



# Defusing the Crisis at Jerusalem's Gate of Mercy

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**What's new?** At Jerusalem's Holy Esplanade (Haram al-Sharif/Temple Mount), Israeli authorities and Palestinian worshippers are struggling over control of a building next to the Gate of Mercy. Shut by Israeli authorities since 2003, Palestinians forcibly regained access in February, turning it into a prayer hall. Israel seeks to reverse the change.

**Why does it matter?** Previously, minor incidents at the Holy Esplanade have triggered major escalations, especially at times of relative volatility in Gaza and the West Bank. The highly symbolic dispute over the Gate of Mercy building has put significant strain on Israel's relations with Jordan, the esplanade's Muslim custodian.

**What should be done?** Following overdue repairs, Israel should permit the building to reopen and allow the Waqf, which runs the esplanade under Jordanian auspices, to operate it as it sees fit, possibly as an Islamic educational institute or as a prayer space, to help mend Israel-Jordan relations and lower the risk of violence.

## I. Overview

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Conflicts at the plaza known to Jews as the Temple Mount (Har Habayit) and to Muslims as the Noble Sanctuary (Haram al-Sharif) or the al-Aqsa Mosque compound have ignited some of the bloodiest episodes of the Israeli-Palestinian conflict, including the riots in 2000 that triggered the Second Intifada. In recent weeks, tensions at this small site (0.15 sq km or 37 acres), hereafter referred to as Jerusalem's Holy Esplanade, have flared anew.<sup>1</sup> This time, the strife has centred on a building on the

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<sup>1</sup> The Holy Esplanade is Judaism's holiest site and of great significance in Islam. In Jewish tradition, it contains the foundation stone of the world's creation, on which Abraham nearly sacrificed his son Isaac; it is where the First and Second Jewish Temples stood (destroyed in 586 BCE and 70 CE respectively). The only remnant of the ancient compound is the Esplanade's western retaining wall, known in Judaism as the "Kotel", the Western/Wailing Wall (for the lamentations over the Temple destructions that occurred there). In the Islamic tradition Al-Aqsa ("The Furthest") Mosque was Muhammad's destination on his night journey from Mecca aboard his winged horse, Al-Buraq ("Lightening") – for which the western wall, to which the horse was tethered, is called "Al-Buraq". From the same foundation stone on the Esplanade, Muhammad's journey took him to heaven and on to Mecca. In Islam, the entire Esplanade, not only its two main structures (Al-Aqsa Mosque and Dome of the Rock), are considered to have a mosque's sanctity, Sunni Islam's holiest after Mecca and Medina.

eastern edge of the esplanade, immediately adjacent to an external gate of the compound called Bab al Rahme/Shaar HaRa'hamim, or Gate of Mercy.<sup>2</sup>

In 2003, at the height of the Second Intifada, Israel secured a court order to prohibit access to the Gate of Mercy building, accusing the Islamic Heritage Committee, which used it as an office, of involvement in terrorist activities.<sup>3</sup> Moreover, Israeli officials consider only the southernmost building of the Holy Esplanade to be the al-Aqsa Mosque. Given this, they tend to view the other buildings within the holy site as parts of the Temple Mount with no particular Muslim sanctity. Palestinians condemned Israel's unilateral closure of the building, as well as its very involvement in administering the Holy Esplanade, because they deem the entire area of the compound part of al-Aqsa mosque. In addition, like all of East Jerusalem, it is occupied territory according to international law. Hashemite Jordan, which claims Muslim custodianship at the site and has a peace agreement with Israel that accords it a "special role" in the site's administration, views Israel's closure of the building as a violation of what is known as the Status Quo.

The Status Quo is a set of unwritten rules, originating with Ottoman decrees pertaining to the administration of holy sites in Jerusalem and Bethlehem and extended to include Jerusalem's Holy Esplanade during the second half of the 19th century. Since 1967, when Israel began occupying the West Bank including East Jerusalem and the Holy Esplanade within it, all Israeli prime ministers and Jordanian monarchs have declared their commitment to the Status Quo. Yet each party interprets these rules differently, particularly as they relate to three contentious issues: access, non-Muslim prayer, and archaeological excavations and public works.<sup>4</sup>

Beginning in February of this year, the Waqf, the Islamic charitable organisation that administers the al-Aqsa Mosque as well as several schools and Islamic institutions across Jerusalem, has sought to recover access to the Gate of Mercy building, triggering a power struggle between Israeli authorities and Palestinian worshippers.

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## II. The Opening Salvo

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On 14 February, the Waqf Council, the leadership body of the local Jerusalem-based Waqf, held its first meeting since Jordan expanded its composition days earlier. The Waqf chairperson concluded the meeting, which was attended by two senior Jordanian officials, by declaring that he hoped the new council would serve as a model for intensifying *ribat* (the Islamic obligation to defend Muslim holy places) for the al-Aqsa Mosque, and as an instrument for addressing the threats to the Islamic Waqf and the city's historic identity. Council members then proceeded to hold that day's noon prayer inside the Gate of Mercy building, to which Israel has restricted access for over a decade.

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<sup>2</sup> See Annex 1: Holy Esplanade Map. The external gate has been closed for centuries. Melanie Holcomb, "The Closed Gate", in Barbara Drake Boehm and Melanie Holcomb (eds.), *Jerusalem 1000-1400: Every People Under Heaven* (New Haven, 2016), pp. 129-130.

<sup>3</sup> The Islamic Heritage Committee, a non-profit working to protect and foster Islamic culture and patrimony in Jerusalem, including the al-Aqsa mosque.

<sup>4</sup> For details, see Crisis Group Middle East Report N°159, *The Status of the Status Quo at Jerusalem's Holy Esplanade*, 30 June 2015.

The Israeli government responded by sealing a gate at the top of the stairway leading to the building, preventing access. Over the next several days, Palestinian protesters repeatedly broke the chains and locks placed on the gate. On 20-21 February, the Israeli police and the Waqf appeared to reach an accommodation to keep the building closed to worshippers, and the police allowed the Waqf to place its own lock on the gate. However, Palestinian protesters cut this lock as well.

