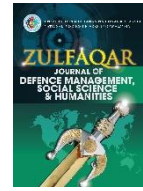




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ISRAEL'S NON-MILITARY STRATEGY IN THE ISRAELI-PALESTINIAN CONFLICT: ARCHAEOLOGY AS ISRAEL'S NATIONAL INSTRUMENT IN JERUSALEM/BAITUL MAQDIS (1948-2018)

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ABSTRACT

This article analyses how archaeology has been an instrument for Israel to claim sovereignty over Jerusalem. Since 1967 archaeology has been a national instrument for Israel to achieve legitimacy over the Land of Palestine. In Israel, archaeology is treated as a national and patriotic project. Nationalistic archaeologists have been playing an important role to assist Israel to achieve its national interest. Archaeological excavations have been gradually establishing the Jewish identity in this holy land vis-à-vis Palestinian/Arabic/Islamic identity. "Judaizing policy", taking place vigorously in Jerusalem especially in the Holy Basin with the help of settler organizations. Palestinians rise against Israeli ambition through counter archaeological activities to safeguard their historical heritages. Israelis perceive Palestinians' activities as detrimental to Israel's survival as a Jewish state in the holy land. This phenomena shapes the "Clash of Civilizations" in the Israeli-Palestinian conflict. One of the area affected by such clash is the Temple Mount/Haram al-Sharif (TMH) and the Holy Basin. Israel wages non-military battle since 1967 to claim sovereignty over whole Palestine. Using archaeology as an instrument in the territorial policy is a smart strategy. Israel's smart strategy of utilizing archaeology is suitable in the historical sites where the use of force can jeopardize Israel's national interest.

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Introduction

Since 1967, archaeology has been one of the instruments used by Israeli state actors and non-state actors to legitimize Israel's claim over the holy sites and historical sites in Jerusalem and other areas in Palestine. Israel implements strategic plans to magnify Jewish heritages and to minimize significance of non-Jewish heritages. Israel has been implementing strategic plans in archaeological excavations to claim sovereignty over Jerusalem. Israel has state and non-state actors on the stage to help the state in achieving its national interest. In Israel's case, archaeologists are national heroes. Archaeology become a nationalistic project to make territorial claims over a particular site. This is a smart strategy Israel implements discreetly and secretly, until Palestinians fail to realize how Israel conducts the strategy. Israel's archeology presented two major questions to the world; whether it is a pure scientific and academic project or whether it is a Zionist project.

Archaeology in Jerusalem produces many queries to the world especially in the peace process. Jerusalem issue is one of the major issue in the Israeli-Palestinian conflict and has been an obstacle in the peace process. Archaeological excavations able to trigger further conflict between Israel and Palestine.

Prof. Raphael Greenberg asserts,

Archaeology has always been implicated in the issues of national and religious identity that swirl around the historic basin of ancient Jerusalem. Archaeologists usually play a supporting role in the conflict. If Israel, their excavations ultimately provide support for the aim and aspirations of Israeli society and government; if Palestinians, their research largely limited to architectural survey and curatorial duties on the Haram-is often constrained by loyalty to Islamic and Palestinian national interests (R. Greenberg, 2007).

In the contemporary Middle East politics, frequently culture and heritage become victim of conflict. Destroying and erasing historical proofs are a strategy commonly use by the occupiers to demoralize the opponents. This phenomena is obvious in Jerusalem since 1967. In Jerusalem, Israel carries out these activities gradually through the Judaizing policy and the de-palaestianian policy. Israel conducts smart strategy secretly and silently. So the Palestinians realize the impact of the action in a slower phase. Meanwhile, in Syria and Iraq, erasing of historical sites carried out radically by the notorious non-state actors. These cases present a new phenomenon in security studies; heritage and cultural security which has equivalent important to other security studies because this touches the roots of the nation states. Heritage and cultural security studies are important in the nation-state building. Israel gives serious concern over the Jewish history and culture in order to create Israel as the Jewish state in the Middle East region. Historical evidences provide legitimation for Israel's survival. Israel establish legitimation in the holy sites and historical sites through non-military strategy. Occupying historical sites are one of Israel's territorial policy in the Israel-Palestinian conflict.

