Obliterating History:

The Systematic Campaign to Erase Jewish Ties to the Land of Israel

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This article examines a systematic campaign of "identity erasure" within the Palestinian national movement, which denies Jewish ties to the Land of Israel through both inflammatory rhetoric and the physical destruction of archaeological sites. By documenting "archaeological crimes" at the Temple Mount, Joseph's Tomb, and throughout Judea and Samaria, the study reveals a clear pattern of persecution. Under international law, such deliberate obliteration of a group's cultural heritage constitutes a crime against humanity. The author argues that because the Palestinian Authority has failed its preservation obligations, Israel must proactively protect these irreplaceable treasures.



In 2021, Palestinian tractors entered and maliciously destroyed 40 meters of the ancient wall of the Mount Ebal site, which had stood for over 3,000 years.

1 | Introduction

The legitimacy of the modern State of Israel is rooted in the millennial connection between the Jewish people and their ancestral homeland. This bond is not merely ideological; it is anchored in Jewish texts, ritual, and consciousness, and it is physically evidenced by the stones and strata of the Land of Israel. However, in the face of this historical reality, a systematic campaign of "identity erasure" has emerged within the Palestinian national movement. This movement seeks to undermine Zionism by vehemently denying Jewish historical ties to the land. Palestinian figures, whether secular or Islamist, adamantly reject Jewish history, claiming that modern Jews are unrelated to the Biblical Israelites and that the Jewish Temples in Jerusalem are a myth.

The rhetorical denial of Jewish history is evident in a physical campaign of "archaeological crimes" aimed at erasing the material evidence of Jewish presence. This article argues that these acts of destruction are not accidental byproducts of neglect or local vandalism. Rather, they are systematic, intentional efforts to erase physical proof of Jewish indigeneity. By synthesizing the inflammatory rhetoric of Palestinian leadership with the "archaeological crimes" occurring on the ground, a pattern of persecution emerges. Under international law, this deliberate attempt to destroy a group's cultural and spiritual heritage constitutes a crime against humanity—an effort to rewrite the future by physically obliterating the past.

2 | The Denial of Jewish Peoplehood and History in the Palestinian Narrative

Zionism, the Jewish national movement, explicitly justified its legitimacy on the ancient Jewish connection to the Land of Israel. Writing in The Jewish State, the book which birthed the Zionist movement, Theodor Herzl (1934: 38) stated that: "Palestine is our ever-memorable historic home. The very name of Palestine would attract our people with a force of marvelous potency."[1] David Ben-Gurion (1947: 7–12), eventually Israel's first Prime Minister, argued before the Peel Commission in 1937: "The Bible is our Mandate, the Bible which was written by us, in our own language, in Hebrew, in this very country". Ze'ev Jabotinsky (1959: 14–16), the father of Revisionist Zionism, wrote in 1923: "The land of Israel is not only the place where our ancestors lived and where our prophets taught. It is the only place where we were, and can again be, a nation."

Palestinian nationalism emerged in the 1920s and 1930s with the rise of pan-Arabism and its confrontation with Zionism. As Meir Litvak (2009: 98) explains, the struggle with

1 For the original publication details of Herzl's foundational work, see Theodor Herzl, *Der Judenstaat* (Leipzig: M. Breitenstein, 1896).

Zionism prompted Palestinians to both attempt to refute Jewish claims to the land as well as prove Palestine's Arab identity. In the mid-twentieth century, Palestinians began to assert Canaanite ancestry as a means of predating their presence to that claimed by Jews. Mahmoud Darwish (2014: 44), the Palestinian national poet, evoked this supposed Canaanite history in 1995, writing: "O Anat, tarry no longer in the lower world! [. . .] come back, and bring back, bring back the land of truth and allusion, the land of Canaan, the origin. [. . .] so that miracles may return to Jericho."

While the development of Canaanite heritage can be seen as an attempt to foster a positive Palestinian nationalism, the Palestinian national movement has vehemently denied Jewish historical ties to the Land of Israel as a way of undermining Zionism (Bar and Halewa, 2025). The Palestine Liberation Organization's (PLO) original 1964 charter spelled out the views that would become orthodoxy in the Palestinian national movement – that Jews are a religion, not a people; and that they have no historical claims to Palestine. Article 18 of the Charter states:

> "The claims of historic and spiritual ties, ties between Jews and Palestine are not in agreement with the facts of history or with the true basis of sound statehood. Judaism, because it is a divine religion, is not a nationality with independent existence. Furthermore, the Jews are not one people with an independent personality because they are citizens of the countries to which they belong."

After the Israeli conquest of East Jerusalem, Judea, Samaria, and Gaza in the 1967 war, areas pregnant with biblical history and meaning, Palestinian figures began denying that a Jewish Temple had ever existed in Jerusalem (Barnett 2011: 22). Until that time, Islamic sources widely recognized the existence of Solomon's and Herod's Temples in Jerusalem (Reiter and Diamant, 2020). Prior to the tenth century, Muslims referred to Jerusalem as Ilya (form the Roman Aelia Capitolina) and Beit al-Maqdis, Arabs for the Hebrew Beit HaMikdash (Temple) (Peri 1999: 11-97; al-Tel 2012: 41-60). As late as the British Mandate, the Supreme Muslim Council, led by the Grand Mufti of Jerusalem, Haj Amin al-Husseini, published an English tourist guide to the Temple Mount that stated: "[the sanctuary's] identity with the site of Solomon's Temple is beyond dispute. This, too, is the spot, according to the universal belief, on which David built there an altar unto the Lord. . ."[2]