The next day was a Friday, when tens of thousands of Palestinian Muslims routinely congregate at the al-Aqsa Mosque compound for noon prayers. The night before, Israeli police pre-emptively arrested 60 East Jerusalemites who, they claimed, might spark unrest during the Friday prayers. But the arrests, which were made without warrants or charges, did not achieve Israel's intended result. On Friday, Palestinian worshippers at the esplanade broke through the gate located at the top of the stairs and a Waqf official unlocked the doors of the building. Worshippers poured into the building's main hall and conducted large-scale prayer inside the building and in its yards for the first time in sixteen years.

Since then, Israel has secured a new court order that would allow the police to re-close the building. But an Israeli official argued that it would be impossible to enforce the closure without risking a bloodbath. In his view (a minority one), replacing locks and chains is futile as the tens of thousands of worshippers frequenting the site on Fridays would remove them, and stationing dozens of police at the site to enforce the closure could ignite serious violence.<sup>5</sup>

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### **III. The Political Underpinnings of the Crisis**

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The Gate of Mercy has a special religious significance. According to Jewish tradition, the messiah will enter the Temple area through this gate. Muslim tradition connects the site to a Quranic verse regarding a wall with a gate that separates heaven's mercy from hell's punishment. Christians, in turn, refer to it as the Golden Gate, and generally believe it is through this gate that Jesus entered Jerusalem.

Muslims in Palestine and elsewhere fear that Israel wants to turn the Gate of Mercy building into a synagogue.<sup>6</sup> These concerns derive in part from a 1985 letter by Israel's Chief Rabbi, Mordechai Eliyahu, in which he suggested that a synagogue on the Temple Mount could be established "on top of the [roof of the Double] Gates of Mercy or further to the north".<sup>7</sup> They are also worried about the religious activities

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<sup>5</sup> Crisis Group interview, Israeli official, Jerusalem, 26 February 2019.

<sup>6</sup> Crisis Group interviews, Palestinian Jerusalemites, Jerusalem, February 2019.

<sup>7</sup> Rabbi Eliyahu conditioned this on "controlled entry and exit, so [Jews] won't be able to go further than the permissible areas [according to Jewish law]". Rabbi Yizhak Shilat, "Arguing, but without misstating the truth", *Arutz 7*, 2 January 2019. As deputy minister for religious affairs, MK Eli Ben Dahan (2013-2015) of the Jewish Home party led the drafting of prayer regulations for the Temple Mount. According to Yaacov Hayman, chairperson of the Foundation for the Temple Mount and Temple Heritage, the Gate of Mercy was one of the specific areas that Ben Dahan considered when seeking to designate a location in the compound for Jewish prayer. Yosef Arenfeld, "A Struggle without Mercy", *Arutz 7* (Hebrew), 28 February 2019. The Yishai Association for the Establishment of Synagogues on the Temple Mount, co-founded by Rabbi Shmuel Eliyahu, Rabbi Mordechai Eliyahu's son, has launched a campaign to secure further rabbinic and public support for the cause of

of Temple Mount activists (who promote Jewish worship at the Holy Esplanade, as well as the assertion of Israeli sovereignty over it) who, when visiting the site, follow a path adjacent to the Gate of Mercy building and pause at the corner of the building's yards to study the Torah.<sup>8</sup>

The Israeli police's increasingly accommodating approach toward these Temple activists has added to the sense of alarm. In August 2003, Israel unilaterally reopened the site to non-Muslims, whose access Israel had blocked since Palestinians launched the Second Intifada in September 2000.<sup>9</sup> But visiting religious Jews were accompanied by Waqf guards and Israeli police. The guards, when witnessing instances of Jewish prayer, would complain to police officers, who would then remove the visitors from the site for violating the non-Muslim prayer ban, a component of the Status Quo. However, during roughly the last two years, Israeli police forces have kept Waqf guards at a distance, and have allowed silent, individual Jewish prayer. Waqf guards have sought to curtail this practice, through repeated clashes with Israeli police, but without much success.<sup>10</sup>

The Waqf's inability to stem these activities has damaged its credibility as the defender of the site. A veteran leader of the Southern Branch of Israel's Islamic Movement lamented, "The [Waqf] sheikhs are so weak nowadays. People feel they cannot protect the mosque. Twenty years ago, people who visited the mosque would kiss their hands. Youth are enlisting to protect al-Aqsa in their stead, but they have no strategy or global vision, only stones and firecrackers".<sup>11</sup>

Though the current Israeli government has given no indication that it would unilaterally build a synagogue at the site, Israeli leaders have raised the idea during final status negotiations with their Palestinian counterparts.<sup>12</sup> One concern among

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establishing synagogues on the Holy Esplanade, in light of the Gate of Mercy crisis. Crisis Group interview, national-religious rabbi, Jerusalem, 20 March 2019.

<sup>8</sup> Crisis Group interviews, Palestinian Jerusalemites, Jerusalem, February 2019. Jewish activism at the Gate of Mercy cemetery, outside of the Holy Esplanade behind its eastern wall, further fuels Palestinian fears. Nazmi Jubeh, "The Bab al-Rahmah Cemetery: Israeli Encroachment Continues Unabated", *Journal of Palestine Studies*, vol. 48, no. 1 (Autumn 2018), pp. 88-103.

<sup>9</sup> Unlike the reality since August 2003, prior to 2000 Israeli police were stationed outside of the compound. The Waqf sold entry tickets to non-Muslims wishing to enter the Dome of the Rock, al-Qibli Mosque and the Islamic Museum. Non-Muslim access required coordination with the Jordanian-backed/appointed Waqf Council. Non-Muslim visitors could enter the shrines at the site after purchasing tickets. They could also enter on Saturdays and make use of visual aids showing the ancient Jewish Temples. More generally, the site had more of a touristy feel than the one that prevails today, when it conveys the sense of being a conflict zone. The calmer atmosphere meant that religious Jews who entered the site were less closely monitored by both the Waqf authorities and the Israeli police.

<sup>10</sup> Crisis Group interview, Temple activist, Jerusalem, 25 February 2019. Crisis Group interview, Waqf guard, Jerusalem, 14 February 2019.

<sup>11</sup> Crisis Group interview, Jerusalem, January 2019.

