
Insiders' Jerusalem - Collapse of Status Quo; al-Bustan

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The Threat of Mass Demolitions in al-Bustan and The Crumbling Status Quo on the Temple Mount

Two issues:

I. The Threat of Mass Demolitions in al-Bustan

- [What Happened? The Jerusalem Municipality's Motion](#)
- [What are the Immediate Ramifications of the Motion?](#)
- [Israeli Planning Policies in al-Bustan](#)
- [How Many Homes are at Risk of Demolition in al-Bustan?](#)
- [The Background to the Bustan Demolitions](#)
- [What Happens Next?](#)
- [A Final Important Caveat: the Rules of Engagement are Changing](#)
- [Geopolitical Ramifications on the Two-State Solution](#)

II. The Status Quo on Haram al Sharif/Temple Mount: From Erosion to Collapse

- [What Happened?](#)
- [The Ramifications](#)
- [The Continuation of Trump-Netanyahu Assault on the Status Quo](#)
- [What is Required?](#)

This report can be downloaded [here](#).

I. Threat of Mass Demolitions in al-Bustan

What Happened? The Jerusalem Municipality's Motion

- On February 26, 2021, the legal counsel for the Jerusalem Municipality filed a motion to the Jerusalem Local Affairs Court requesting that the Court [rescinds](#) the stay of execution of demolition orders that had until now prevented the demolition of tens of homes in al-Bustan area of Silwan.
- This motion was no routine event as it reverses a three years-old arrangement between the municipality and the residents. Indeed, since 2017, the Municipality has been adhering to a formal, albeit unwritten understanding, according to which the residents would pursue a planning process with the authorities, during which time all demolitions would be suspended.

What are the Immediate Ramifications of the Motion?

Because this motion is a sudden reversal of the Municipality's position and of the 2017 understanding, it gave rise to speculations that the Municipality decided to move forward imminently mass demolition of tens, perhaps hundreds of homes in al-Bustan.

Yet, the significance of the municipality's decision is not entirely clear as it seems that the situation is neither as dire nor as acute as it appeared when the motion was issued:

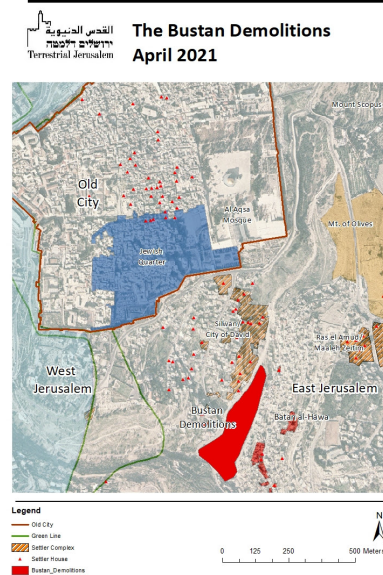
- Firstly, on March 17, the Court rejected the Municipality's motion, and granted another stay of execution until August 15. In addition, if, in August, the Court will grant no further stay of execution, the residents will no doubt appeal to the Jerusalem District Court, further deferring possible demolitions for several months.
- Secondly, the motion filed by the municipality to the Court is, so far, the sole indication of a change in policy by the Municipality. Significant policy shifts of such magnitude are usually accompanied by other bureaucratic indications, by senior officials' announcements, and with much fanfare from the settlers. We have noted none of these. SOMETHING of significance clearly happened with the reversal of Municipal policy regarding the 2017 understanding – but it's not at all clear WHAT happened.

Israeli Planning Policies in al-Bustan

- Location – Al-Bustan is a wedge-shaped area, 38 dunams in sized, located in the bed of the wadi known in Arabic as Wadi al Joz (for the northern segment) and Wadi Na'ar (in the south) and in Hebrew as the Kidron Valley. The al-Bustan segment of the wadi is identified in Hebrew as Kings' Valley, due to its proximity to the ancient monumental tombs to its north, and its proximity to the biblical city of David.
- Statutory status – Wedged between Wadi Hilweh on the west, and Batan al Hawa in the east, there were a number of Palestinian dwellings already standing in 1967. However, most of the construction in al-Bustan commenced after 1967. Generally speaking, Israeli planning policies were geared to put an artificial cap on Palestinian development and population growth. With building permits largely inaccessible, today more than 50% of the homes in East Jerusalem were built without permits. This is especially the case in the area surrounding the Old City. The statutory town plan for this area, AM/9, allows for no construction of residential units.

