

# ***The Legal Characterization of the Current Status Quo at al-Aqsa Mosque Under Public International Law***

## ***Preliminary Chapter:***

### **The Dialectic Bond Between Jerusalem and al-Aqsa in Islam and the Genesis of the Status Quo Arrangements**

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***Jerusalem***, one of Palestine's largest and most historically significant cities, holds profound religious and political importance. As the capital of the independent State of Palestine, it is revered by Muslims, Christians, and Jews alike. A historical and cultural examination of Jerusalem reveals its deeply rooted Arab identity, with an unbroken connection between the city and the Arab and Muslim worlds. This bond is anchored in its sanctity and its profound place in their faith, history, and collective consciousness. Jerusalem's Islamic heritage is evident in its enduring, ancient sanctuaries. It was the first Qibla—the initial direction toward which Muslims turned in prayer for over sixteen months at the dawn of Islam<sup>1</sup>.

In light of the foregoing discussion on the intrinsic bond between the city of Jerusalem and its sanctified enclave, al-Aqsa Mosque, it becomes imperative to delve into the origins of the ensuing arrangements concerning the status quo and their spiritual underpinnings. This necessitates an exploration of two key aspects: first, the governance of Jerusalem under Islamic rule and its administrative divisions; and second, the location and defining landmarks of al-Aqsa Mosque, which form the basis of the regulations governing visitation and prayer within its sacred precincts.

### ***First Aspect: Jerusalem Under Islamic Rule***

Since its entry into the Islamic era, Jerusalem has undergone a succession of transformations, particularly in matters of governance and control. Yet, despite these shifts, the city has resolutely preserved its Arab and Islamic identity, as evidenced by its historical landmarks and administrative structures. This necessitates an examination of three key dimensions: the virtues of Bayt al-Maqdis, the Islamic governance of Jerusalem, and the administrative divisions of the city during the Ottoman Caliphate.

### ***The Virtues of Bayt al-Maqdis***

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1 - Muhammad Yahya Barzuq, Jerusalem: From al-Masjid al-Haram to al-Masjid al-Aqsa, al-Quds Foundation, Beirut, Lebanon, 2003, pp. 31–28.

Al-Aqsa Mosque is the first of the two qiblas and the third of Islam's sacred sanctuaries, alongside which pilgrimages are enjoined. It was the site of the Prophet's Night Journey and Ascension to the heavens. The Divine Word proclaims in the Holy Quran:

“Exalted is He who took His Servant by night from al-Masjid al-Haram to al-Masjid al-Aqsa, whose surroundings We have blessed, to show him of Our signs. Indeed, He is the Hearing, the Seeing.”<sup>2</sup>

Jerusalem has long been the cradle of prophets and divine messengers, a beacon of guidance leading humankind to the worship of the One True God. This reverence stems from Islam's recognition of the sacred legacies of earlier revelations and their noble emissaries. The city houses some of the most illustrious vestiges of Islamic civilization, whose imprints endure despite the vicissitudes of time and the succession of rulers. Foremost among these is al-Aqsa Mosque, also known as al-Haram al-Qudsi al-Sharif, encompassing the resplendent Dome of the Rock, the historic al-'Umari Mosque, and the revered Buraq Wall, where Prophet Muhammad tethered his celestial steed on the night of the Isra and Mi'raj.<sup>3</sup>

Visiting al-Aqsa Mosque and performing prayers within its sacred bounds is a profound act of devotion for Muslims. It is the land of resurrection and gathering, the sanctuary of prophets, and the seat of the Islamic Caliphate in the latter days. Islamic tradition encourages believers to visit al-Aqsa before undertaking the rites of Hajj or Umrah. The Prophet, peace and blessings be upon him, is reported to have said:

“A group from my nation shall always remain steadfast upon the truth, prevailing over their enemies, undeterred by those who oppose them, save for the hardships they endure, until the decree of Allah comes upon them while they remain thus.” His companions asked, “O Messenger of Allah, where will they be?” He replied,

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2 - Suraht al-Israa, Verse 1.

3 - Khadija Lazhar, *The Project of Judaizing the City of Jerusalem in Zionist Thought: Between Theory and Practice*, Doctoral Dissertation, University of Algiers 1, Ben Youcef Ben Khedda, Algeria, 2021, p. 15.

“In Bayt al-Maqdis and its environs.”