Famously, Yasser Arafat, then Chairman of the Palestinian Authority (PA), insisted to American President Bill Clinton during the 2000 Camp David Summit that the Jewish Temple had never existed. When challenged by Clinton that Christians also recognize the Temple's existence, Arafat doubled down on denial, asserting that the Jewish Temple actually stood in Yemen. Benny Morris (2002), the Israeli historian, interviewed Israeli Prime Minister Ehud Barak in 2002 and explained the meaning of Arafat's Temple denial:

2 The Supreme Muslim Council's 1925 guide explicitly identifies the site with Solomon's Temple. See Supreme Muslim Council, *A Brief Guide* to Al-Haram al-Sharif (Jerusalem: Supreme Muslim Council, 1925), 4.

> Arafat, says Barak, believes that Israel 'has no right to exist, and he seeks its demise.' Barak buttresses this by arguing that Arafat 'does not recognize the existence of a Jewish people or nation, only a Jewish religion, because it is mentioned in the Koran and because he remembers seeing, as a kid, Jews praying at the Wailing Wall.' This, Barak believes, underlay Arafat's insistence at Camp David (and since) that the Palestinians have sole sovereignty over the Temple Mount compound (Haram al-Sharif—the noble sanctuary) in the southeastern corner of Jerusalem's Old City. Arafat denies that any Jewish temple has ever stood there—and this is a microcosm of his denial of the Jews' historical connection and claim to the Land of Israel/Palestine. Hence, in December 2000, Arafat refused to accept even the vague formulation proposed by Clinton positing Israeli sovereignty over the earth beneath the Temple Mount's surface area.

Similar statements denying Jewish history in the Land of Israel have been made repeatedly by Palestinian leaders. In December 2025, PA Chairman Mahmoud Abbas' Advisor on Religious Affairs and Islamic Relations, Mahmoud Al-Habbash, stated that Jewish history is "pure lies and inventions... Just as they [the Israelis] stole the geography and the land, now they are attempting to steal the history. They are falsifying history to complete the facets of the plot, the takeover, the occupation, the theft, and the international deception process that Israel is carrying out in the Palestinian territories." Speaking on Fatah's Al-Awda television in August 2024, Al-Habbash said that "there was never any Temple, presence, or sovereignty of theirs" on the Temple Mount. Al-Habbash wrote on his Facebook page in November 2023: "We will not leave. This is our land, not the land of others. This is not their land… If someone needs to leave this land, then they are the [Israeli] terrorist oppressing occupiers who have no connection to this land."[3]

Speaking before the PLO Central Council, PA Chairman Mahmoud Abbas repeated the falsehood that the Jewish Temples were in Yemen. In August 2023, Abbas spoke before Fatah's Revolutionary Council in Ramallah and stated that modern Jews have no connection to the ancient Israelites and are really descendants of the Khazars, a Central European tribe that converted to Judaism in the 8th century. In 2021, Abbas hosted a conference at Al-Quds Open University dedicated to "refuting the Zionist narrative". Many speakers, such as PA Prime Minister Muhammad Shtayyeh, repeated the Khazar origin myth and disputed any ties between modern Jews and the land of Israel.[4]

In March 2023, Shtayyeh said that "Israel has falsified the history of Palestine. Since 1967

3 For the full transcript and video of these remarks, see Palestinian Media Watch, "PA Official: Jewish History is 'Pure Lies and Inventions,'" December 2025, https://palwatch.org/page/41773.; "Fatah Official: Never any Temple," August 2024, https://palwatch.org/page/35480.; Al-Habbash: This is our land, not the land of others," November 2023, https://palwatch.org/page/35635

4 Palestinian Media Watch, "Abbas: Temples were in Yemen," https://palwatch.org/page/37132 ; "Abbas and the Khazar Claim: Separating Myth from Fact," The Washington Institute for Near East Policy, https://www.washingtoninstitute.org/policy-analysis/abbas-and-khazar-claim-separating-myth-fact.; Palestinian Media Watch, "PA PM Shtayyeh: Israel has falsified history," March 2023, https://palwatch.org/page/29801; For refutation of Khazar myth, see "Genetics and the Khazar Myth," https://pmc.ncbi.nlm.nih.gov/articles/PMC1336798/.

Israel has been conducting excavations and has not been able to prove that [it] has a direct or indirect connection [to the land]." Similarly, in March 2023, Abbas' spokesman Nabil Abu Rudeina stated on official PA television that "there is no historical proof – despite all the excavations – that [the Jews] had any kind of presence in this land."[5]

The complete rejection of any Jewish claim to the land is also central to the thought of Sheikh Yussuf Qaradawi (Rubinstein-Shemer 2016), one of the top Sunni religious scholars and the spiritual leader of the Hamas movement. According to Qaradawi, Jews have no historical or religious right to Palestine, grounding his denial in a theological reinterpretation of the Bible and the Quran. He asserts that while Ishmael and Isaac were both sons of Abraham, the spiritual inheritance and the right to the land belong exclusively to the descendants of Ishmael—today's Muslims—because they remained faithful to the message of monotheism. Conversely, Qaradawi contends that Jews forfeited any claim to the land due to their historical unfaithfulness to God's covenant and their rejection of subsequent prophets, including Muhammad. From his perspective, Palestine is an integral part of *Dar al-Islam* (the House of Islam) that cannot be ceded, and the establishment of Israel is viewed as an act of colonial occupation rather than a return to a rightful homeland. By refuting the "historical right" of the Jewish people and emphasizing the "Arabism" of the land as dating back to the ancient Canaanites, Qaradawi seeks to frame the conflict as a religious obligation (*jihad*) to liberate Islamic territory from what he considers illegitimate usurpers.