Consequently, with the exception of those handful of houses standing in 1967, the hundreds of homes built in al-Bustan were built without permits, and by people who had no option to build legally.

- What makes the case of al-Bustan unique? - While al-Bustan is not unique in the fact that most of the construction is illegal (that applies to most East Jerusalem neighborhoods), al-Bustan is unique in that it is the sole neighborhood in East Jerusalem that has been targeted for large-scale demolition, and has been so targeted for more than fifteen years.



How Many Homes are at Risk of Demolition in al-Bustan?

- There are approximately 86 demolition files related to al-Bustan currently standing before the Jerusalem Local Affairs Court.
- Only a small number of these cases are still pending, and virtually all of them are after a verdict was handed down, a verdict that invariably includes a demolition order. This means that were it not for the stay of execution, these demolitions could take place at any time. There is no statute of limitation, and their validity never expires.
- Many of these files seek to demolish a building that is composed of more than one household or residential unit. A recent onsite survey revealed that while there are only 86 demolition orders, the number of homes at risk is in reality 130 households/residential units.
- Of the 86 demolition files, the verdicts in 14 cases were handed down after October 2017, the date on which new Israeli [legislation](#) significantly limited the authority of the Court to issue stays of execution of demolition orders. Consequently, these demolitions orders have not been stayed. That means that in these cases the demolitions can take place at any time, with little or no warning. However, to date, there is no indication that these 14 homes are being actively targeted by the authorities, and do not now appear to be treated differently from the tens of thousands of homes in East Jerusalem which are subject to outstanding demolition orders that can be executed at any time.
- As noted, in 2017, the Municipality agreed to suspend demolitions while the residents pursue the approval of a statutory Town Plan. The residents' Town Plan is being drafted by Dr. Yusuf Jabarin, the Dean of Research at Haifa's prestigious Technion Institute. The plan is working its way slowly through committee, and it is common that plans of this complexity take many years to approve. The plan is based on 11 principles to which the Municipality and the residents both agreed in 2017, and aspires to balance between the housing needs of the residents, the legitimate need for public spaces, in a manner that will serve the residents of al-Bustan, and not the settlers of Silwan. Initially

the Municipality viewed the Plan favorably, but, in recent months, that support appears to have been withdrawn.

We will now examine why, of all of East Jerusalem's neighborhoods, Silwan has been targeted.

The Background to the Bustan Demolitions

- The predominant role of Elad - Since 1991, Silwan/the City of David has been the flagship of the Elad settler organization and of the biblically motivated settlements in East Jerusalem.

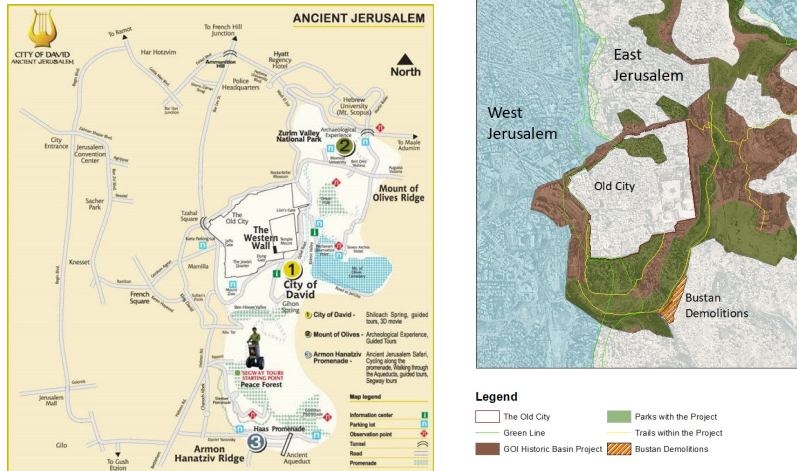
Elad is the most powerful settler organization in Israel and the West Bank. Initially, its goal was simply to transform Silwan into an extension of the Jewish Quarter, but over time their ambitions grew. The goal of Elad became and remains the creation of a renewed biblical realm in the visual basin of the Old City, with the physical manifestation of a Jewish Biblical past, genuine or recreated, embedded in the landscape. This is to be achieved not only by means of settlements, but by a series of parks, excavations and attractions, linked by trails, guaranteeing that the visual elements in the historic basin of the Old City will evoke memories of ancient Biblical Jerusalem.