(Reported by Ahmad; al-Haythami classified its narrators as trustworthy.<sup>4</sup>)

### *The Islamic Governance of Jerusalem*

Islamic rule over Jerusalem commenced in 638 CE, when Caliph ‘Umar ibn al-Khattab personally traveled to the city to receive its keys from the Byzantine Patriarch Sophronius. Upon its surrender, he granted the Christian inhabitants a covenant of safety, known as the ‘Umari Pact, which ensured the protection of their lives, property, and religious sites. The document proclaimed:

“This is what the servant of Allah, ‘Umar, Commander of the Faithful, grants to the people of Iliyā’: He grants them safety for their lives, their wealth, their churches, their crosses, their sick and their healthy, and for the entirety of their religious community. Their churches shall not be inhabited by others, nor shall they be demolished. No part of them shall be diminished, nor their precincts, nor their crosses, nor any of their possessions. They shall not be coerced in their faith, nor shall any harm be inflicted upon them.”<sup>5</sup>

Following the conquest, Caliph ‘Umar ordered the reconstruction of al-Aqsa Mosque on the very site from which the Prophet ascended to the heavens. Later, during the Umayyad era, Caliph ‘Abd al-Malik ibn Marwan expanded the mosque and erected the magnificent, gilded Dome of the Rock.

Throughout Islamic history, Jerusalem remained an eminent spiritual and scholarly center. The Abbasid Caliph Abu Ja‘far al-Mansur visited the city and commissioned extensive restorations of al-Aqsa Mosque. During the Crusades, it fell into the hands of foreign invaders but was liberated by the legendary Ayyubid commander Salah al-Din (Saladin) in 1187 CE. He undertook a sweeping

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4 - Narrated by al-Tabarani and Abdullah ibn Imam Ahmad. Al-Haythami stated: «Its narrators are trustworthy.» Majma‘ al-Zawa‘id 288/7.

Husam al-Din ‘Affanah, The Book of the Victorious Group’s Hadiths, p. 34.

5 - Tarek Azab, Jerusalem... A Struggle and a History, Cairo, al-Ahram Press, 2001, p. [...].

restoration of al-Aqsa, reconstructed its courtyards, and established religious endowments to facilitate pilgrimages.

Under the Mamluks, Jerusalem flourished as a hub of learning and piety. The city saw the construction of numerous madrasas, ribats (hospices), water cisterns, and bustling marketplaces within and around the precincts of al-Aqsa<sup>6</sup>.

During the Ottoman era (1517–1917 CE), Sultan Suleiman the Magnificent undertook a grand restoration of Jerusalem, reinforcing the walls of al-Aqsa Mosque and adorning the Dome of the Rock with its iconic turquoise and gold tilework. The city’s marketplace thrived as a vibrant commercial center. For five centuries, Jerusalem’s sanctity remained unchallenged under Ottoman rule—until the empire’s twilight years, when the specter of colonial encroachment loomed over the city<sup>7</sup>.

At the turn of the 20th century, Theodor Herzl, the founder of Zionism, sought to persuade Sultan Abdul Hamid II to allow Jewish settlement in Palestine. In return, he offered political support for the Ottoman Empire on the international stage, a cessation of anti-Ottoman propaganda in Europe and America, and a vast financial endowment to the empire, including a personal gift of five million gold liras for the Sultan himself. Yet, Abdul Hamid steadfastly refused, declaring:

“Even if you were to offer me the wealth of the entire world, I would not accept. The land of Palestine is not mine to sell; it belongs to the Muslim Ummah. What was acquired through the blood of our ancestors cannot be relinquished for gold. Perhaps, if my empire should one day disintegrate, you may claim Palestine for free.”<sup>8</sup>

He went further, prohibiting Jewish immigration to Palestine. Herzl made

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6 - The Hashemite Custodianship of Islamic and Christian Holy Sites in Jerusalem (2020–1917), White Paper, al-Bayt Institute for Islamic Thought, Amman, 2020, p. 18.

7 - Muhammad al-Dabbagh, *Our Land Palestine*, Dar al-Huda, 2002, p. 10.

8 - Milad Fouad Abdul Rahman Younis, *The Most Notorious Israeli Occupation Attacks on al-Aqsa Mosque – A Critical and Analytical Study of Motives and Objectives (2010–1967)*, Master’s Thesis, al-Quds University, Jerusalem, Palestine, 2012, p. 43.

repeated visits to Istanbul between 1897 and 1902, but each attempt proved futile. Eventually, the Sultan sent him a final response, which Herzl himself recounted:

“The Sultan bestowed upon me a high-ranking medal of honor, accompanied by a message: ‘Inform Dr. Herzl that he should abandon his efforts, for I am not prepared to cede a single inch of this land to others. This land does not belong to me; it belongs to my people, who have drenched its soil with their blood. Let the Jews keep their millions.’<sup>9</sup>”

This brief yet poignant historical survey attests to Jerusalem’s unwavering Arab identity, rooted deep in antiquity. From its entry into the Islamic fold, the city has ceaselessly preserved its essence and stature. However, with the dissolution of the Ottoman Empire, it fell prey to Western colonial ambitions and Zionist schemes, culminating in its subjugation under foreign rule—an ordeal that continues to this day.