Islamic expert Dr. Mordechai Kedar has linked the Palestinian narrative to traditional Islamic attitudes towards Jews and Judaism. According to these views, Judaism (and Christianity) are *deen bat'l*, faiths abrogated by Islam. Furthermore, Palestine is part of *dar al-Islam*, a territory that had part of Islamic control. The Zionist usurpation of Palestine is illegitimate and contrary to Islamic law. Jews are not a people but only a religious community, tied together by a common faith. Finally, Jews (and Christians) are *ahl al-dhimma*, subordinate "protected peoples" free to practice their religion but without sovereignty over Muslims.

3 | The Systematic Destruction of Jewish Archaeological Sites by Palestinians

A | The Temple Mount

The Temple Mount, known in Jewish tradition as Har HaBayit and in Islamic tradition as Al-Haram al-Sharif, represents the most contested piece of sacred geography in the world, serving as the ontological "axis mundi" for both faiths. For Jews, it is the holiest site in existence, identified as the location of the Foundation Stone (*Even ha-Shetiya*) from which

5 Palestinian Media Watch, "Abbas Spokesman: No historical proof," March 2023, https://palwatch.org/page/32969.

the world was created and the site of both the First and Second Temples. It remains the focal point of Jewish liturgy, toward which all Jews face during prayer, symbolizing both the historical peak of Jewish sovereignty and the spiritual center of future messianic redemption (Barkay 2010; Reiter 2020).

Conversely, for Muslims, the plateau is the "Noble Sanctuary," the third holiest site in Islam after Mecca and Medina. It is revered as the destination of the Prophet Muhammad's Night Journey (*Isra* and *Mi'raj*) and the location of the Al-Aqsa Mosque and the Dome of the Rock. In Islamic theology, the site served as the first *Qibla* (direction of prayer) and remains a powerful symbol of the continuity of the Abrahamic prophetic line. Consequently, the site is not merely an archaeological relic but a living epicenter of national identity, where any physical or narrative alteration is viewed by both sides as a direct assault on their historical legitimacy and spiritual integrity (Seligman 2009: 179).

Modern archaeological research on the Temple Mount began in the late 1850s, in the aftermath of the Crimean War. According to Jon Seligman (2007: 42; 2009: 179), a senior archaeologist with the Israel Antiquities Authority (IAA), throughout the British Mandatory period to Israeli rule, the Muslim *Waqf* (Muslim religious council responsible for managing the Temple Mount) has been hesitant to cooperate with non-Muslim archaeologists, in part due to concern that Western scholars were motivated to dislodge al-Aqsa and the Dome of the Rock as Islamic sites. Seligman notes that from the 1980s until 1996, the *Waqf* maintained informal relations with Israeli archaeological authorities and often informed them of planned activities. This changed significantly in Autumn 1996 as the Islamic Movement became involved in the management of the Temple Mount. The Islamic Movement is a Muslim Brotherhood movement led by Sheikh Raed Salah from the Israeli town of Umm el-Fahm. The Islamic Movement rejects any Jewish ties or claims to the Temple Mount and promotes conspiracies that Israel is trying to destroy al-Aqsa (Miller 2020; Seligman 2012: 30-51).

In the late 1990s, the Islamic Waqf, with the Islamic Movement's involvement, undertook massive construction projects on the Temple Mount that bypassed standard archaeological protocols and conservation laws. The primary focus was the conversion of the subterranean "Solomon's Stables" into the Musallah al-Marwani mosque and the repurposing of the ancient passageways beneath the Al-Aqsa Mosque. These operations reached a critical point in late 1999, when heavy machinery was used to excavate a monumental entrance to the new prayer area. This process involved excavating a large pit without professional supervision, resulting in the "irrevocable" destruction of archaeological layers (Seligman 2007; 2009).

The lack of oversight led to the removal of approximately 400 truckloads of soil rich in artifacts, which were dumped as waste in the Kidron Valley. Amir Drori, then-Director of the Israel Antiquities Authority (IAA), famously labeled these actions an "archaeological crime." This incident catalyzed an ongoing political and legal firestorm, prompting the formation of the "Committee for the Prevention of Destruction to Antiquities on the Temple Mount."

While public figures and archaeologists have repeatedly petitioned the Supreme Court to intervene, the court has consistently deferred to the government, citing the site's extreme political sensitivity as a matter of policy rather than of purely legal or municipal jurisdiction (Seligman 2007; 2009).

As explained by Dr. Jon Seligman (2007), a Senior Research Archaeologist at the Israel Antiquities Authority (IAA), in November 1999, the *Waqf* dug a large gash measuring approximately 40 square meters in the platform of the Temple Mount. Ancient arches were exposed and either completely or partially breached; another ancient wall on the eastern side of the pit was partially damaged. Following the massive excavation of the 1990s, the period from 2001 onward saw a secondary phase of systematic development that further altered the archaeological integrity of the Temple Mount's southern and eastern sections. This phase focused on permanent infrastructure and accessibility, including the opening of two arches in the eastern vaults of Solomon's Stables to serve as entrances. To facilitate this, a massive complex of six flights of stairs and landings was constructed, leading from the northern plateau down into the subterranean structures.