<sup>12</sup> A former senior adviser to PM Ehud Barak wrote: "Barak proposed to locate a synagogue somewhere in the north-eastern edges of the Mount". Yossi Alpher, "Temple Mount/Haram al Sharif", Bitterlemons, 5 June 2002. The proposal enraged Palestinians. "For the deliberations on Jerusalem, Barak, his ministers, and the members of his delegation assumed the garb of the most extreme fundamentalist Jews. Suddenly, secularists began talking a religious line avoided even by some Israeli rabbis. Suddenly, allowing Jews to pray in the Haram al-Sharif became an essential Israeli demand. What was more serious was that the American officials immediately adopted the position,

Israeli leaders is that allowing the Waqf to turn the building into a high-profile dedicated prayer hall would prejudice final status negotiations on this matter.<sup>13</sup> Israeli Public Security Minister Gilad Erdan has vowed “there will not be a new mosque on the Temple Mount”.<sup>14</sup> For their part, no Palestinian leaders have expressed willingness to allow a synagogue to be established at the site, the entirety of which they consider a mosque.

The King of Jordan, as the custodian of Jerusalem's Muslim holy sites, views contestations at the site as potentially damaging to his authority: images of encroaching Israeli police officers arresting Muslim worshippers in the al-Aqsa compound, as has occurred with greater frequency over the past two years, make it seem as though the King has failed to defend Muslim interests.<sup>15</sup> Compounding this worry is Jordan's multiple crises, both regional (the influx of Syrian refugees, and U.S. recognition of Jerusalem as Israel's capital) and domestic (high national debt and unemployment, coupled with protests over the rising cost of living and tax reforms). Appearing defiant toward Israeli policies at al-Aqsa gives a boost to the King's popularity when he most needs it.<sup>16</sup>

The Kingdom is also preparing to deflect several risks that it fears the Trump administration's peace plan, if released, may bring. These include, first, a possible call for a central Saudi role in the administration of the Haram al-Sharif (at Jordan's partial or full expense), and second, a possible U.S. call to place the al-Aqsa mosque under Israeli sovereignty.<sup>17</sup> In the short term, the Jordanian government is concerned that, in order to demonstrate Palestinian opposition to the U.S. peace plan, the Palestine Liberation Organisation (PLO) will stoke tensions at al-Aqsa.<sup>18</sup>

To manage any such tensions at the site and improve its image as al-Aqsa's defender, Jordan reconstituted the Waqf Council in February 2019, expanding it from 11 members to 18 in order to make a few strategic additions.<sup>19</sup> The Waqf Council is now more independent, after adding Jerusalem leaders not exclusively aligned with the Jordanian government, as well as, for the first time, the Palestinian Authority (PA) minister for Jerusalem affairs, who is also a PLO executive committee member. Jordan had previously excluded such figures in its competition for influence over al-Aqsa with the PLO, which was evident in the public acrimony between Jordan's King Hussein and PLO Chairman Yasser Arafat during the 1990s.

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seemingly unaware of the fact that they were toying with explosives that could ignite the Middle East and the Islamic world. Nor did they try to understand that they were adding a religious dimension to the conflict in such a way as to make a conflagration inevitable”. Akram Haniyeh, “The Camp David Papers”, *Journal of Palestine Studies*, vol. 30. no. 2 (Winter 2001), pp. 75-97.

<sup>13</sup> Crisis Group interview, former Israeli negotiator, Jerusalem, 28 February 2019.

<sup>14</sup> Yasser Okbi, “Israel Expected to Shut Mosque at Golden Gate This Week”, *Ma'ariv*, 10 March 2019.

<sup>15</sup> Crisis Group interview, Israeli official, Jerusalem, 3 March 2019. Crisis Group interview, Jordanian official, 28 February 2019.

<sup>16</sup> Crisis Group interview, Jordanian official, 28 February 2019.

<sup>17</sup> Though Israeli leaders toy with this idea, there seems to be little basis in Amman for this fear. Former opposition leader Isaac Herzog published an article in the Saudi newspaper *Elaph* calling to give Saudi Arabia a “central role” in administering the site. Ben Lynfield, “Saudis in Jerusalem: Opposition Leader Calls for Role for Kingdom at Al-Aqsa”, *Jerusalem Post*, 10 January 2018. Crisis Group interview, Jerusalemite Palestinian expert with strong Palace contacts, 6 March 2019.

<sup>18</sup> Crisis Group interview, Jordanian official, 28 February 2019.

<sup>19</sup> Crisis Group interview, Jordanian official, 28 February 2019.

Now, however, Jordan has few alternatives but to cooperate with the Palestinians. Israeli-Jordanian relations are at a low point. Since their last meeting in June 2018, and against the backdrop of Prime Minister Benjamin Netanyahu's hero's welcome for the Israeli embassy guard who killed two Jordanians in Amman in July 2017, the King has not been taking the prime minister's phone calls.<sup>20</sup> Amman faults Israel for indefinitely halting the Red Sea-Dead Sea Water Conveyance project after having signed it, as well as for advancing the Ramon Airport project, near Eilat, without coordination. The palace views the Likud's shift away from support for Palestinian statehood, and the growing number of Likud parliamentarians expressing support for the "Jordan is Palestine" formula, as existential threats.<sup>21</sup>

Israeli attitudes toward Jordan have similarly deteriorated. Israeli officials interpreted the King's decision not to renew a land leasing arrangement (in two border areas in the northern Jordan valley and in the southern Arava region), which was part of the 1994 peace agreement, as an arbitrary, hostile decision taken to please jingoist domestic constituencies at the expense of a peace partner.<sup>22</sup>

Palestinians in Jerusalem, for their part, had petitioned Jordan to include their representatives in the council as a means to secure political backing, of which they receive little from the PA or PLO. Since 2001, when Israel closed Orient House – the PLO's de facto headquarters in the city, where political, social and cultural activities took place – Palestinian Jerusalemite leaders have been bereft of political support. Israel vigilantly guards against any PA presence or activity in Jerusalem. The nomination of Jerusalem leaders to the Waqf Council gives these leaders a measure of political power and an open channel to Jordanian officials.