### *Administrative Divisions of Jerusalem During the Ottoman Caliphate*

Palestine has long been an integral part of Greater Syria, encompassing Palestine, Jordan, Syria, and Lebanon—once a vast, unified geographical entity. Its political fragmentation began in the aftermath of World War I, driven by colonial ambitions and formalized through the Sykes-Picot Agreement<sup>10</sup>. The contours of Palestine, as recognized today, were not firmly delineated until the British Mandate, for throughout the Ottoman era, Palestine remained a part of the provinces of Greater Syria<sup>11</sup>.

Due to its strategic and religious significance, Jerusalem was subjected to various administrative divisions within Greater Syria, falling under the jurisdiction of the Province of Damascus. The Ottoman administrative structure of the city evolved considerably, particularly after the major administrative reforms of 1153 AH /

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9 - Roger Garaudy, *Palestine: The Land of Divine Messages*, (n.d.), p. 319.

10 - The Sykes-Picot Agreement was a secret understanding between Britain and France in 1916, orchestrated to partition the Ottoman Empire.

11 - Yusuf Jum’a Salama Salama, *The Guide to al-Aqsa Mosque*, op. cit., p. 25.

1740 CE. These reforms aligned with the status quo arrangements established in Ottoman decrees of the time. Among the factors influencing these changes was the steadfast Christian—particularly Arab Christian—attachment to Jerusalem’s sacred status. However, European powers, especially France, increasingly intervened in Christian affairs, a trend that intensified following the Franco-Ottoman treaty of 1740. This treaty granted France significant privileges, benefiting its affiliated Latin Catholic communities. Consequently, European nations closely monitored Jerusalem’s governance, scrutinizing Ottoman-appointed officials. The administrative framework of the city thus became entangled with European interests, as Christian populations were often leveraged as instruments of foreign intervention<sup>12</sup>.

Throughout the 19th century, Palestine’s administrative structure remained largely unchanged, save for its brief annexation by Egypt from 1831 to 1840, before being reinstated under Ottoman rule. During the Crimean War, Jerusalem’s status was elevated, and it was directly linked to Istanbul as a sacred city, earning the designation Hamiat al-Quds (Jerusalem Garrison)<sup>13</sup>.

The city’s administrative affiliation fluctuated over time due to shifting Ottoman policies, the Egyptian campaign, the weakening authority of Damascus and Acre’s governors, and the mounting threats facing Palestine—particularly Jerusalem. To maintain control, the Ottoman state entrusted Jerusalem’s governance to both civil and military authorities, with local Jerusalemites playing a role in administration<sup>14</sup>. The city’s institutions were organized into three primary divisions:

**1. The Civil Administration:** At its apex stood the governor-general, wielding the authority to appoint and dismiss officials. His residence was originally within the city walls but later moved beyond them as urban expansion progressed. The governor presided over official ceremonies, conducted field inspections, and oversaw the arrival and departure of Hajj caravans. Given Jerusalem’s sacred

12 - Fatimah Salim al-Tarawneh, *The Administrative Status of the Holy City of Jerusalem*, 2016, p. 1605.

13 - Hussein Ozdemir, *Palestine During the Ottoman Era and the Cry of Sultan Abdul Hamid II*, 2017, p. 27.

14 - Ziad al-Madani, *The City of Jerusalem and Its Environs in the Late Ottoman Era*, Amman, 1948, p. 77.

status, a municipal council was also established to manage civic affairs<sup>15</sup>.

**2. The Religious Administration:** A pivotal institution in the Ottoman governance of Jerusalem was the Ministry of Endowments (Awqaf), established in Istanbul in 1826. It supervised Islamic holy sites, mosques, schools, and shrines, while non-Islamic religious endowments remained under the jurisdiction of their respective communities. In 1843, the General Directorate of Awqaf for Jerusalem was founded, led by eminent scholars and jurists<sup>16</sup>. Among them was the city's Qadi (judge), responsible for overseeing religious affairs, including the restoration of al-Aqsa Mosque and managing its financial endowments<sup>17</sup>. Assisting him was the Mufti<sup>18</sup>, who played a key role in religious adjudication.

**3. The Security Administration:** Jerusalem's military divisions included several specialized units. The Jawishiyya served as guardians of al-Aqsa Mosque, while the Jari Bashi oversaw these guards. The Sipahi cavalry comprised elite, well-trained soldiers, many stationed in Jerusalem, while the Janissaries (Ottoman infantry) numbered between 50 and 500 troops<sup>19</sup>. The Ottoman period witnessed significant security transformations, the legacies of which endure to this day. Notably, in 1536, Sultan Suleiman the Magnificent ordered the reconstruction of Jerusalem's city walls, the renovation of al-Aqsa Mosque, and the restoration of its fortress. However, Jerusalem's security remained precarious, particularly in the late Ottoman era, when European powers sought influence over the city's religious sites. One striking example was the 1911 uprising of Jerusalemites against the British-led Montagu Parker expedition, which secretly excavated beneath al-Aqsa Mosque<sup>20</sup> in search of biblical relics—an act met with fierce resistance.