The landscape was further modified by the construction of large terraces supported by boulders and the installation of modern utilities, including a drainage pit at the base of the stairs, cistern piping, and extensive electrical and water lines. Additionally, approximately 6,000 square meters of the courtyard between the new stairs and the Al-Aqsa Mosque was paved over. These activities often involved the partial "reconstruction" of ancient remains without archaeological oversight, a process that frequently obscured or damaged original Herodian and later historical masonry to accommodate modern architectural needs (Seligman 2007).

The illegal excavations conducted by the *Waqf* between 1999 and 2001 represent a watershed moment in the destruction of Jewish and Christian heritage, characterized by what archaeologists describe as the "brutal" use of heavy earth-moving machinery in a site of universal importance. This unmonitored activity resulted in the mechanical removal of approximately 9,000 cubic meters of archaeological soil, which was subsequently dumped as waste in the Kidron Valley. Because this material was extracted without stratigraphic recording or professional supervision, the essential archaeological context was permanently severed; while later sifting projects recovered thousands of artifacts ranging from the Iron Age to the Ottoman period, their scientific value remains severely compromised because their exact physical relationship to the site's layers can never be reconstructed (Seligman 2007).

Beyond the loss of portable artifacts, the construction caused significant structural damage to the plateau's architectural history. The works resulted in the partial destruction of a medieval covered passageway and an ancient wall which notably incorporated secondary-use columns of marble and granite repurposed from earlier Temple Mount structures. Furthermore, ancient water installations, including a cistern and a drainage channel, were

damaged, and the northern wall of the subterranean "Solomon's Stables" was breached before it could be documented. This lack of oversight was particularly detrimental because the excavations had exposed critical transitions in the site's history, uncovering masonry that spanned from the Hasmonean and Herodian eras of the Second Temple period to the Umayyad, Fatimid, and Crusader renovations (Seligman 2007: 45-50)

The interpretation of these remains now relies solely on salvaged photographs and visual observations rather than empirical data. These observations suggest that the Umayyad-era structures, such as a series of piers built from crudely recut Herodian blocks, likely once formed an extensive arcade or an expansion of the subterranean vaults that reached much further north than the current footprint. Later building stages, likely dating to the Crusader or Ayyubid periods, utilized pointed arches and rougher masonry to stabilize the area following major earthquakes in the 11th century. By the time of the Ottoman additions under Suleiman the Magnificent, the surface level had reached its modern elevation. The unauthorized modern leveling of these strata effectively erased the physical evidence of these complex historical transitions, replacing a multi-layered record of human history with modern paving and functional infrastructure (Seligman 2007: 45-50).[6]

B | Joseph's Tomb

Joseph's Tomb is a Jewish pilgrimage site located on the southeastern outskirts of modern-day Nablus, near ancient Shechem (Tel Balata). The Book of Genesis (33:19) relates that the Patriarch Jacob purchased "a parcel of a field" outside of Shechem. According to the Book of Joshua (24:32), the Children of Israel brought Joseph's bones out of Egypt and buried them in the field that Jacob bought.

Israeli geographer and historian Professor Ze'ev Vilnay (1985: 167-176) details the identification of the current site as the biblical tomb. The Christian Church Father Eusebius, who lived in Caesarea in the fourth century CE, mentions Joseph's Tomb near the Roman Neopolis, the Latin name for Shechem. The site was also visited by the anonymous Christian pilgrim from Bordeaux, who travelled to the Holy Land in 333 CE.[7] During the fifth century CE, the Byzantine emperor Theodosius II sent his servants to Shechem to excavate Joseph's tomb. The site is also mentioned by the Arab geographer Shams A-Din Al-Madkasi, around 985, as well as Rabbi Yaakov HaKohen in 1180, Rabbi Ashtori Ha-Parhi in 1322 and the Jewish traveler Moshe Bassola in 1522. Joseph's Tomb was visited by the Jewish Hassid Shmuel Gronem in 1789. a group of Scottish missionaries in 1839 and Rabbi Avraham ben Israel Rozanis in 1867.

6 For a detailed archaeological analysis of the sifting process and recovered artifacts, see Gabriel Barkay, "The Temple Mount Sifting Project," *Biblical Archaeology Review*.

7 "Pilgrimage to the Holy Land: The First Christian Account," Biblical Archaeology Society, https://library.biblicalarchaeology.org/sidebar/pilgrimage-to-the-holy-land-the-first-christian-account/.

On December 12, 1995, in accordance with the Oslo Accords (1995: art. 32), Nablus was transferred to the control of the Palestinian Authority, although Israel maintained control of Joseph's Tomb. According to the 1995 Israeli-Palestinian Interim Agreement (Oslo II), both sides were to protect religious sites, including free access and freedom of worship and practice.[8] Since the signing of the Oslo Accords in 1995, the site has functioned as a vulnerable Israeli enclave within the Palestinian-controlled Area A, transforming it into a primary flashpoint for nationalist violence. This tension reached a peak during the Second Intifada in October 2000, when a Palestinian mob laid siege to the compound. Following the death of Border Police officer Madhat Yusuf and the subsequent Israeli withdrawal from the site, the tomb was immediately ransacked, burned, and its dome was painted green as a symbol of Islamic conquest. This period marked a transition from a functional religious school (Yeshivat Od Yosef Chai) to a ruined site that required heavy military coordination for any Jewish presence.

