.
- 4 The Holy Qur'an (57:13).
- 5 Jubeh, Nazmi, "The Bab al-Rahma Cemetery: Israeli Encroachment Continues Unabated", *Journal of Palestine Studies*, 2018.
- 6 During the Frankish campaigns, the Al-Aqsa Mosque/Al-Haram Ash-Sharif was known as the "Temple of the Lord".
- 7 See, for example, "What We Can Learn From Saladin", *Huffington Post*, 12 September 2015, available at [https://www.huffpost.com/entry/saladin-lessons\\_b\\_8704244](https://www.huffpost.com/entry/saladin-lessons_b_8704244).
- 8 Dr. J. Randall Price. "Rose Guide to the Temple", Rose Publishing, 2013. p. 135.
- 9 Ibn Hanbal's full name is Imam Ahmad Ibn Mohammed Ibn Hanbal Abu Abdallah Ash-Shaybani. Besides the Hanbali, the other three traditional school of thoughts in the Sunni Islam tradition pertaining to fiqh (jurisprudence) are: Hanafi, Maliki and Shafi'i.
- 10 Jubeh, Nazmi, "The Bab al-Rahma Cemetery: Israeli Encroachment Continues Unabated", *Journal of Palestine Studies*, 2018, p.95.
- 11 Shragai, Nadav, "Dichter rules Temple Mount area off limits to Muslim burial," *Haaretz*, 29 May 2007.
- 12 Emek Shaveh, "Graveyard Metropolis East of Jerusalem's Old City", September 2013, available at [http://alt-arch.org/en/graveyard\\_metropolis/](http://alt-arch.org/en/graveyard_metropolis/).
- 13 Emek Shaveh, "The Temple Mount/Haram al-Sharif - Archaeology in a Political Context", March 2017, available at <http://alt-arch.org/en/the-temple-mountharam-al-sharif-archaeology-in-a-political-context/>.
- 14 Emek Shaveh, "Graveyard Metropolis East of Jerusalem's Old City", *op.cit.*
- 15 The incident was denounced by the Committee for the Preservation of Islamic Cemeteries in Jerusalem. See Patel, Yumna and Saleh Zghari, "Palestinians on High Alert as Israel Prepares to Hand Over East Jerusalem Nature Reserve and Muslim Cemetery to Settlers," *Mondoweiss*, 12 July 2018, <https://mondoweiss.net/2018/07/palestinians-prepares-jerusalem/>.
- 16 Sheikh Sayyeh was deported by then Minister of Defense Moshe Dayan on 27 September 1967 and appointed by Jordan as a Minister of Religious Affairs and Holy Places on 7 October 1967. He subsequently renamed the Ministry to Ministry of Awqaf and Religious Affairs. The Memories of Sheikh Abdel Hamid Sayyeh, Beirut: Institute of Palestine Studies, 1994, pp. 89-90, 94, 101.
- 17 When on 15 August 1967, Israeli army chaplain Rabbi Shlomo Goren led a group of 50 Jews into the Al-Aqsa Mosque/Al-Haram Ash-Sharif to perform prayers, Dayan sharply criticised the provocation and Rabbi Ovadia Yousef of the Rabbinical Court ruled that Jews are forbidden to enter the Al-Aqsa Mosque/Al-Haram Ash-Sharif. Furthermore, Haredi and religious Zionist Rabbis issued an explicit blanket prohibition against Jews assenting to it. Nevertheless, Jews made a first attempt to pray at the site on 18 August 1969 and a day later Al-Aqsa Mosque was set on fire by Australian Christian Denis Michael Rohan in order to destroy it and "rebuild" a Jewish temple, triggering widespread protests throughout the Palestinian occupied territories.
- 18 Moshe Dayan's arrangement to maintain the *status quo* has been reported by then Deputy May-