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15 - Ameen Abu Bakr, *The Organization and Regulation of Waqf Lands in Palestine*, Amman, 2004, p. 234.

16 - Adel Manaa, *op. cit.*, p. 22.

17 - Ziyad Al-Madani, *op. cit.*, p. 79.

18 - Aref al-Aref, *The Detailed History of Jerusalem*, 4th ed., Arab Institute for Studies and Publishing, 2007, p. 28.

19 - Radwan Jamal Muhammad Amr, *Security and Protection of al-Aqsa Mosque (2000–1948): A Historical and Documentary Study*, Master's Thesis, al-Quds University, p. 20.

20 - Radwan Jamal Muhammad Amr, *op. cit.*, p. 20.

These administrative structures not only defined the city’s governance but also underscored Jerusalem’s Islamic identity, ensuring the protection of its sacred sites across religious communities. They served as a bulwark for the status quo arrangements, preserving the historical and spiritual integrity of al-Aqsa Mosque and affirming its deep-rooted Islamic character.

### *Al-Aqsa Mosque*

The profound spiritual significance of al-Aqsa Mosque to Muslims is embedded in its very structure, its boundaries, and its sacred landmarks. These elements form the foundation of the status quo arrangements—an enduring framework that safeguards the mosque’s sanctity and completeness. These arrangements have persisted for centuries, evolving into a binding legal order that governs al-Aqsa. Understanding this requires a thorough examination of its definition and historical origins (Section I), its most notable features (Section II), and its other significant landmarks (Section III).

#### **I. Definition and Origins of al-Aqsa Mosque**

Al-Aqsa Mosque is situated atop Mount Moriah, an ancient name dating back to the Jebusite Arabs. It is also referred to as the Dome Plateau, as it houses the Dome of the Rock, and stands as the highest elevation within Jerusalem. The site is alternatively known as Haram al-Sharif (the Noble Sanctuary) or Jabal Bayt al-Maqdis<sup>21</sup> (the Mountain of the Holy House).

The term al-Aqsa means “the farthest,” signifying its distance from Mecca, as referenced in the Quranic account of the Prophet’s Night Journey (Isra’). This linguistic nuance places it in contrast with Medina, which, though distant (Qasi), is not the farthest (Aqsa). Thus, the verse in Surat al-Isra alludes to the three most venerated mosques in Islam<sup>22</sup>.

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21 - Muhasnah et al., *The History of Jerusalem*, Dar Haneen, Amman, Jordan, 2003, p. 22.

22 - *Tafsir al-Tabari*, Vol. 15, pp. 30–27.

Al-Aqsa Mosque is the enclosed sanctuary located within the southeastern quadrant of Jerusalem's city walls. Its eastern boundary is contiguous with the city wall, as is much of its southern boundary. The western and northern perimeters, however, are distinct, forming a sacred enclosure within the fortified city itself<sup>23</sup>.

This expansive compound includes numerous historic and commemorative structures: the Dome of the Rock, the Qibli Mosque (commonly referred to as al-Aqsa Mosque by the public), the Marwani Prayer Hall, the Old Aqsa, as well as porticoes, domes, fountains, platforms, mihrabs, wells, pools, and arches. The entire site covers approximately 144 dunams, forming an irregular polygon, somewhat resembling a rectangle. While many mistakenly identify al-Aqsa solely as the Qibli Mosque—where the pulpit and main mihrab are located—the term al-Aqsa in fact encompasses the entire sanctified complex<sup>24</sup>.

Historical records from the Ottoman-era Sharia Court of Jerusalem, dating back to the 15th century, affirm that the term al-Aqsa Mosque referred to the entire compound enclosed within its walls, including its outer gates, such as Bab al Matarah (The Ablution Gate)<sup>25</sup>.

Sheikh Najeh Bkeirat<sup>26</sup> asserts the necessity of defining al-Aqsa Mosque as “a vast expanse of land encompassing approximately one-sixth of the Old City. Its shape is irregularly rectangular, extending across the southeastern edge of

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23 -Ahmed Fathi Khalifa, A Guide to the First of the Two Qiblas, al-Aqsa Association Publications, 2001, p. 10.

24 - Hassan Hussein Ayash, Al-Aqsa Mosque and the Dome of the Rock: Their Religious Significance and Esteemed Status in the Hearts of Muslims – A Historical Study, al-Quds Open University Journal for Research and Studies, Issue 18, January 2010, p. 74.

25 - Among the most significant of these documents are:

1. A document dated 1530/11/26, extracted from Register No. 1, Section 1, pp. 504–503, Deed No. 608/148.
2. A document dated 1532/3/7, extracted from Register No. 2, No. 2, Section 1, p. 472, Deed No. 374/85.
3. A document dated 1532/4/9, extracted from Register No. 2, Section 1, Volume 1, p. 344, Deed No. 269/63.
4. A document dated 1532/9/23, extracted from Register No. 2, Section 2, pp. 499–497, Deed No. 976/234.
5. A document dated 1532/10/15, extracted from Register No. 2, Section 2, pp. 715–713, Deed No. 1145/283.