In the decades following the 2000 withdrawal, the tomb has been subjected to a repetitive cycle of arson and physical destruction. Major incidents occurred in 2015 and again in 2022, when rioters smashed the stone cenotaph and set fire to the interior rooms. These acts of vandalism are often met with "lightning" restoration operations led by the Samaria Regional Council under IDF protection, as seen in recent efforts to repair the grave marker after it was shattered. The site remains a scene of frequent bloodshed. In 2011, a Palestinian police officer shot and killed a Jewish pilgrim who attempted to reach the site without coordination.[9]

C | Heritage Sites in Judea and Samaria

A 2021 study conducted by "Preserving the Eternal" and the Israel Heritage Protection Center reveals the systematic destruction of archaeology in Judea and Samaria, reporting that 80% of the 365 most significant heritage sites have suffered damage (Shiloh Forum 2021: 11-12). The report, published by the Shiloh Forum, warns that nearly 40% of critical locations face imminent destruction, largely driven by "industrial-scale" looting and the use of heavy machinery. This systematic destruction is particularly focused on Second Temple-period sites due to the high black-market value of their artefacts, marking a shift away from the smaller "hit and run" thefts typically seen within the Green Line.

The report identifies the Palestinian Authority (PA) as responsible for roughly 90% of this damage, alleging that the destruction is a deliberate strategy to erase Jewish historical ties and seize land through illegal agricultural and construction projects. This activity is a direct

8 The specific administrative and security divisions of the Sebastia site are outlined in the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip [Oslo II], 28 September 1995, Annex III, Article 32.

9 Jerusalem Center for Public Affairs, "Yet Again: The Vandalizing and Desecration of Joseph's Tomb," https://jcfa.org/yet-again-the-vandalizing-and-desecration-of-josephs-tomb/.

violation of the 1995 Israeli-Palestinian Interim Agreement, which legally requires the PA to protect and safeguard archaeological sites. The crisis is compounded by the status of Area B, which functions as a "no-man's land" with inadequate preservation, and is further exacerbated by international development funding and academic boycotts that impede professional documentation.

The ancient city of Sebastia, a former Israelite capital and Herodian center, serves as a stark example of this administrative failure. Divided between Areas B and C, roughly 40% of the city remains unmarked and unprotected by the Civil Administration. Between 2019 and 2020, the PA undertook extensive development in this vulnerable area, including excavating a large foundation for a flagpole directly within the Roman Forum. This project, completed without any archaeological standards, caused permanent damage to the ancient strata of the city's central square (Shiloh Forum 2021: 11-12).

In February 2021, the Palestinian Authority carried out roadwork that destroyed portions of a 3,200 year-old wall near Nablus.[10] The wall is part of a site that was identified by Israeli archaeologist Adam Zertal (1985) as the altar of Joshua on Mount Ebal, as described in the Book of Joshua. According to "Preserving the Eternal", Palestinian workers used ancient stones from the altar's external wall as well as the altar itself to pave the road. In January 2024, a Jewish NGO discovered that Joshua's Altar had been vandalized by Arab rioters, who burned tires and sprayed nationalist graffiti at the site. The NGO also reported that the Palestinian Authority planned to build a residential neighbourhood on the altar site itself.[11]

In 2020, reports from the NGO Regavim, as detailed by JNS, indicated that the Palestinian Authority (PA) used the reduced oversight during the coronavirus pandemic to significantly damage the ancient Jewish heritage site of Tel Aroma. This Hasmonean-era fortress, part of a strategic chain of defenses built by the Maccabees' descendants in the 1st or 2nd century BCE, served as a vital stronghold between Samaria and the Jordan Valley. According to the findings, PA construction teams paved an access road to bring in heavy machinery, thereby destroying the fortress's ancient walls and historic reservoirs. Senior PA officials and the Beta Municipality formally designated Tel Aroma as a "Palestinian Heritage Site," a move used to justify further demolition and the installation of modern infrastructure, such as generators and perimeter lighting.[12]

Between 2012 and 2019, several significant Jewish and classical heritage sites sustained severe damage from illegal construction and looting. In 2012, a cell of antiquities looters was apprehended near Modi'in while attempting to rob Bar Kokhba-era caves.[13] Between

10 "Joshua's Mount Ebal altar site harmed by Palestinian road work," *The Jerusalem Post*, February 2021, https://www.jpost.com/archaeology/joshuas-mount-ebal-altar-site-harmed-by-palestinian-road-work-658521.

11 "Joshua's Altar vandalized by Arab rioters," *The Jerusalem Post*, January 2024, https://www.jpost.com/israel-news/article-780702.

12 "PA systematically demolishing Hasmonean dynasty fortress - report," *The Jerusalem Post*, May 2020, https://www.jpost.com/israel-news/pa-systematically-demolishing-hasmonean-dynasty-fortress-report-627714

13 "In Bar Kochba rebels' caves, salvaging what the thieves left behind," *The Times of Israel*, https://www.timesofisrael.com/in-bar-kochba-rebels-caves-salvaging-what-the-thieves-left-behind/

2015 and 2018, Palestinians used heavy machinery to destroy ancient hiding complexes at Kiryat Arbiya (al-Arouv) and the Roman-era city of Archelais near Ouja al-Tahta.[14] During the same period, illegal schools and mosques were built directly atop the Upper Hurvat Anim archaeological site.[15] In 2019, illegal excavations at the Hasmonean Palaces in Jericho exposed and damaged a massive Second Temple-period cemetery, which researchers believe contained the tombs of high-ranking priests.[16]

4 | The Legal Framework for the Protection of Religious, Cultural and Historical Sites

The systematic destruction of Jewish archaeological sites is not merely a series of isolated acts of vandalism; it is a profound violation of international law. To understand the gravity of these actions, they must be viewed through the lens of discriminatory intent, a key component in defining persecution and crimes against humanity.