The new council could potentially act as a political leadership body for Palestinians in Jerusalem, taking steps to tackle problems beyond managing al-Aqsa, such as lawlessness and crime in East Jerusalem. The expanded council now includes the four prominent Jerusalem sheikhs who stood at the forefront of the large-scale July 2017 protests against Israel's installation of electromagnetic gates at the Holy Esplanade. Some Palestinian Jerusalemites view the addition of the widely esteemed Sheikh Ikrima Sabri, head of the Turkey-funded Supreme Islamic Council, as granting Turkish President Recep Tayyip Erdoğan a voice in the Waqf Council.<sup>23</sup> Turkish diplomats, perhaps for this reason, speak positively of Jordan's current role and of the reconstituted council.<sup>24</sup>

As noted, the council's expansion offered Jordan an opportunity to include several current and former PLO, PA, and Fatah leaders, including Adnan Husseini, a member of the PLO Executive Committee and PA Minister for Jerusalem Affairs. The calculation, presumably, is that admitting such members will discourage the Palestinian leadership in Ramallah from triggering a contestation at the site, assuming that if Palestinian national institutions have a stake in administering the site they will also have an interest in maintaining calm.

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<sup>20</sup> Crisis Group interview, Israeli official, Jerusalem, 3 March 2019. Crisis Group interview, Jordanian official, 28 February 2019.

<sup>21</sup> Crisis Group interview, Jerusalemite Palestinian expert with strong Palace contacts, 6 March 2019.

<sup>22</sup> Crisis Group interview, Israel MFA official, Jerusalem, 6 March 2019.

<sup>23</sup> Crisis Group interviews, Palestinian Jerusalemites, Jerusalem, February 2019.

<sup>24</sup> Crisis Group interview, Turkish diplomat, 19 February 2019.

The impact of PLO and PA inclusion in the council should not be overstated, however. The new PA-affiliated members are few in number, all Jerusalemites, and, in several cases, known for their independence vis-à-vis Ramallah. For example, Hatem Abdel Qader, though a senior Fatah leader, has publicly criticised PA President Mahmoud Abbas on several occasions and is respected by both Fatah and Hamas supporters in Jerusalem.<sup>25</sup> Whether these additions to the Waqf Council will improve the stature of PA leaders in Jerusalem is uncertain. In spite of these changes, officials from Ramallah visiting the city's holy site could well be met by worshippers throwing shoes at them (as happened to Fatah leader Jibril Rajoub in June 2018).

That several council members are close to President Abbas could also cause tensions between the Waqf on the one hand, and Hamas as well as Jerusalemite Fatah supporters of Abbas's rival, Mohammed Dahlan, on the other, further constraining the Waqf's margin of manoeuvre. The two Abbas opponents could exploit any deal reached by the Waqf to blame Abbas for abetting a compromise over the al-Aqsa mosque.

The Jordanian decision to share responsibility for defending Muslim interests has diminished its control over the Waqf Council's decisions, but the benefit is a Waqf better able to counter Israeli moves at the site and beyond. Prominent Jordanian Palace officials have explained publicly that the reconstituted council has "been entrusted to draw up an initial strategy to address the extraordinary and unprecedented circumstances that threaten Al-Aqsa Mosque, the Islamic Waqf and the historic identity of the city".<sup>26</sup>

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#### **IV. Ongoing Conflict**

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In the immediate aftermath of the events at the Gate of Mercy, Israel took the unusual step of arresting the Waqf Council's chairperson and several other senior Waqf officials for purportedly violating the closure order instated in 2003. On 24 February, an Israeli court determined that there was no longer legal justification for the site's closure, because the police order had expired in August 2018.<sup>27</sup>

On 3 March, Israel banned senior Waqf officials and Jerusalemite Muslim activists from entering the entire compound, for durations ranging between a week and four months. The Waqf's reaction – voiced through anonymous guards, yet supported by Amman, Ramallah, Israel's Islamic Movement (Southern Branch) and the Waqf Council – was a call to Palestinian Jerusalemites to conduct large-scale protest prayers outside the compound on Friday 8 March, emulating those that won the day during the July 2017 metal detectors crisis.<sup>28</sup> The following Friday, 8 March, hun-

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<sup>25</sup> The expanded council is above all Jerusalemite, and as such has higher accountability to the public in East Jerusalem. According to a Jerusalemite Palestinian with strong contacts with the Jordanian royal palace, this already led the council to push back more than ever even against Amman's requests. Crisis Group interview, Jerusalem, 12 March 2019.

<sup>26</sup> Daoud Kuttub, "New Aqsa council gives Palestinians greater control in Jerusalem", *Al-Monitor*, 21 February 2019.

<sup>27</sup> "Israeli Police Reopen Temple Mount Holy Site After Clashes", *i24News*, 13 March 2019.

<sup>28</sup> Crisis Group phone interview, Islamic Movement Southern Branch leader, 6 March 2019. Crisis Group phone interview, PLO official, 6 March 2019. Crisis Group phone interview, Jordanian offi-

dreds of Waqf employees and Palestinian protesters, whom Israel prevented from entering the Holy Esplanade because of their participation in challenging Israeli access restrictions to the Gate of Mercy building, massed outside the Holy Esplanade, praying in the alleys leading to the compound. A Palestinian Jerusalemite voiced a popular sentiment saying "This is collective punishment. Israel has no right to prevent us from entering the mosque".<sup>29</sup>

Since 8 March, the site has seen minor violence. On 12 March, two Palestinians hurled a Molotov cocktail into the police post on the esplanade's upper plateau. In response, the police arrested two teenagers for the act and evacuated the site, closing it until the following morning.<sup>30</sup> The police also closed access to the Old City through the Damascus Gate and Herod Gate, which lead to the Muslim and Christian quarters, except for Old City residents.<sup>31</sup> On 13 March, the Waqf Council declared its decision to immediately commence repair works at the Gate of Mercy building, "without any form of intervention by the occupation authorities", while keeping it open to prayer.<sup>32</sup> But on the next Friday, 15 March, worshippers tore the locked doors of the building off their hinges, apparently in protest of the Waqf's closure of the building at night, ignoring pleas for civility from the sheikh leading the Friday prayers.<sup>33</sup>

On the morning of 17 March, the Jerusalem Magistrate Court extended the closure order for 60 days.<sup>34</sup> The Waqf Council can appeal the ruling, but currently the Israel police is enforcing the closure. Jordanian officials see this legal intervention as an Israeli attempt to force the Waqf to recognise Israeli jurisdiction over the holy site, which is occupied according to international law, in violation of the Waqf's longstanding principled position, and refuse to engage with Israel's court system on the matter.<sup>35</sup>

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cial, 6 March 2019. Crisis Group interview, Waqf official, Jerusalem, 6 March 2019. Nir Hasson, "Waqf Guards Barred From Temple Mount by Israel Call for Mass Protest", *Haaretz*, 6 March 2019.  
<sup>29</sup> Crisis Group phone interview, Jerusalem, 8 March 2019.