Conference on the Documents of Ownership and the Historical Status of al-Aqsa Mosque: Proceedings and Recommendations, al-Maqdisiyah Journal, Jerusalem Studies Center, al-Quds University, Issue 16, Autumn 2022, p. 288.

26 - The researcher's interview with Sheikh Najeh Bkeirat, June 2024, 24, Jerusalem.

Jerusalem. This sacred precinct spans 144,000 square meters, enclosed on all sides by a protective wall. The wall's length measures 474 meters to the east, 490 meters to the west, 383 meters to the south, and 321 meters to the north. Within its boundaries lie numerous edifices, including the Dome of the Rock, the southern prayer hall, the Marwani prayer hall, al-Buraq, the ancient al-Aqsa, as well as an array of platforms, courtyards, schools, minarets, trees, wells, and domes. In essence, everything encircled by this sacred enclosure constitutes al-Aqsa Mosque.<sup>27</sup> This definition aligns with the consensus of most historians and scholars, who affirm that “al-Aqsa Mosque encompasses everything within its surrounding walls.”<sup>28</sup>

The term *ḥaram* (sanctuary) is commonly employed to demarcate the boundaries of sacred sites. In Hebron, the name al-Haram al-Ibrahimi designates the revered space of the Ibrahimi Mosque. Likewise, the term al-Haram al-Qudsi al-Sharif has been extensively and frequently used by the people of Jerusalem, the Supreme Islamic Council, the Higher Islamic Commission<sup>29</sup>, and the Jerusalem Waqf Administration<sup>30</sup>.

The origins of al-Aqsa Mosque trace back to the era of our forefather Adam, peace be upon him. The fundamental evidence for this assertion is found in the divine verse:

“And [mention] when Abraham was raising the foundations of the House along with Ishmael, [saying], ‘Our Lord, accept [this] from us. Indeed, You are the All-Hearing, the All-Knowing.’<sup>31</sup>”

27 - Muḥammad ibn Ismā'īl ibn Ibrāhīm ibn al-Mughīrah ibn Bardizbah al-Bukhārī, *Al-Jāmi' al-Ṣaḥīḥ*, Dār al-Kutub al-ʿIlmiyyah, Beirut, Lebanon, offset edition, Istanbul, n.d., Chapter: «They Walk with a Quickened Pace.» Vol. 2, Part 4, p. 117.

28 - Aḥmad ibn Yahyā ibn Faḍl Allāh, *Masālik al-Absār fi Mamālik al-Amsār*, edited by Aḥmad Zakī Pasha, Dār al-Kutub al-Miṣriyyah, Cairo, first edition, Vol. 1924 ,1, p. 167.

29 - For instance: Statement Document of the Supreme Islamic Council on the Buraq Incidents of 1928, Palestinian Studies Institute, [Online Source] (<https://oldwebsite.palestine-studies.org/sites/default/files/%D92.pdf>), accessed on November 2024 ,20.

30 - Website of the Jerusalem Waqf Administration, [Online Source] (<https://www.awqafalquds.org/ar/about/historical-background>), accessed on August 2024 ,20.

31 - Surah al-Baqarah, Verse 127.

Abraham, peace be upon him, merely raised the existing foundations, reinforcing and restoring what had been established long before. His role was one of renovation, not origination<sup>32</sup>. In support of this, Abu Dharr, may Allah be pleased with him, narrated:

“I asked the Messenger of Allah, ‘O Messenger of Allah, which mosque was established first on earth?’ He replied, ‘al-Masjid al-Haram (the Sacred Mosque in Mecca).’ I then asked, ‘And which came next?’ He said, ‘al-Masjid al-Aqsa.’ I inquired, ‘How much time separated them?’ He answered, ‘Forty years. Then, wherever you find yourself when prayer is due, perform it, for excellence lies therein.’” (Authentic, agreed upon<sup>33</sup>)

Throughout history, Jerusalem and al-Aqsa Mosque have been known by several distinguished names, including Iliya, Bayt al-Maqdis, al-Masjid al-Jami‘, and al-Haram al-Qudsi al-Sharif. These appellations underscore its lofty status, unparalleled sanctity, and the wealth of Islamic and historical landmarks it houses.

## ***Section Two:***

### ***The Prominent Landmarks of al-Aqsa Mosque***

Al-Aqsa Mosque is home to an extensive array of sacred sites that chronicle its veneration and its profound Islamic legacy. The mosque encompasses over two hundred structures and landmarks, each standing as a living testament to its spiritual and historical identity. Among its most significant features are its prayer halls, gates, minarets, domes, and schools.