A | Protection during Armed Conflict

Article 27 of both the 1899 Convention with the Respect to the Laws and Customs of War on Land and the 1907 Hague Convention with Respect to the Laws and Customs of War on Land require that buildings dedicated to religion, art, and science be spared from attack, provided that they are not being used to military purposes. The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict was drafted to expand the protection of cultural artifacts during armed conflict. Article 1 defines cultural property as "moveable or immoveable property of great importance to the cultural heritage of every people such as monuments of architecture, art or history, whether religious or secular."

Article 53 of the Additional Protocol I to the Geneva Convention of 1977 bars attacks against "… places of worship which constitute the cultural or spiritual heritage of peoples." Moreover, Article 16 of the Additional Protocol II prohibits attacks against "…places of worship which constitute the cultural or spiritual heritage of peoples…" Israel is a signatory to the Fourth Geneva Convention and the 1954 Hague Convention, although not the Additional Protocols. However, Israel has recognized that it is bound by the provisions of the Hague Regulations and the humanitarian provisions of the Fourth Geneva Convention (Shamgar 1971).

14 "Palestinians destroy Second Temple era hiding complex," *Israel National News*, https://www.israelnationalnews.com/news/201729.; Eitan Nechin, "In Ruins," *The Drift*, https://www.thedriftmag.com/in-ruins/.

15 Regavim, "Illegal excavations at Hasmonean Palaces," Facebook, https://www.facebook.com/regavim/photos/a.112918748780762/1059432500796044/.

16 "Ancient Second Temple era cemetery damaged by illegal excavations," *Israel Hayom*, April 2019, https://www.israelhayom.co.il/article/659287

Article 5 of the 1954 Hague Convention states:

1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.
2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.

Given the Palestinian Authority's abject failure in protecting archaeological sites, especially Jewish heritage sites, the obligation to protect falls on Israel.

B | International Criminal Law

The intentional destruction of cultural heritage is codified as a violation of the laws of war by article 3(d) of the 1993 Statute of the International Criminal Tribunal of the Former Yugoslavia (ICTY), article 20*(e)*(iv) of the 1996 International Law Commission's Draft Code of Crimes against the Peace and Security of Mankind, article 8(2) (b)(ix) of the 1998 Rome Statute of the International Criminal Court (ICC Statute), and article 7 of the 2004 Cambodian Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Democratic Kampuchea.

At the International Military Tribunal at Nuremberg Trials, the Germans' systematic destruction of synagogues was characterized as persecution, a crime against humanity.[17] Similarly, the International Criminal Tribunal for the Former Yugoslavia (ICTY) recognized that the intentional destruction of religious institutions may amount to the crime of persecution (Abtahi 2001). According to the ICTY, the destruction of cultural heritage,

> when perpetrated with the requisite discriminatory intent, [intentional destruction of religious cultural heritage] amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of 'crimes against humanity', for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects […]
>
> [T]herefore […] destruction and wilful damage of institutions dedicated to […] religion or education, *coupled with the requisite discriminatory intent, may amount to an act of persecution* […][18]

17 International Military Tribunal, Nuremberg, "Judgment," *American Journal of International Law* 41 (1947): 172, 243–247, 294–295.

18 *Prosecutor v. Kordić & Čerkez,* Case IT-95–14/2-T, Trial Chamber Judgment, February 26, 2001, para. 207.; Prosecutor v. Tihomir Blaškić, Case IT-95-14-T, Trial Chamber Judgment, March 3, 2000, para. 227.

In the 2004 *Kordic* case, the Court found that the destruction of mosques for no military purpose could be seen as the intent to destroy a particular population (this was said in reference to the destruction of holy places in the town of Ahmici, a site with great cultural and religious meaning for Bosnian Muslims).In the 2001 *Krstic* case, attacks on religious property were understood as part of the intent to destroy a group. The ICTY has held that the intentional destruction of cultural heritage has been criminalized under customary international law. [19]

The ICTY also held that the destruction of cultural property may also amount to genocide,

> where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group. In this case, [the deliberate destruction of mosques and houses belonging to members of the group must be taken] into account as evidence of intent to destroy the group.[20]

Similarly, in 2016, the International Criminal Court (ICC) sentenced Mr. Ahmad al Faqi Al Mahi, a member of an Islamic State-affiliated jihadist group, to nine years in prison for the intentional destruction of ten religious and historical buildings in Timbuktu, Mali in June and July 2012. In determining the nine-year sentence, the Court deliberated the gravity of the crime. Although the Chamber conceded that crimes against property are less grave than crimes against persons, they viewed the attacks as grave not only because of the sites' religious significance, but also because of their symbolic and emotional significance to the people of Timbuktu. The Mausoleums of saints, as well as the mosques (which were also targeted by the insurgents) are all integral aspects of the communities' cohesion and shared identity, and all but one of the targets were UNESCO heritage sites. These sites were considered of international significance, and their destruction was regarded as an international event.[21]