- An agenda formally endorsed by the government - On August 9, 2005, Elad's ambitions became the official policy of the Israeli Government. Ariel Sharon's government approved an ambitious multi-year [plan](#) to radically transform the area around the Old City, the goal of which is:

"...to strengthen the status of Jerusalem as the capital of the State of Israel and to allocate 50 million shekels in each of the budgetary years 2006-2013 for the restoration, development and maintenance of the basin of the Old City and the Mount of Olives...Activities will be carried out by means of the Jerusalem Development Authority ["JDA"], which will... report on its activities and tasks to the Director General of the PM's Office and the Jerusalem Municipality and the Head of Budget at the Ministry of Finance. [JDA] ...will be assisted by sub-contractors".

This plan is periodically refunded and has remained the blueprint for Israeli development schemes around the Old City. In essence, the DNA of Elad's biblical ideology became the DNA of the Government of Israel in and around the Old City, with Government [outsourcing](#) many of its authorities to Elad in order to pursue these objectives. The lines between government and the settlers became so blurred that they almost disappeared.

- Why al-Bustan has been specifically targeted by Elad? A comparison of the two maps below, the one produced by Elad and disclosing the nature of their ambitions in the historic basin of the Old City, and the other of the official boundaries of the Governmental Historic Basin Project, not only disclose how similar they are in their geography and their objectives – they also disclose just why al-Bustan has been targeted.



Al-Bustan is a target because more than any other Palestinian neighborhood in East Jerusalem, it is an obstacle standing in the way of one of the most important settler/government projects anywhere in East Jerusalem and the West Bank: the so-called restoration of purportedly biblical Jerusalem through genuine artifacts, invented facsimiles, and attractions reminiscent of the pseudo-biblical theme park. Al-Bustan is right in the middle of it.

Chronology of the repeated attempts to demolish al-Bustan

- The idea of demolishing the entire al-Bustan area emerged in the mid 2000s, hand in hand with the scheme to transform the visual basin of the Old City into a biblically driven landscape.
- In 2005, the [Jerusalem Municipal Council](#) adopted a resolution calling for the demolition of 88 houses in al-Bustan. The number 88 has ever since been attributed to the number of homes in al-Bustan, regardless of its accuracy. To this day, one frequently hears of the plan to demolish 88 houses. The international uproar that ensued was so fierce that Mayor Lupolianski was compelled to withdraw the plan.
- In 2009, newly elected Mayor Nir Barkat, who was and remains closely associated with the settlers in Silwan, [revived the project](#). He too encountered strong opposition to the demolition of 88 homes, so in 2010, [the Municipality tried to mute](#) that opposition by reducing the number to 22 demolitions. That too did not work. The opposition to the demolitions were as vehement as they were with Lupolianski (even being cited prominently in the State Department [Annual Human Rights Report](#) of 2010). Ultimately, [Barkat was compelled to back down](#) as well.
- Since 2010, there were a couple of attempts to create town plans for al-Bustan and its residents, which culminated in the current Jabarin Plan.
- In September 2017, the Municipality concluded an 11-point document with the agreed planning principles, which underlies the current plan that is before the

planning boards.

- For three years, the Municipality viewed the emerging plan as sufficient cause to suspend demolitions, and so notified the Court. However, on February 23, 2021, counsel for the Municipality notified the Court that *"the attempt to change the Town Plan at the site in question is at its embryonic stages in spite of the extensions granted to date, there has been no significant progress, and there is no way of knowing which buildings may be legalized by it..."*.

What Happens Next?