- or of Jerusalem, Meron Benvenisti in “Jerusalem; the Torn City”, 1976, p. 378.
- 19 See Nissim Leon, “Why religious Jews are divided over the Temple Mount,” *Haokets*, 22 November 2014, <http://972mag.com/why-religious-jews-are-divided-over-the-templemount/99090>. This “*modus vivendi*” was in line with previous rulings: Rabbi Abraham Isaac Kook (1865-1935), the first Ashkenazi Chief Rabbi of the Jewish community in Mandatory Palestine, repeatedly prohibited entering any part of the Temple Mount, a position also reiterated by his successor Rabbi Isaac Herzog (1888-1959). Herzog testified in 1938 before the British Partition Committee that Jews were not allowed to go onto the Temple Mount until the coming of the messiah. See Loewenberg, F.M. “Did Jews Abandon the Temple Mount?” *Middle East Quarterly*, Summer 2013, pp. 37-48.
  - 20 Report of the Commission appointed by His Majesty’s Government in the United Kingdom of Great Britain and Northern Ireland, with the approval of the Council of the League of Nations, to determine the rights and claims of Moslems and Jews in connection with the Western or Wall at Jerusalem, December 1930 (for the full text see UNISPAL doc A/7057-S/8427). See also Armstrong, Karen, *Jerusalem, One City, Three Faiths*, New York, 1996, Benvenisti, Meron, “The Torn City”, 1976.
  - 21 General Conference of UNESCO Resolution on the Protection of Cultural Property in Jerusalem, 20 November 1974, cited in Larkin, Craig and Dumper, Michael, “UNESCO and Jerusalem: Constraints, Challenges and Opportunities,” Editorial for *Jerusalem Quarterly*, Issue 39 (Autumn 2009), supra note 7, p.17, [http://www.jerusalemquarterly.org/images/ArticlesPdf/39\\_UNESCO.pdf](http://www.jerusalemquarterly.org/images/ArticlesPdf/39_UNESCO.pdf)
  - 22 Article 4 of the Convention states signatory countries must ensure “the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage” of the site. For the most recent Jordanian-Palestinian status report on “The State of Conservation of the Old City of Jerusalem and Its Walls” see [whc.unesco.org/document/127758](http://whc.unesco.org/document/127758).
  - 23 In late March one more member was appointed, raising the total membership to 19.
  - 24 The new members of the Islamic Waqf Council 2019 are marked with a star.
  - 25 According to the “‘Yeraeh’ - Volunteers encouraging ascent to the Temple Mount” group, some 28,800 Jews toured the Al-Aqsa Mosque/Al-Haram Ash-Sharif in the Hebrew year 5778 (ending in September 2018), marking a 27.7% and 104.3% increase respectively of the two previous Hebrew years.
  - 26 This is supported by the fact that the State of Israel directly funds activities of various right-wing Jewish groups/so-called Temple Mount movements, which receive (via the Ministries of Education and Culture) an average of some \$108,000 per year. See Wirtschafter, J., “Analysis: Why the Temple Mount is at the heart of Jerusalem strife”, *Jewish Journal*, November 19, 2014, [http://www.jewishjournal.com/world/article/with\\_muslim\\_access\\_to\\_al\\_aqsa\\_mosque\\_can\\_calm\\_prevail](http://www.jewishjournal.com/world/article/with_muslim_access_to_al_aqsa_mosque_can_calm_prevail).
  - 27 “Al-Aqsa Mosque Organization calls on Islamic countries to stop the Israeli actions at Al-Aqsa Mosque,” Reuters, 3 March 2019.
  - 28 There was a verbal suggestion by people in the community about the supervision of the site by the UN, vetoed immediately – no international presence or internationalization of the site. This is against both the Palestinian and Muslim position, confirmed by the UNESCO Resolution of 1994 that states Al-Aqsa Mosque/Al-Haram Ash-Sharif is an exclusively Islamic holy site.
  - 29 Such as the 1994 Washington Declaration between Jordan and Israel and the 1994 Jordanian-Israeli Peace Treaty.
  - 30 “EU Heads of Mission meet the Jerusalem Islamic Waqf Council,” Press Release, 21 March 2019.
  - 31 This is based on the Israeli argument that Israeli law and regulations apply to all of Jerusalem.
  - 32 “Jordan wants Israeli envoy expelled over Temple Mount fracas”, 18 March 2019, available at <https://www.israel11hayom.com/2019/03/19/jordan-wants-israeli-envoy-expelled-over-temple-mountain-fracas/>.

### **Appendix:** **The Islamic Waqf Council 2019**



1. Sheikh Abdul-Azim Salhab, *Chairman of the Council*



2. Sheikh Ekrima Sabri, *Head of the Islamic Higher Committee, Jerusalem; former PA Grand Mufti of Jerusalem and Palestine* ★



3. Sheikh Mohammad Hussein, *Grand Mufti of Jerusalem and Palestine* ★



4. Sheikh Wasef Bakri, *Acting head of the Supreme Judge Department* ★



5. Adnan Hussein, *PLO Executive Committee Member, former PA Jerusalem Affairs Minister; former Director of the Islamic Waqf Department* ★



6. Hatem Abdel Qader, *Fatah leader, Jerusalem; former PA Jerusalem Affairs Minister* ★



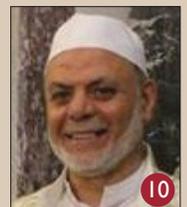
7. Dr. Hani Abdeen, *Professor at Al-Quds University, former PA Health Minister*



8. Mazen Sinokrot, *Businessman, member of Al-Quds University Board of Trustees, former PA National Economy Minister*



9. Sheikh Azzam Khatib, *Director of the Islamic Waqf Department*



10. Sheikh Yusuf Abu Sneineh, *Imam of Al-Aqsa Mosque* ★



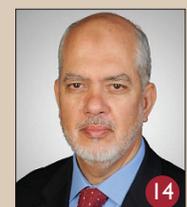
11. Sheikh Mohammad Mustafa Sarandah, *Judge in Jerusalem's Islamic Courts* ★



12. Mohammed Zaki Nusseibah, *former Deputy Chairman of the Islamic Waqf Council*



13. Dr. Mahdi Abdul Hadi, *Chairman of the Palestinian Academic Society for the Study of International Affairs (PASSIA), Jerusalem* ★



14. Dr. Mustafa Abu Sway, *Integral Chair for the Study of Imam Al-Ghazali's Work at Al-Masjid Al-Aqsa and at Al-Quds University*



15. Dr. Mohammed Ibrahim Adel Nassereddin, *Assistant Director of the Islamic Waqf Department*



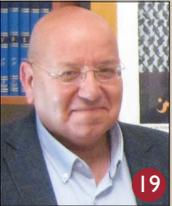
16. Dr. Imad Faeq Abu Kishek, *President of Al-Quds University (Law and Public Policy)* ★



17. Advocate Fahd Kamel Al-Shweiki, *Attorney* ★



18. Alla Omran Salhab, *Engineer and Businessman* ★



19. Khalil Ahmed Al-Asali, *Journalist and Analyst* ★



◆ Furthermore, Engineer Abdullah Al-Abbadi, Undersecretary of the Ministry of Islamic Waqf Affairs, Amman, continues to attend and participate in Waqf Council meetings in Jerusalem.

★ New members



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