Due to the sites' tremendous cultural and religious value (which was said to have a global impact as well), the destruction of the sites was elevated to the status of *jus cogens*. This reflected the growing consensus that the destruction of a people's cultural heritage sites is an attack on humanity as a whole and a graver offense than an attack on ordinary objects. The court offered a novel interpretation of Article 8(2)(e)(iv) of the Rome Statute, stating that the prohibition on attacks on objects is not necessarily confined to conflicts. Despite the fact

19 *Prosecutor v. Kordić and Čerkez,* Case IT-95-14/2-T, Trial Chamber Judgment, February 26, 2001, para. 809, http://www.un.org/icty/kordic/trialc/judgement/index.htm.; *Prosecutor v. Krstić*, Case IT-98-33-T, Trial Chamber Judgment, August 2, 2001, para. 207, http://www.un.org/icty/krstic/TrialC1/judgement/index.htm.; *Prosecutor v. Krstić*, Case IT-98-33-A, Appeals Chamber Judgment, April 19, 2004, http://www.un.org/icty/krstic/Appeal/judgement/index.htm.; *Prosecutor v. Brđanin*, Case IT-99-36-T, Trial Chamber Judgment, September 1, 2004, para. 595.; Prosecutor v. Strugar, Case IT-01-42-T, Trial Chamber Judgment, January 31, 2005, para. 229

20 *Prosecutor v. Krstić*, Case IT-98-33-T, Trial Chamber Judgment, August 2, 2001, para. 580.

21 *Prosecutor v. Ahmad Al Faqi Al Mahdi*, Case ICC-01/12-01/15, Judgment, September 27, 2016.

that Al Mahdi pleaded guilty, the court still conducted a thorough investigation, for the sake of the historical record and the collective memory of the people of Mali, as a step toward reconciliation with their cultural heritage. The victims of these crimes were not only the people of Mali but also the collective international community, especially UNESCO member-states, which have taken on the responsibility to prevent the destruction of heritage sites. In addition to providing monetary compensation, the ICC ordered Al Mahdi to apologize, publish the recording on its website, and broadcast the message to the people of Timbuktu for a cathartic effect. The court's message was clear: that reparations and rebuilding alone, including the destruction of heritage sites, are not enough to right the wrongs committed. Steps must be taken to gradually allow for reconciliation (Sadowski 2022: 99).

5 | Protecting Jewish Heritage

Israel rejects the *de jure* application of the laws of belligerent occupation to Judea and Samaria. Israel's official position was presented by Meir Shamgar (1971), who served as the Military Advocate General in 1967 and later as the Attorney General. His position was first presented in Hebrew in 1967 and subsequently in English in an article published in 1971. Shamgar's stance regarding the applicability of the Fourth Geneva Convention is that Israeli rule in Judea and Samaria is *sui generis*—a unique case. These areas (as well as the Gaza Strip) were part of the British Mandate for Palestine and were occupied by Jordan and Egypt in an act of illegal aggression. Shamgar distinguished between those aspects of the Fourth Geneva Convention intended to protect the rights of a former sovereign to return and rule the territory—rights which do not exist in the case of Judea and Samaria—and the humanitarian provisions of the Fourth Geneva Convention, which Israel would, in practice, follow.

Israel's position has gained some international support in recent years. Accordingly, the United States has recognized the legality of Jewish settlement in Judea and Samaria. The United States even moved its embassy from Tel Aviv to Jerusalem, to an area that passed to Israeli hands in 1967. The United States even marks Israeli products from Judea and Samaria as "Made in Israel," contrary to the European approach.[22] Generally speaking, while for many years Israel's position regarding its status in Judea and Samaria was a solitary one, today it enjoys a measure of international validation, such as the full affirmation of Israel's sovereign rights in Judea and Samaria in the dissenting opinion at the UN International Court of Justice.[23]

22 See Michael Pompeo, "Secretary Pompeo Comments on Israeli Civilian Settlement Activity," U.S. Embassy in Israel, November 18, 2019, https://il.usembassy.gov/secretary-pompeo-comments-on-israeli-civilian-settlement-activity/.; "Marking of Country of Origin," U.S. State Department, https://2017-2021.state.gov/marking-of-country-of-origin/.

23 For the full dissenting opinion regarding the historical context of the dispute, see International Court of Justice, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem,* Advisory Opinion, 19 July 2024, Dissenting Opinion of Vice-President Sebutinde.

In any case, the laws of belligerent occupation do not prohibit Israel from protecting archaeological sites. Israel is a signatory to the 1954 Hague Convention. Article 5 of the Convention states:

1. Any High Contracting Party in occupation of the whole or part of the territory of another High Contracting Party shall as far as possible support the competent national authorities of the occupied country in safeguarding and preserving its cultural property.
2. Should it prove necessary to take measures to preserve cultural property situated in occupied territory and damaged by military operations, and should the competent national authorities be unable to take such measures, the Occupying Power shall, as far as possible, and in close co-operation with such authorities, take the most necessary measures of preservation.

Given the Palestinian Authority's assault on Jewish archaeological heritage, the obligation to protect falls on Israel. The 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, while recognising that the primary duty of protecting falls on relevant states, states that these sites are "a world heritage for whose protection it is the duty of the international community as a whole to co-operate."