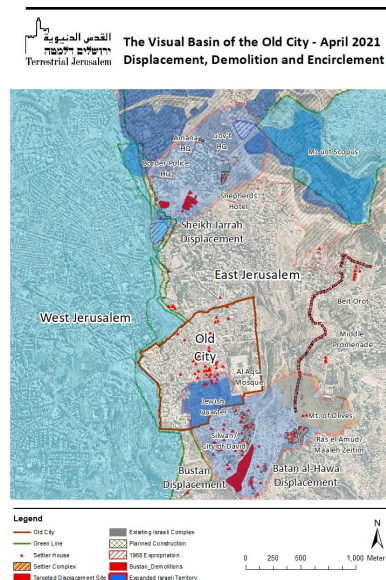
- No immediate plans to demolish - Based on our cumulative experience, and familiarity with the parties involved and how they have acted to date in similar situations in the past, the mass demolition of al-Bustan does not seem to be imminent.
- Vigilant monitoring required - Currently, there is little to be done except vigilant monitoring and extending moral and material support to the residents, their lawyers and town planner (all of whom are highly professional) to obtain the approval of a statutory town plan, delay demolition, and await developments.
- Signaling concern to Israeli authorities - Should there be an opportunity to express deep concern over possible developments in al-Bustan to Governmental and Municipal authorities, that indeed should be exploited. However, the current situation does not appear to create ample cause to justify intense, focused and resolute engagement by the international community—yet.
- Limited prospects that a statutory town plan will be approved - Stays of execution by the Court are likely to be cyclically repeated, ad infinitum. However, the chances of any plan submitted by the residents being approved by governmental or municipal authorities are remote to non-existent, however professionally sound it might be. Al-Bustan is "Kings Garden" to the settlers of Elad, and their most highly coveted piece of real estate in the heart of their biblical realm. They are the most powerful settler movement with an open door to the Prime Ministers, and whose functionaries are now in key positions of authority in matters relating to the planning of Silwan. Bluntly, the residents do not stand a chance.

Sadly, the goal of the planning process is to defer the demolitions, not to create the statutory framework that will allow to address the genuine housing needs of the residents of al-Bustan.

A Final Important Caveat: the Rules of Engagement are Changing

- Largescale displacement is no longer a taboo - Our analysis above leads to cautious and tentative conclusions indicating that the Bustan demolitions, as abhorrent as they are, have not yet become an acute issue. An important caveat is to be added to this conclusion: over the last few years, the government of Israel has started deviating from policies of restraint that have been a constant since 1967, and is engaging in actions that would have been unthinkable a few years ago. The demolition of al-Bustan is highly compatible into these new policies.

Since 1967, Israel was able to transfer 220,000 of its residents to the settlement neighborhoods of East Jerusalem without the largescale displacement of Palestinians. The last such largescale displacement took place on the night of June 10, 1967, when the Mughrabi Quarter was razed, and its residents expelled. Nothing remotely similar has taken place in East Jerusalem since then. This, by no means, is meant to detract from the devastating impact the settlement enterprise has had on individual families that have been targeted and displaced by settlers, and the impact this has had on entire Palestinian collective in East Jerusalem.



However, the policy of refraining from large-scale displacement has recently changed, and is no longer a taboo.

- A shift targeting two separate locations: the visual basin of the Old City, the very epicenter of the conflict, Israel is for the first time actively engaged in attempts to displace two entire communities – Batan al Hawa in Silwan and in Sheikh Jarrah – so they may be turned into settlement blocs. The mass demolition of al-Bustan, as it seeks to displace an entire community to enhance the contiguity between Israel and settlements enclave, is part of the same policy shift. While, in the past, there were occasions on which the government was complicit in targeting individual families for the benefit of the settlers, this is the first time since 1967 that entire neighborhoods are being targeted.

Geopolitical Ramifications on the Two-State Solution

- The creation of contiguity between settlements enclaves - The staggering humanitarian implications of mass demolitions in these areas are accompanied by compelling geopolitical ramifications. For the first time since 1967, settlement enclaves that were dis-contiguous with Israel are now becoming extensions of pre-67 Israel, and in a pincer movement: the Old City is being surrounded both on the north and the south by built up Israeli areas.
- The Faith Dimension of these policies - The geographical changes are radically challenging the possibility of future political agreement, and the nature of these endeavors threaten to morph a resolvable political conflict into a zero-sum religious conflict. The mix of a humanitarian melt-down, the radical geographical changes impacting of future possible agreements, and the inflammation of the faith dimension of the conflict create a dangerous mix indeed.
- The need to closely monitor the situation - It is important to bear these developments in mind as we observe what is happening in al-Bustan. We have stated, based on past experience that there is no clear indication that a decision has been made to imminently pursue the demolition of al-Bustan. We stand by that conclusion.