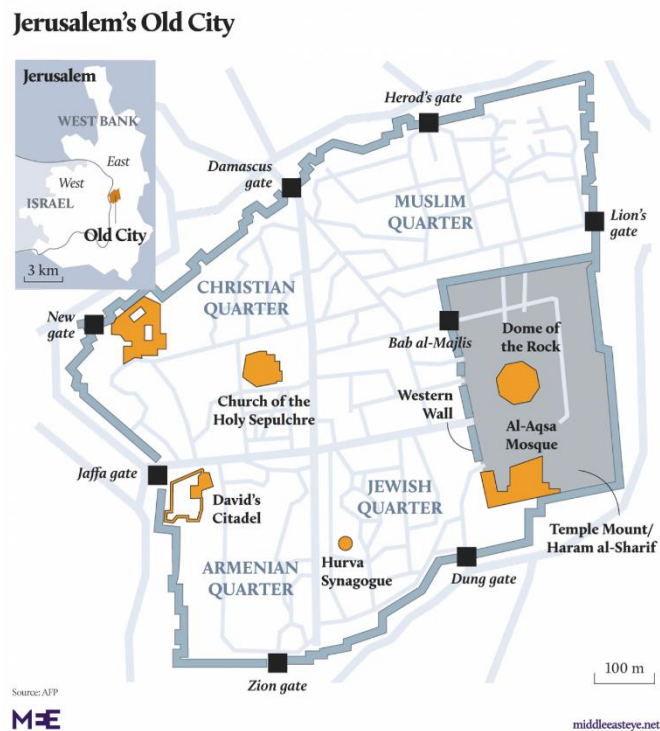


Fig. 1: Map of the Old City of Jerusalem, shows the Temple Mount/Haram al-Sharif and other holy sites (Source: middleeasteye.net)

Research Hypothesis

This article is a part of the author's PhD thesis on "Israel's Strategy through Archaeology to Claim Sovereignty over the Temple Mount/Haram al-Sharif in Jerusalem: The Case of the Mughrabi Gate Bridge Plan (2004-2014)". The central hypothesis for this research is that Israeli archaeologists particularly from the nationalistic and Biblical streams are the national instrument for Israel. Israel has been using archaeology to change the historical truths on the land surface. They constantly create a new topography to shape the Jewish state. Israel has been using archaeology since 1967 to achieve its national interest to establish sovereignty over the holy land. This phenomena is more intense in Jerusalem because most archaeological sites are located here. Israel claims sovereignty over Jerusalem and aspire to consolidate Jerusalem in Israel's national territory against international law. Israel has been using smart strategy to make territorial claim without use of force;

- Israel implements "Judaizing policy" in the Holy Basin inclusive of the Temple Mount/Haram al-Sharif.
- Israel carry out "de-Islamization policy" in the Holy Basin to erase significance of Islamic identity, in order to build Jewish cultural/heritage security, to place legitimate claim in future.
- Israel control the outcome of archaeology through Israeli Antiquities Authority (IAA) which has authority on all heritage sites.

In fact, nationalistic and biblical archaeology have been helping Israel's territorial claim over the holy land. Israeli non-state actors, such as; settlers, rabbis, and temple activists are supportive of Israel's national interest. In Jerusalem we can see strong collaborations exist among Israeli non-state actors in support of Israel's national interest. Israel's objective is to claim total sovereignty over the Temple Mount/Haram al-Sharif (TMH) and other holy lands through creating Jewish cultural and heritage security.

Research Methodology

This article is a part of the writer's PhD research; Israel's Strategic Plan through Archaeology to Claim Sovereignty over the Temple Mount/Haram al-Sharif in Jerusalem: The Case of the Mughrabi Gate Bridge Plan (2004-2014). This article is written with a few references to the primary sources. A good number of references used in this article are from the secondary sources and online sources. Significant number of primary sources from Israel, Jordan and Palestine are used in the PhD thesis. This article is structured based on the qualitative approach. Hypotheses is tested with historical facts and contemporary IR evidences.