To that effect, Israel has approved a multi-year plan, with a 120-million-shekel budget, intended to protect antiquities in Judea and Samaria. The Knesset is advancing legislation to establish a Judea and Samaria Heritage Authority to preserve heritage sites in the region. Israel has also designated over sixty sites in northern Samaria as archaeological sites, including Sebastia, northwest of Shechem (Nablus), and transferred ancient artifacts from illegal Palestinian hands to Israeli museums.[24]

The 1978 Israeli Antiquities Law, which defines the destruction or damage of archaeological sites as a criminal offense, does not apply to Judea and Samaria.[25] The law should either be extended to the region in the form of Knesset legislation or through the Army Commander's Directive.

"Humanitarian" provisions protect human beings, referred to in the Fourth Geneva Convention as "protected persons." The Antiquities Law regulates the treatment of objects of historical importance. When the adoption of humanitarian provisions was discussed, it was inconceivable that the regime of protection for antiquities was of a "humanitarian" nature. Therefore, the Israeli commitment to implement the humanitarian provisions of the laws of occupation does not prevent the application of the Antiquities Law in Judea and Samaria.

24 Recent legislative efforts include the "Judea and Samaria Heritage Authority" bill; see *The Jerusalem Post*, "Knesset Advances Judea and Samaria Heritage Authority Legislation," https://www.jpost.com/israel-news/politics-and-diplomacy/article-885785.

25 "Knesset committee discusses antiquities protection," *Knesset News*, https://main.knesset.gov.il/apps/committees/4192/news/10790

Alongside many laws applying to Israeli citizens in the territory, several "non-personal" laws were also applied. The most recent and prominent example is the Disengagement Plan Implementation Law, 2005. The law itself includes many detailed provisions concerning territory (evacuation of assets, property rights, restriction of entry and stay in certain areas). Recently, the law was amended, and the prohibitions on entry and stay in certain areas were abolished. Over time, Israel has applied a variety of civil laws to the territory, ranging from tax, conscription, and election laws to broader regulations governing entry to and exit from the territory.[26] Israel chose not to apply all its civil laws, but it also demonstrated its ability to do so when it perceives a need. There is a clear common element in these laws: necessity.

Regarding the necessity of changing the law applicable in the territory, experience shows that the field of archaeology indeed constitutes an urgent need. The damage currently being done to unique heritage and historical treasures, belonging to both the Jewish people and all of humanity, necessitates taking appropriate action.

Finally, the purpose of the laws of occupation is to maintain the status quo on the ground. As stated, Israel did not adopt this position toward Judea and Samaria and has changed the factual situation. However, the purpose is to preserve the situation factually, and legal norms are only supposed to serve that goal. If, under the authority of the State of Israel, the priceless heritage of humanity is destroyed and looted only because Israel feared changing the legal status quo and did not apply the protective measures at its disposal to the antiquities in Judea and Samaria, Israel itself would be frustrating the very purpose of the laws of occupation.

As previously stated, the destruction of cultural property is a war crime and a crime against humanity under customary international law and the Rome Statute of the ICC. The Palestinian Authority became an ICC member state on 1 April 2015.[27] As such, the ICC should have jurisdiction over Palestinian national that target archaeological heritage sites. (Israel does not recognize Palestinian statehood and disputes ICC jurisdiction.)[28] The ICC could issue arrest warrants for Palestinian Authority officials who have authorized infrastructure construction, damaging archaeological sites. However, in political terms, such a move is practically unimaginable. Israel cannot expect justice and accountability from international tribunals or institutions.

26 The Disengagement Plan Implementation Law, 5765-2005, governed the evacuation of assets and property rights; the prohibitions on entry to certain areas were recently abolished via amendment.; Key examples of civil laws applied to the territory based on necessity include the Income Tax Ordinance [New Version], 5721-1961; Emergency Regulations (Judea and Samaria - Jurisdiction in Offenses and Legal Aid) Law, 5727-1967; and the Defense Service Law [Consolidated Version], 5746-1986.; Administrative and regional governance in the territory is further regulated by the Proclamation regarding the Establishment of a Civil Administration (Judea and Samaria) (No. 947), 5742-1981 and the Order concerning the Management of Regional Councils (Judea and Samaria) (No. 783), 5739-1979.

27 "The Situation in the State of Palestine," International Criminal Co urt, https://www.icc-cpi.int/palestine.

28 Avichai Mandelblit, "The International Criminal Court's Lack of Jurisdiction over the So-called 'Situation in Palestine,'" Office of the Attorney General, November 20, 2019.

Conclusion

The systematic erasure of Jewish cultural heritage in the Land of Israel is not a series of isolated acts of vandalism but a coordinated campaign of "identity erasure" that extends from historical denial to physical destruction. By synthesizing the persistent denial of Jewish history by Palestinian leadership with the "archaeological crimes" documented at sites such as the Temple Mount, Joseph's Tomb, and throughout Judea and Samaria, a clear pattern of persecution emerges. Under international law, deliberate attempts to obliterate a group's cultural and spiritual heritage constitute a crime against humanity, mirroring precedents in which the destruction of religious symbols was viewed as evidence of intent to destroy a group's very identity.

Because international institutions and the Palestinian Authority have largely failed to safeguard these irreplaceable treasures, the legal and moral obligation to protect this "world heritage" falls to Israel. Ultimately, allowing this destruction to continue under the guise of maintaining a legal status quo would frustrate the very purpose of international heritage law, making the proactive preservation of these stones and strata an urgent necessity for the survival of historical truth.

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