Yet, mass demolition in al-Bustan would enable another link in the ring surrounding the Old City on the south. This is why ,although there may be no immediate plans to demolish, the developments in al-Bustan should be monitored very closely as the broader context of the municipality's motion and the powers involved indicate that the final word has likely not been said.

This important caveat is worthy of a "stand-alone" in-depth analysis of its own, which we plan to release in one of our upcoming reports.

II. The Status Quo on Haram al Sharif/Temple Mount: From Erosion to Collapse

On the face of things, the events of Haram al Sharif during the week of Passover appeared to obey the pre-ordained patterns of recent years: unprecedented numbers of Jewish pilgrims flocking to the Mount, followed by a stern protest over the violation of the status quo by the Jordanians. Indeed, the numbers of Jewish visitors were the largest since the outbreak of the corona pandemic – [2641](#) during the four intermediary days of Passover.

The Jordanian submitted an official [note of protest](#), condemning the *"... continuation of the Israeli violations in the al-Aqsa Mosque/al-Haram al-Sharif ...and allowing extremists ... to enter the mosque in large numbers under the protection of the Israeli police, in flagrant violation of the legal and historical status quo and international law"*. A leader of the Temple Mount movement [welcomed the condemnation](#), saying it was yet another indication of the movement's success.

But this is not the whole story as the events that unfolded during Passover on the Temple Mount/Haram al Sharif were anything but routine. There are in fact among the most significant violation of the Status Quo since 1967.

What happened?

We have for several years been chronicling the erosion of the status quo on the Temple Mount/Haram al Sharif. The events that took place during Passover do not only further erode the status quo but may cause its collapse.

What is the Status Quo?

There are many, often conflicting, views of what the status quo is, and many of those opposing views are held in good faith (for a complete overview see [here](#)). Yet, there is one, bare-boned definition of the status quo which is unassailable and incontrovertible. [It came from Prime Minister Netanyahu](#), and in his own voice: ["Muslims pray on the Temple Mount, non-Muslims visit the Temple Mount"](#).

The only thing new in Netanyahu's statement was the fact that an Israeli Prime Minister had publicly acknowledged and put into words a policy implemented by every Prime Minister since 1967 and according to which Haram al Sharif/the Temple Mount is exclusively a Muslim place of worship, open to the dignified visits of non-Muslims in accordance with the decorum of the site.

An Unprecedented Breach

In recent years, Jewish visitors have disingenuously moved beyond "testing the limits" of the prayer ban, and almost tauntingly displaying gimmicks that show that

they can pray anyway. The police, who was until not long ago the fair arbiter and voice of reason on the Haram al Sharif/Temple Mount, has more and more become allied with the Temple Mount Movement and increasingly permissive in allowing the Jewish visitors to test the limits of the prayer ban. Still, in spite of all the antics, provocations and stunts by the Temple Mount activists, the main principle defining the status quo, as defined by Netanyahu, has been largely preserved: Muslims pray, non-Muslims visit.

This was indeed the case until the last Passover, which was celebrated from March 27 and April 3, 2021. In the intermediary days of the holiday, when visits were allowed to the Temple Mount/Haram al Sharif, the Jewish pilgrims did not only test the limit of the prayer ban but overtly ignored it.

The Temple Mounters in their Own Words

Immediately after Passover, the Coalition of Temple Mount Movements posted a YouTube [clip](#) proudly highlighting their "achievements" on the Mount during Passover and the shift of policy in regard to their "right" to pray. We have selected a sampling of the boasts made on camera by the Temple Mount activists, which we have elected to translate. Even for those who know no Hebrew, this footage is well worth watching.