<sup>30</sup> The teenagers confessed in court to having thrown the Molotov bottle, explaining they targeted a specific police officer who, they said, had entered the Gate of Mercy building a week earlier, walking on prayer mats while wearing his shoes. A video of the police officer entering the building with his shoes in spite of requests by Muslim worshippers to take them off was widely disseminated on Palestinian virtual social networks. Nir Hasson, "Teens Suspected of Temple Mount Arson Say They Wanted to Harm Israeli Officer Who Provoked Worshippers", *Haaretz*, 14 March 2019.

<sup>31</sup> The UN Mideast envoy, Nickolay Mladenov, urged both sides to "respect the status quo" at the Holy Esplanade and exercise restraint "to avoid inflaming an already tense situation". Abdul Nasser Abu Basal, Jordanian Minister of Islamic Affairs and Holy Sites, described the barring of Muslim worshippers from the site as "a flagrant assault on all religious values, rights and freedom" and "an attack on all Muslims that touches the entire Islamic nation". Both quoted in "Firebomb Sparks Unrest at Sensitive Jerusalem Holy Site", Associated Press, 12 March 2019.

<sup>32</sup> Khaled Abu Toameh, "Waqf Says It Will Start Renovating Golden Gate Site", *Jerusalem Post*, 13 March 2019.

<sup>33</sup> Nir Hasson, "Palestinians Tear Door off Temple Mount Site", *Haaretz*, 17 March 2019.

<sup>34</sup> Army Radio News report, 17 March 2019.

<sup>35</sup> Daoud Kuttub, "Israel Court Closes Holy Site Flashpoint, Goads Jordan to Respond", *Al-Monitor*, 22 March 2019.

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## V. Maintaining Calm at the Site

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Israeli and Jordanian officials say that they have agreed in principle to address contentious issues at the site through a staged plan, starting with a closing of the building for repair works and ending with its reopening for regular use. Yet there are several sticking points.<sup>36</sup> Prime Minister Netanyahu reportedly decided to allow the Waqf to install scaffolding against the building's walls, in preparation for Waqf-led maintenance works (primarily to repair the dilapidated roof).<sup>37</sup> But he stipulated that any such repairs must be conducted in coordination with Israeli authorities. According to the same report, he also decided that Israel will propose that Jordan submit a maintenance plan to a joint Israel-Jordan committee to administer the Holy Esplanade.<sup>38</sup> This had virtually zero traction with Jordan, which refuses to co-operate with Israel on maintenance, because doing so would bestow legitimacy on Israel's role at the site.<sup>39</sup>

Israel and the Waqf are generally at odds over the fate of the Gate of Mercy building and over governing policies throughout the Holy Esplanade. Potential outcomes include Israel's full closure of it, which is highly unlikely to deliver sustainable results because, as noted above, Palestinians are prepared to mobilise thousands of worshippers to prevent being denied access to the site; its operation as a dedicated daily prayer hall; its operation as Waqf offices; or its use as an Islamic educational institute.<sup>40</sup> For over a decade Jordan has been demanding that Israel allow the building to house a Jordanian-funded educational institute, the Integral Chair for the Study of Imam Al-Ghazali's Work.<sup>41</sup>

Palestinians of Jerusalem, who consider themselves defenders of the site on behalf of all Muslims, and see the struggle over the holy site as part of their broader conflict with Israel and particularly its occupation of the West Bank, including East Jerusalem, view the building's reopening as perhaps their most significant victory since July 2017, when tens of thousands of protesters compelled Israeli authorities to remove newly installed electromagnetic gates from the entries to the Holy Espla-

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<sup>36</sup> Crisis Group interviews, Israeli official, 12 March 2019; Waqf official, 13 March 2019.

<sup>37</sup> A member of the Southern Branch of Israel's Islamic Movement said: "Because what needs to be repaired is the roof, the Waqf could get away with forbidding prayer inside the building during the period of repair, so long as the doors of the building are kept open and prayers are allowed in the courtyards of the building during that time". Crisis Group interview, Jerusalem, 27 March 2019.

<sup>38</sup> Daniel Siroti and Ariel Kahane, "Waqf Council Head Arrested on Suspicion of Violation IDF and Court Order", *Israel Hayom*, 24 February 2019.

<sup>39</sup> Crisis Group interview, Jordanian official, 28 February 2019.

<sup>40</sup> An Israeli expert on Jerusalem said: "Placing a police contingent to guard the locked entry to the Gate of Mercy compound when thousands of Palestinian worshippers are at the site on Friday could trigger a bloodbath of policemen, worshippers or both". Crisis Group interview, Jerusalem, 15 March 2019. Two leading archaeologists of the Israel Antiquities Authority wrote in 2001 that "the Golden Gate [is] used today as a madrasa [religious educational institution]". Avni & Seligman, p. 9. Gideon Avni and Jon Seligman, *The Temple Mount 1917-2001: Documentation, Research and Inspection of Antiquities*, Israel Antiquities Authority, 2001.

<sup>41</sup> According to Muslim tradition, Imam al-Ghazzali (1058-1111), a prominent Islamic scholar and philosopher, "stayed in the chamber on the top of the Mercy Gate where he wrote his famous book 'The Revival of Religious Sciences'". Al Aqsa Mosque Al-Haram Ash-Sharif, *Palestinian Academic Society for the Study of International Affairs*, August 2013, p. 56.

nade. They see that Netanyahu seems more cautious in the wake of the July 2017 protests: he has not dared to order the reclosing of the building, apparently fearing a clash with the thousands visiting the site on Fridays.<sup>42</sup> The appearance of a Palestinian victory at the site has enraged important parts of Netanyahu's base.<sup>43</sup>

Hardening Israel's negotiating position are the approaching Israeli elections. Religious Zionists have been criticising Netanyahu for allowing the Waqf to, as one of them said, "yet again create a new mosque on the Temple Mount, the fifth one".<sup>44</sup> An exasperated national-religious rabbi said: "Netanyahu criticised Gantz [Blue and White leader and main electoral rival to Netanyahu] for being willing to divide Jerusalem, but Netanyahu is dividing the Temple Mount!"<sup>45</sup>