#### ***1. The Prayer Halls of al-Aqsa Mosque***

Performing prayer anywhere within the precincts of al-Aqsa Mosque is deemed an act of devotion equal in merit, for all parts of the mosque are sacred. However, al-Aqsa also contains several enclosed prayer halls. Many mistakenly assume

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32 - Muḥammad Muḥammad Ḥasan Sharāb, Bayt al-Maqdis and al-Masjid al-Aqṣā, (the place of publication is not specified), 1994, pp. 304–303.

33 - Musnad al-Imām Aḥmad ibn Ḥanbal, verified and annotated by Shu‘ayb al-Arnā‘ūt and others, Mu‘assasat al-Risālah, 1st edition, 1996, Ḥadīth No. 241.

that only these structures—such as the Dome of the Rock or the Qibli Prayer Hall—constitute al-Aqsa Mosque. The principal prayer halls within the compound include:

**1-The Southern Prayer Hall (al-Qibli Mosque):** Reserved primarily for men, this prayer hall is located in the southernmost part of al-Aqsa Mosque. Covering an area of approximately four dunums, it features eleven entrances and can accommodate around 5,500 worshippers<sup>34</sup>. The present structure was built atop an earlier edifice known as the Ancient Aqsa<sup>35</sup>.

**2-The Dome of the Rock Prayer Hall:** The oldest surviving Islamic architectural monument, this magnificent structure was commissioned by the Umayyad Caliph al-Walid ibn Abd al-Malik. Later, Sultan Suleiman the Magnificent ordered its restoration, ensuring its enduring splendor<sup>36</sup>.

**3-The Marwani Prayer Hall:** Situated underground in the southeastern section of al-Aqsa Mosque, this vast hall is one of the mosque's integral components. Its name derives from the Umayyad Caliph Abd al-Malik ibn Marwan. Spanning 4,000 square meters, it has two entrances: a modernized small door to the northwest and grand gates in the northeast, historically referred to as the Gates of Victory<sup>37</sup>.

**4-The Ancient Aqsa Prayer Hall:** Located beneath the Qibli Mosque, this prayer hall extends southeastward on the ground level of al-Aqsa<sup>38</sup>. It remained closed for centuries until its reopening in 1998, following an extensive restoration by the

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34 - 'Isā al-Qudūmī, *Al-Masjid al-Aqṣā: Forty Facts We Are Unaware Of*, op. cit., p. 18.

35 - Yūsuf Kamāl Ḥasūnah al-Ḥusaynī, *Palestine and the Israeli Aggressions Against Its Islamic Sanctities*, al-Nahḍah Ibrāhīmiyyah Center, Palestinian Publishing and Distribution Institution, Jerusalem, Palestine, 2000, p. 27.

36 - Muḥammad Muḥyī al-Dīn al-Anṣārī, *This is a Treatise on the Names of Visitation Sites and Maqāms in al-Quds al-Sharīf*, al-Makārim Company Press, Alexandria, 1321 AH, p. 6.

37 - Mīlād Fu'ād 'Abd al-Raḥmān Yūnus, *The Most Prominent Israeli Occupation Attacks on al-Masjid al-Aqṣā: A Critical Analytical Study of Motives and Objectives (2010–1967)*, Master's Thesis, al-Quds University, Jerusalem, Palestine, 2012, p. 19.

38 - One of the gates of al-Masjid al-Aqṣā, located on the southern side, which remains sealed to this day.

Islamic Waqf Administration<sup>39</sup>.

**5-Other Prayer Halls:** Notable among them is al-Buraq Mosque, situated beneath the Moroccan Gate, named after the sacred steed al-Buraq, which Prophet Muhammad, peace be upon him, tethered here during his Night Journey. In the southwestern corner of al-Aqsa Mosque stands al-Maghariba Mosque, now converted into the Islamic Museum. Additionally, Masjid al-Nisa' (the Women's Mosque) once occupied the southern sector, while Masjid Bab al-Rahma and Masjid al-Tawba<sup>40</sup> also form part of the sacred complex.

## 2. Al-Buraq Wall

The western and southern sections of the mosque's courtyard are of profound significance, as they include al-Buraq Wall (the Western Wall). This wall derives its name from the miraculous event of Isra and Mi'raj, when Prophet Muhammad, peace be upon him, secured his celestial mount, al-Buraq, to it. The wall stands approximately 48 meters in length and 17 meters in height.

Jewish tradition, however, asserts that this wall is the last remnant of what they call the Temple of Solomon<sup>41</sup>. Al-Buraq Wall remains a pivotal religious and historical symbol for Muslims, embodying the intricate political and religious dynamics surrounding Jerusalem and al-Aqsa Mosque. The wall's contested status was central to the historic tensions between Jews and Muslims, particularly during the British Mandate in the early twentieth century.