- "I had the honor for the first time of being the "Public Emissary ["Prayer Leader" for a quorum of at least ten men] in the Afternoon [Mincha] prayer opposite the holy site." (0'26")
- "From what I understood, you couldn't mumble, you weren't allowed anything. The reality up there is different, so much so that I could do the Afternoon Prayer ["Mincha"] with a quorum [of at least ten men], and we completed a tractate [of the Talmud] with the Kaddish prayers [prayers which are customary upon the completion of a tractate]. We also said Hallel [the "Prayer of Praise"].(0'38")
- I ascended with the whole family, we said all of the Hallel ("Prayer of Praise) in song and chant, I was the Hazzan [the cantor], I prayed the Musaf [additional]Prayer], I recited the prayer leader's repetition [the repetition aloud of the "Shemona Esreh "prayer by the "prayer leader"/cantor], the "Shehechyanu" ("Who has sustained us" Blessing]. (0'48")
- We were found worthy to ascend to the Temple Mount. What a blessed change. We prayed. (0'58")
- Twelve years ago, I was removed from the Temple Mount for humming, and not that's all overturned and we all prayed there. (1'05")
- We were found worthy to ascend the Mount, and watch the Jewish people pray, happy. (1'13")
- It's so exciting to ascend to the Temple Mount. May all the prayers be answered. Some of the prayers were on top. (1'21")

The Temple Mount activists are not describing an episodic opportunity to pray. They are ecstatically describing a major shift in policy according to which open demonstrative prayer is now acceptable. The Yaraeh organization, who regularly publishes on its facebook page the achievements of the Temple Mount movement, made similar reports. After viewing this clip, it is simply not possible to assert that Israel is maintaining the status quo on Haram al Sharif but one has to reach the conclusion that the status quo has crumbled, if not collapsed.

The Ramifications

This was not done by stealth. What we saw in the clip, the Israeli Police saw on site – and permitted it to happen. This is no mere "change of rules". What we are witnessing before our eyes is the transformation of a Muslim place of worship accessible to non-Muslims into a shared Jewish-Muslim site. That, at the very least, is the aspiration of the most "moderate" Temple Mount activists (others going so far as to seek to replace the mosques with the Temple); it is also the deepest fear of the Palestinians and devout Muslims around the world.

The Continuation of Trump-Netanyahu Assault on the Status Quo

This change in the status quo is not taking place in isolation and is yet another manifestation of the concerted campaign that was led by Trump and Netanyahu to radically change the status quo.

This campaign started with the Trump Plan, which clearly [departed](#) from the Status Quo by stipulating that "People of every faith should be permitted to pray on the Temple Mount/Haram al-Sharif". Given that this is the last official statement made by the United States in this regard, the rejection of the status quo apparently remains the policy of the US government, be this intentional or not.

In line with the language of the Trump Plan, Trump and Netanyahu then tried to surreptitiously use the [normalization](#) agreements between Israel and the Arab states to secure the latter's consent to a change in the status quo – an attempt that was exposed and failed.

Finally, there had been numerous [reports](#), the credibility of which is uncertain, whereby Jordan custodianship on the Temple Mount/Haram al Sharif – which is one of the pillars of the status quo - will soon be joined or replaced by a Saudi custodianship. The attempt to dilute the Jordanian role on the Temple Mount/Haram al Sharif flourished under Trump, but has not entirely disappeared with his departure.

What is Required?

- None of this is unavoidable, nor irreversible. Whereas reviving the currently moribund political Israeli-Palestinian peace process is a very complex mission, moving to restore stability to the Mount is relatively simple.
- It requires:
 1. to engage in a resolute effort to reaffirm the validity of the status quo as defined by Netanyahu and as based on an already solid international consensus; and
 2. to reaffirm the Jordanian custodianship over the holy sites and al Aqsa, as stipulated in Article 9 of the Israel Jordan Peace Agreement.

None of these steps is controversial, nor costly politically, but they have the potential of defusing a potentially dangerous situation. The sooner it happens, the better. The Muslim and Jewish calendars – the progression of events from Ramadan, Eid al-Fitr, Israeli Independence Day, Shavuot, Jerusalem Day and Tisha b'Av – may well indicate that the peak tensions lie ahead.

For further information contact us at: [Terrestrial Jerusalem](#). You can also follow Danny on Twitter at: [@DanielSeidemann](#)

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