In light of these pressures, Netanyahu has pushed for two immediate concessions from the Waqf: overt Israel Antiquities Authority (IAA) supervision of Waqf works and a temporary closure of the Gate of Mercy building before these works commence.<sup>46</sup> Jordan angrily rejected both demands in the 7 March talks between Israeli National Security Head Meir Ben Shabbat and Jordanian Foreign Minister Ayman Safadi. Many Muslims would not only construe such an accommodation with Israel on the Holy Esplanade as an acceptance of Israeli sovereignty, but would also view Jordan as aiding Israel in defeating Palestinian mass mobilisation.<sup>47</sup>

Negotiations continued above the heads of Palestinians when another high-level Israeli delegation travelled to Amman around mid-March. Israel agreed not to close the site before Israeli elections, defusing some of the urgency of the crisis, but insisted that after repairs the building could not serve as more than a Waqf office.<sup>48</sup> Waqf leaders in East Jerusalem, however, continue to demand that the building serve as a prayer hall and say that occasional prayer would be possible during repair works.<sup>49</sup> The parties seem to have postponed the crisis rather than settled it.

Even if Israel and the Waqf succeed in resolving the immediate crisis, many challenges remain. The absence of political communication between senior Jordanian

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<sup>42</sup> Crisis Group interviews, Palestinian Jerusalemites, Jerusalem, late February 2019.

<sup>43</sup> National Union Chairman MK Bezalel Smotrich and New Right Chairman MK Naftali Bennett seized the opportunity to draw national-religious voters away from the Likud, criticising Netanyahu's conduct regarding the Gate of Mercy crisis for "dangerous surrender to violence" and "cowardice in front of threats". Quoted respectively in Itay Gadasi, "Shameful Surrender: The State Will Grant the Waqf Responsibility for Repairing the Gate of Mercy", *93FM*, 6 March 2019; and "Bennett Attacks Netanyahu: 'Caught in Gantz Syndrome, Fears Terrorists'", *Maariv*, 4 March 2019.

<sup>44</sup> Crisis Group interview, prominent Temple activist, Jerusalem, 4 March 2019. The Holy Esplanade's two main mosques are the Dome of the Rock and the al-Aqsa, or Qibli, mosque. Additionally, during Netanyahu's first premiership in the late 1990s, the Waqf turned two subterranean spaces below the esplanade into prayer halls: one below the al-Aqsa, the other below the Marwani mosque, on the esplanade's south-eastern corner. National-religious activists accuse Netanyahu of having behaved cowardly in the face of large-scale Muslim protest concerning the site. For the prayer halls' exact locations, see Annex 2.

<sup>45</sup> Crisis Group interview, Jerusalem, 8 March 2019.

<sup>46</sup> Crisis Group interview, Israeli official, Jerusalem, 7 March 2019. Israel traditionally supervised Waqf works by means of inconspicuous Israel Antiquities Authority staff, occasionally donning police uniforms. Israeli officials seek in particular to resolve the matter of ancient wooden beams that lie in the Gate of Mercy's courtyards.

<sup>47</sup> Crisis Group interview, Jordanian official, 10 March 2019.

<sup>48</sup> Crisis Group interview, Israeli official, Jerusalem, 24 March 2019.

<sup>49</sup> Crisis Group interview, Jerusalem, 25 March 2019.

and Israeli leaders makes it harder to mediate tensions at the Holy Esplanade quickly and effectively. Moreover, since President Trump's recognition of Jerusalem as Israel's capital, Amman has spurned U.S. offers to mend the relationship between its allies.<sup>50</sup> Two weeks into the crisis, Waqf leaders have rejected offers for mediation and technical support by other Western governments, fearing these would signal an internationalisation of a holy site they believe ought to be exclusively Muslim.<sup>51</sup> Top Jewish and Muslim religious authorities have compounded the crisis by their lack of communication. Religious Zionists who mobilise politically around the site and the East Jerusalem Islamic authorities who administer it are in a deep state of mutual denial. Beyond the immediate crisis, Israeli and Palestinian civil society activists could pursue dialogue between religious authorities from the two sides, possibly with a focus on access norms at the holy site.<sup>52</sup>

Amman, meanwhile, has limited room to manoeuvre. The King of Jordan has faced growing domestic pressures against the backdrop of the Gate of Mercy crisis. The Jordanian parliament called for the expulsion of Israel's ambassador to Jordan and the withdrawal of Jordan's ambassador to Israel.<sup>53</sup> Facing criticism from Palestinians, Amman can no longer negotiate over the Palestinians' heads. Although Amman expanded and empowered the Waqf to secure Palestinian support in East Jerusalem, Jordan will find it difficult to legitimise any negotiated solution with Israel after Palestinian worshippers spent over a month directly asserting their will in defiance of Israeli authorities.

A negotiated solution would require the Waqf to secure the consent of various stakeholders, both Council members and external ones, notably Palestinian factions in Jerusalem and Israel's Islamic movement. Its only defence against accusations of selling out to Israel is to point to its well-documented demand to use the building as an Islamic educational institute.<sup>54</sup> Alternatively, it could attempt to convince Israel that there is a meaningful difference between a full-fledged mosque, which Netanyahu and Internal Security Minister Gilad Erdan vowed to prevent, and a prayer space (*musallah*), in which there is no imam or pulpit (*minbar*) from which to deliver a sermon.

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<sup>50</sup> A Jordanian official said: "We can no longer rely on the U.S. when it comes to Jerusalem and hence al-Aqsa". Crisis Group phone interview, 6 March 2019.

<sup>51</sup> Crisis Group interview, Western diplomat, Jerusalem, 14 March 2019.

<sup>52</sup> A Jewish Home official said: "[PM] Netanyahu's concessions to the Muslims violate religious law. This can't fly at the Temple Mount. But if prominent national religious rabbis publicly supported Netanyahu's decisions, even [hawkish MK] Betzalel Smotrich would not criticise them". Crisis Group interview, Jerusalem, 5 March 2019. Work with religious authorities might also defuse tensions by opening up currently closed pathways toward a final status agreement. For details see Crisis Group Middle East Briefing N°48, *How to Preserve the Fragile Calm at Jerusalem's Holy Esplanade*, 7 April 2016, p. 17.