## 3. The Gates of al-Aqsa Mosque

The fortified walls of al-Aqsa Mosque house fourteen gates along the northern and

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39 - The Administration of Jerusalem Awqāf and Affairs of al-Masjid al-Aqsā, Official Website: [<https://awqafalquds.org/ar/aqsa-landmark/%D%85%D%8B%5D%84%D%-89%D%8A%7D%84%D%8A%7D%82%D%8B%5D%-89%D%8A%7D%84%D%82%D%8AF%D8%9A%D85%9>], Date of Access: 2024/07/18.

40 - 'Abdullāh Ma'rūf and Rāfat Marī, Atlas of the Landmarks of al-Masjid al-Aqsā, al-Fursān Publishing and Distribution, 1st Edition, Amman, 2010, pp. 42–41.

41 - Maḥmūd Muṣāḷḥa, Al-Masjid al-Aqsā al-Mubārak and the Temple of the Children of Israel, Palestine, 1997, p. 134.

western sides. Some remain open, including Bab al-Asbat (The Tribe's Gate), Bab Hitta (The Gate of Remission), Bab Al-Malik Faisal, Bab Al-Ghawanima (Gate of Bani Ghanim), Bab Al-Nazir (The Inspector's Gate), Bab al-Hadid (The Iron Gate), Bab al-Qattanin (Cotton Merchant's Gate), Bab al Matarah (The Ablution Gate), Bab al-Maghariba (The Moroccan gate), Bab al-Silsila (Chain Street), and Bab al-Sakina (also known as The Double Gate). Others are sealed with stone. Two additional gates stand on the eastern wall<sup>42</sup>, including the small Funeral Gate, located near Bab al-Asbat. The southern wall features three entrances: The Double Gate, The Triple Gate—visible from the adjacent Umayyad palaces—and a third, opened by the Crusaders for easier access to the Marwani Prayer Hall<sup>43</sup>.

#### **4. The Minarets of al-Aqsa Mosque**

Al-Aqsa Mosque is graced with four minarets, all constructed during the Mamluk era. Three adorn the western perimeter of the mosque, while the fourth stands on its northern side. These are:

- The Minaret of Bab al-Maghariba
- The Minaret of Bab al-Silsila
- The Minaret of Bab al-Ghawanima
- The Minaret of Bab al-Asbat<sup>44</sup>.

#### **Fifth: The Domes of al-Aqsa Mosque**

Al-Aqsa Mosque is adorned with a constellation of domes, numbering fourteen in total, crowned by its resplendent jewel—the Dome of the Rock—situated at the heart of the sanctuary, along with the dome of the Qibli Mosque, which stands at

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42 - 'Abd Allāh Ma'rūf and Rā'fat Mar'ī, Atlas of the Landmarks of al-Masjid al-Aqṣā al-Mubārak, op. cit., p. 81.

43 - Sheikh Najeh Bkeirat, Al-Fawā'id al-Jamma fī Ziyārat al-Aqṣā wa Mā Ḍammah (The Abundant Benefits of Visiting al-Aqsa and Its Contents), pp. 28–27.

44 - 'Abd Allāh Ma'rūf and Rā'fat Mar'ī, Atlas of the Landmarks of al-Masjid al-Aqṣā al-Mubārak, op. cit., p. 53.

the forefront of al-Aqsa's central prayer hall<sup>45</sup>.

### **Sixth: The Schools of al-Aqsa Mosque**

A great number of schools flourished within the precincts of al-Aqsa Mosque, reflecting a distinctive intellectual and cultural movement in Jerusalem, a city of profound historical and religious significance during successive Islamic eras. Many of these schools continue to uphold their scholarly mission to this day, while others have been repurposed into offices, service centers, residences, or other uses. These schools include: al-Ashrafiyya School, al-Bakriya School, al-Tankziyya School, al-Farisiyya School, al-Aqsa Islamic School and Kindergarten, al-Ghardia School, al-Aminiyya School, al-Basitiyya School, al-Manjakiyya School, al-Othmaniyya School, al-Ahmadiyya School, al-Malakiya School, al-Asa'ardiyya School, al-Fakhriyya School, al-Khatuniyya School, al-Nahawiyya School, and al-Duwaydariyya School<sup>46</sup>.

### **Third Section:**

#### **The Diverse Landmarks of al-Aqsa Mosque**

Al-Aqsa Mosque is home to a vast and varied array of landmarks that narrate its rich history and sacred significance. Among the most prominent of these are:

#### **First: The Prayer Niches (Mihrabs) of al-Aqsa Mosque**

Al-Aqsa Mosque houses ten renowned mihrabs, including: the Mihrab of Ali Pasha, the Mihrab of Dawud Pasha, the Mihrab of the Hanafi Imam, the Mihrab of the Marwani Prayer Hall, the Mihrab of the Southwestern Arcade, the Mihrab of Yusuf Pasha, the Ground Mihrab, the Mihrab of the Dome of the Rock Courtyard, the Mihrab of Bab al-Ghawanima, and the Mihrab of the Eastern Wall<sup>47</sup>.