<sup>53</sup> "Jordan: MPs Call For Expelling Israeli Ambassador Over Aqsa Aggressions", *Asharq al-Awsat*, 19 March 2019. A Jordanian MP of Palestinian origins, Mohammad Hadeeb, went as far as to question the Waqf's position and claimed: "Hashemite custodianship over the holy sites in Jerusalem is dying". "Parliamentary uprising against MP Mohammad Hadeeb", *Al-Anbat News*, 18 March 2019.

<sup>54</sup> See, for example, Wasfi Kailani, "Israeli Violations: Against the Holy Places and the Historic Character of the Old City of Jerusalem", The Hashemite Fund for the Restoration of al-Aqsa Mosque and the Dome of the Rock, August 2016.

In addition, Israel's next government might extend Israel's policy of cracking down on PA operations in East Jerusalem to arrests or other actions against PA-affiliated Waqf members, or even the Waqf as a whole.<sup>55</sup> The council's newly activist stance, challenging Israel's restriction on PA activities in Jerusalem by the very fact of including a senior PA official on the Council, could push Israel, which applied its laws to East Jerusalem in contravention of international law (tantamount to an illegal annexation in the eyes of international actors), to more assertively enforce the restriction. Council member Hatem Abdel Qader, for instance, declared the council would act to curb land sales to Jewish settler organisations across the city.<sup>56</sup> Furthermore, the anticipated publication of Trump's peace plan, which may well propose Israeli sovereignty over the holy site even as it calls for the maintenance of the Status Quo, incentivises both sides to signal their intent to have control over the site. The plan could be published anytime between the Israeli elections (9 April) and the days following the end of Ramadan (4 June).

Given the volatility at this symbolic and strategic site, finding a lasting accommodation regarding the Gate of Mercy building ought to be a priority for all parties. Rather than seeing the fate of the site in zero-sum terms, Israeli, Palestinian and Jordanian leaders should look to a potentially greater win. Were they to resolve the dispute consensually – perhaps by having the Waqf use the building for Islamic educational purposes or as a standard prayer space rather than a full-fledged mosque (*masjid*) – the new council might face fewer obstacles from the Israeli government, in spite of its inclusion of a prominent PA official.<sup>57</sup> If it secures this arrangement, the council would have successfully reversed Israeli restrictions for Palestinians. In contrast, an exclusive Palestinian victory could provoke an Israeli backlash, endangering the council's capacity to address Palestinian needs in Jerusalem and at the esplanade in particular. It could also feed a religious Zionist response: more rabbis may reverse their ruling that bans visits to the site, and political leaders may change laws to permit Jewish prayer.

According to the Status Quo, the Waqf can decide the building's function as long as it does not harm archaeology.<sup>58</sup> Reopening it as a Waqf-operated educational institute or as a prayer space could give Palestinians on the Waqf Council and Palestinians in East Jerusalem more generally an achievement while allowing Netanyahu to claim he did not capitulate. Such a result would decrease the risk of a major, potentially deadly escalation, possibly resulting in new restrictions on Palestinian freedom of access to the site.<sup>59</sup> The Waqf repairing and reopening the building for Islamic studies

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<sup>55</sup> Crisis Group interview, Jewish Home MK, Jerusalem, 21 March 2019.

<sup>56</sup> Ajyal Radio, 23 February 2019.

<sup>57</sup> Crisis Group interview, Waqf official, Jerusalem, 25 March 2019.

<sup>58</sup> Israel's deep mistrust in Waqf repair works dates back to the late 1990s, when the Waqf facilitated the transformation of two large subterranean spaces on the esplanade's southern edge to prayer halls (Marwani and Ancient al-Aqsa), removing from the esplanade in three consecutive nights some 10,000 tons of earth replete with Islamic and Jewish artefacts, discarding them without study. For full details, see Crisis Group Middle East Report N°159, *The Status of the Status Quo at Jerusalem's Holy Esplanade*, 30 June 2015, p. 8.

<sup>59</sup> Israel's internal security minister said: "On Fridays enforcement is much harder because the cost is confronting tens of thousands of worshippers". Hamateh Hamercazi, TV Channel 13, 11 March 2019. During 2014-2016, the Israel police regularly applied categorical age or gender limitations on access to the compound. Because this practice nourished violence, the police virtually desisted from

or as a prayer space could be a workable outcome for all, even if both sides reject such a compromise for now.<sup>60</sup>

## **VI. Conclusion**

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The first months of 2019 have seen low-level violence erupting over the fight for control of the Gate of Mercy building within Jerusalem's Holy Esplanade, which evolved into a power struggle among Israel, Jordan and the Waqf. Since the Waqf opened the building on 14 February 2019 and Palestinian worshippers began using it as a prayer hall, Israel has issued restraining orders against more than twenty Waqf guards and has arrested nineteen Palestinians, including two minors who confessed to throwing a Molotov cocktail into a police post.

Jordan and Israel have been in talks to calm tensions at the esplanade, but with each unwilling to concede any additional measure of control over the holy site to the other and with the exclusion of the Jerusalemite Waqf, progress has been halting. With nearly every day that passes, there are new tensions related to the Gate of Mercy building. Finding a workable solution to the current crisis – perhaps by turning the Gate of Mercy building into an Islamic educational institute, as Jordan has advocated, or possibly as a standard prayer space that allows for worship, as Palestinians demand, but is less than a full-fledged mosque, which Israel rejects – would be in all the parties' interests. It also presents a rare opportunity to empower the Waqf Council, which, as of February and for the first time, includes prominent, independent East Jerusalem Palestinian figures. Reopening the Gate of Mercy building to Muslim use would be a notable achievement for the council, which could then turn its efforts to helping both Palestinians and Israelis mitigate the lawlessness and crime in East Jerusalem overall.

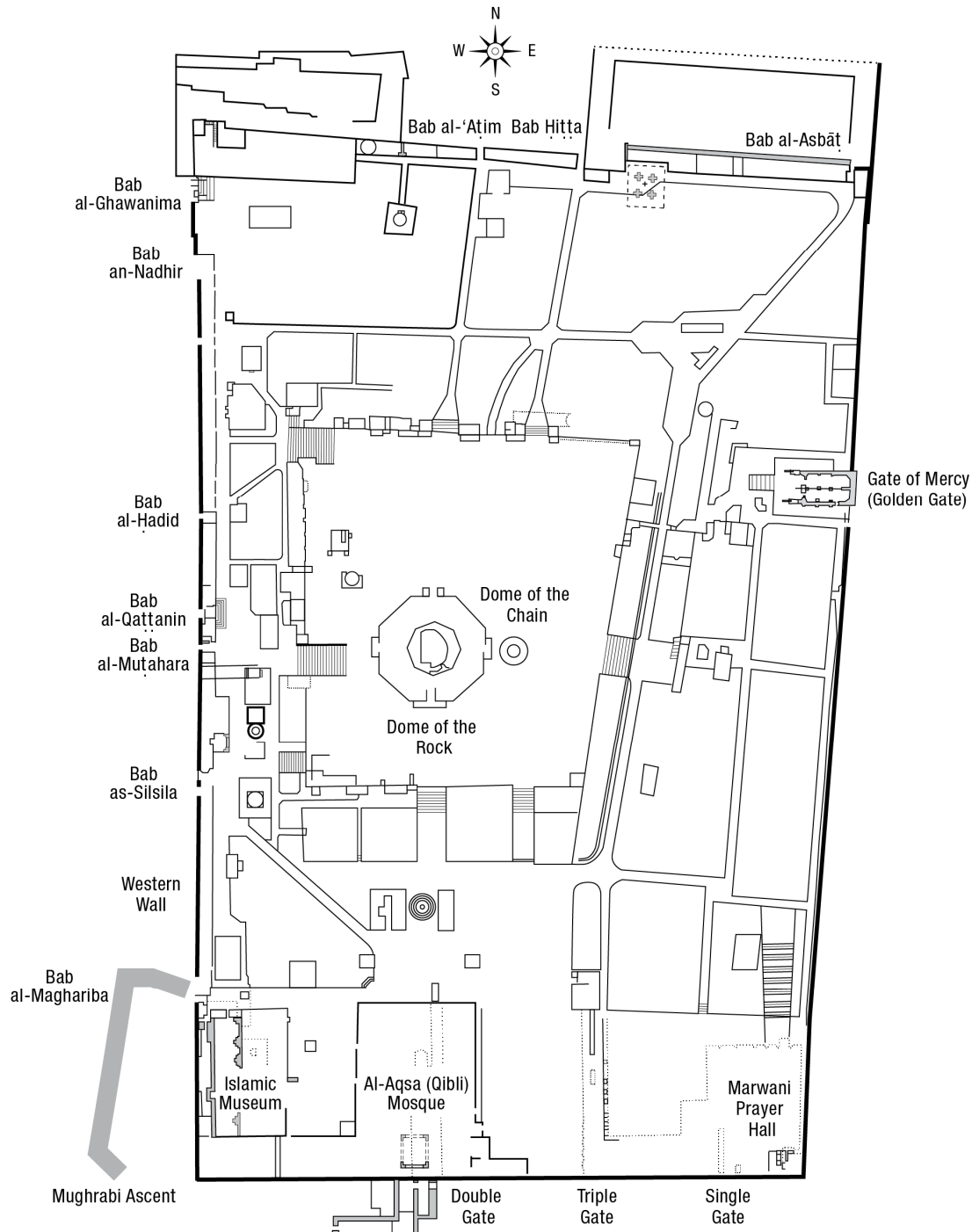
**Jerusalem/Brussels, 3 April 2019**

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employing it but a sustained crisis may lead it to resort to it again. Crisis Group interview, Israeli expert on holy sites, Jerusalem, 19 March 2019. For further details on access limitations and their effects see Crisis Group Middle East Briefing N°48, *How to Preserve the Fragile Calm at Jerusalem's Holy Esplanade*, 7 April 2016.

<sup>60</sup> Both Israeli leaders and Palestinian Waqf Council members reject such a compromise at present. Israel insists the building should be used strictly for administrative purposes. An Israeli official said: "Before 2003, the building was an office. There is no reason for it to be more than that". Crisis Group interview, Jerusalem, 21 March 2019. A Waqf official said: "It's a prayer hall. Israel can't change that". Crisis Group interview, Jerusalem, 21 March 2019. Both acknowledged that their respective positions are shaped by Israeli and Palestinian Jerusalemite public opinion and might evolve in accordance.

## Appendix A: Map of Jerusalem's Holy Esplanade



Map redrawn by Crisis Group, based on a map in Gideon Avni and Jon Seligman, *The Temple Mount 1917-2001: Documentation, Research and Inspection of Antiquities*, 2001. Courtesy of the Israel Antiquities Authority.

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## Appendix B: Membership of the Reconstituted Waqf Council

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1. Sheikh Abdul-Azim Salhab, Chairperson of the Council
2. Adnan Hussein, PLO Executive Committee Member, PA Jerusalem Affairs Minister; Former Director of the Waqf (\*)
3. Dr. Hani Abdeen; Former PA Health Minister, Professor at al-Quds University
4. Mazen Sinokrot, Businessman; Member of al-Quds University Board of Trustees; Former PA National Economy Minister as a Hamas-nominated technocrat
5. Hatem Abdel Qader, Fatah Jerusalem leader; Former PA Jerusalem Affairs Minister (\*)
6. Sheikh Azzam Khatib, Director of the Waqf
7. Sheikh Mohammad Hussein, PA's Grand Mufti of Jerusalem and Palestine
8. Sheikh Ikrima Sabri, Head of the Supreme Islamic Council; Former PA Grand Mufti of Jerusalem and Palestine (\*)
9. Sheikh Wasef Bakri, Acting Chief Justice of Jerusalem's Islamic Courts
10. Sheikh Yusuf Abu Sneineh, Imam of al Aqsa Mosque
11. Sheikh Mohammad Mustafa Sarandh, Judge in Jerusalem's Islamic Courts
12. Dr. Imad Faeq Abu Kishek, President of the al-Quds University (Law and Public Policy) (\*)
13. Muhammad Zaki Nusseibah, President of the Board of Trustees of the al-Quds University
14. Dr. Mahdi Abdel Hadi, Director of PASSIA (\*)
15. 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
16. Adv. Fahad Kamel Al-Shweiki, Attorney
17. Khalil Ahmed Al-Asali, Journalist and Analyst (\*)
18. Alla Omran Salhab (\*)

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