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45 - Yusuf Jumaa Salama Salama, Guide to the Blessed al-Aqsa Mosque, Quds Net Center for Studies, Media, and Electronic Publishing, Wahba Library, 1st ed., 2011, p. 46.

46 - Yusuf Jumaa Salama Salama, Guide to the Blessed al-Aqsa Mosque, op. cit., p. 50.

47 - Hazem Suleiman, The Blessed al-Aqsa Mosque, op. cit., p. 9.

## **Second: The Pulpits of al-Aqsa Mosque**

Al-Aqsa contains two notable pulpits: the Minbar of Nur al-Din Zenki, also known as the Minbar of Salah al-Din al-Ayyubi, which was tragically set ablaze by the Zionist settler Michael Rohan during the burning of the Qibli Mosque on August 21, 1969; and the Minbar of Burhan al-Din, which stands upon the courtyard of the Dome of the Rock, adjacent to the southern arcade beneath the Dome of the Scale<sup>48</sup>.

## **Third: The Colonnades of al-Aqsa Mosque**

The mosque features three colonnades: the Western Colonnade, the Northern Colonnade, and the Eastern Colonnade<sup>49</sup>.

## **Fourth: The Arcades of al-Aqsa Mosque**

There are eight arcades in al-Aqsa Mosque, namely: the Eastern Arcade, the Northeastern Arcade, the Northern Arcade, the Northwestern Arcade, the Southwestern Arcade, the Southern Arcade, and the Southeastern Arcade<sup>50</sup>.

## **Fifth: Other Notable Landmarks**

Numerous additional landmarks are scattered throughout al-Aqsa Mosque, including: the Maqam al-Arba'in (Shrine of the Forty), the Muezzins' Platform, the al-Aqsa Library, various courtyards, prayer niches, wells, and fountains<sup>51</sup>. Also of note is the Islamic Museum, established by the Supreme Islamic Council in 1923 and reopened to visitors in 1980<sup>52</sup>.

## **The Historical Origins of the "Status Quo" Doctrine**

The legal and organizational concept of the "Status Quo" finds its origins in the

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48 - Issa Al-Qudumi, Al-Aqsa Mosque: Truth and History, Bayt al-Maqdis Center for Documentary Studies, 18th publication, 2nd ed., 2008, p. 22.

49 - Abdel Hamid Jamal al-Farani, Al-Aqsa Mosque from the Abbasid Caliphate to the Crusader Invasion: An Architectural Descriptive Study, Arab American University Journal for Research, Vol. 2, No. 1, p. 19. Available at: [<https://repository.aaup.edu/bitstream/1/1075/123456789/Al-Aqsa20%20Mosque20%20From20%20the20%20Period20%20of20%20the20%20Abbasid20%20Caliphate20%20to20%20the20%20Crusaders%20%99%80%20Invasion20%20Architectural20%20Descriptive20%20Study.pdf>]. Accessed on July 2024 ,18.

50 - Yusuf Jum'a Salama Salama, Guide to the Blessed al-Aqsa Mosque, op. cit., p. 51.

51 - Muhammad Hashim Musa Ghosheh, The History of al-Aqsa Mosque, op. cit., pp. 123–116.

52 - Abdullah Ma'rouf and Ra'fat Mar'i, Atlas of Landmarks of al-Aqsa Mosque, op. cit., p. 203.

Ottoman era of the fifteenth century. It was codified as a historic legal framework, reinforced by treaties and acknowledged by all the major powers of the time, later receiving formal recognition from the League of Nations—the highest international authority of its era. Subsequently, it was reaffirmed and incorporated into United Nations resolutions, shaping a customary legal doctrine that developed both substantively and procedurally.

The principles underpinning the “Status Quo” thus became entrenched as binding rules of customary international law, obligating any state exercising sovereignty over the Holy Lands to uphold and respect them. Any violation of this framework constitutes an international crime. This legal and historical framework, which has safeguarded the “Status Quo” since its inception in the early Ottoman period, continued to ensure stability under the Jordanian Hashemite custodianship. It remained a formidable legal obstacle to Israeli occupation following the seizure of East Jerusalem in 1967. Israel, through various policies and measures, has since sought to erode this status quo, undermining the Hashemite custodianship of al-Aqsa Mosque.

Accordingly, this study is divided into two sections: the first examines the legal framework governing the “Status Quo” before the Israeli occupation of 1967 (from its inception to its consolidation), while the second explores the post-1967 legal context, focusing on Israel’s attempts to dismantle the status quo and overthrow Hashemite custodianship.

***to be continued in the forthcoming issues.***

Legal Consequences arising from the Policies and Practices of Israel in  
the Occupied Palestinian Territory, including East Jerusalem  
(Request for Advisory Opinion)

# ***International Court of Justice***

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Written Submission of the League of Arab States

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