Archaeology in Pre-1967 Period in Jerusalem

There are some differences between archaeology in pre-1967 period and the post 1967 period in Jerusalem. Early European archaeologists and their excavations in Jerusalem motivated by the Christian convictions. They faced tremendous difficulties in Jerusalem to face the Ottoman officials who forbidden the non-Muslims from entering the TMH area. Similarly Ottomans had suspicion toward the European archaeology. Not all early archaeologists were professional archaeologists. There were two groups of archaeologists in Jerusalem; the professional one and archaeologist with agendas/objectives like the Indiana Jones adventures. Restriction over the archaeologists prevailed in Jerusalem until 1830. The TMH was open to the Christian travellers when Jerusalem placed under the Egyptian authority.

First archaeological expedition in Jerusalem conducted by William John Bankes and his team from England in 1818. Bankes was followed by Edward Robinson who visited Jerusalem in 1838. He discovered the arch at the south-western flank of the TMH and that discovery carries his name, "Robinson Arch". Robinson was followed by Titus Tobler who discovered an arch at the TMH which is known as the Wilson's Arch. Archaeological discoveries were allowed under the Egyptian rule for a short period (1830-1840). Egyptian officials granted freedom to archaeologists to dig at various sites of Jerusalem. Clearly the 19th century archaeology in Jerusalem motivated by the European interest. They encouraged biblical archaeology to grow in Palestine. Jewish archaeological interest developed in 20th century through initiative of Raymond Weill in 1913-1914. Weill financed by Baron Edmund Rothschild who bought the land of the excavation in the City of David in Jerusalem. During the British Mandate period (1918-1948), British appreciated archaeological excavations in Jerusalem and recognized Jerusalem as the center of history and archaeology.

In this context, British adhered to the British Mandate law and ratification by the League of Nations on archaeology. British helped Israeli archaeologist to progress in this field. "British authorities reluctant to train and encourage Palestinian archeologists but in contrast they encouraged and supported efforts of Jewish archaeologist" (G. J. Sayej, 2014). There were many pioneer Jewish archaeologists during the British Mandate period, such as; Nachman Avigad, and Benjamin Mazar. After the World War I, the Hebrew Society for Research of Israel and its Antiquities began excavations with famous archaeologists, like Benjamin Mazar and Yigal Yadin. Some archaeologists were belongs to the Biblical archaeology and glorified as a national hero of Israel, like Benjamin Mazar. W.F. Albright another reknown archaeologist discovered a remarkable work about the Dead Sea Scrolls in 1948. This discovery inspired the Jewish archaeological enthusiasm and nationalism in Israel. This artefact become an element of contest between Israelis and Palestinians in later years. Question about possession of the Dead Sea scrolls brought to the peace process table by the Palestinian leader, Yasser Arafat in 1980s. Usually demands over the historical objects brought friction and setback in the peace process.

When the East Jerusalem conquered by the Jordanian regime (1948-1967), the TMH was placed under the administration of the Jordanian Waqf. Waqf treated all archaeologists with caution. Thus, limited archaeological work conducted at the TMH and its vicinity. Many allegations were made at that time against the Jordanian regime that they showed little concern for non-Muslim heritages and the Jewish heritages. Many allegations were thrown by Israelis that the Jordanian regime refused to treat archaeology as a scientific and an academic field.

Marshall J. Breger and Thomas A. Idinopulos stipulate,

In total, twenty-seven synagogues and some thirty schools were damaged or destroyed. The famous Yohanan ben Zakkai Synagogue was devastated...The synagogue founded by the great biblical scholar Nachmanides in 1267 was also devastated. Furthermore, the Jewish cemetery on the Mount Olives with graves dating from the time of Herod's Temple in the 1st century was destroyed. "Graves had been ripped open and bones scattered; thousands of tombstones had been smashed or removed by the Jordanian Army to build fortifications, footpaths, army camps, and latrines. The Arab Jerusalem Municipality has granted concessions to merchants who destroyed graves and sold the gravestones to building contractors. (M.J. Breger & T.A. Idinopulos, 1998, p. 12)

Based on the above allegation, Israelis were shrouded by negative sentiments against the Jordanian regime. This produces greater implications to the Israeli archaeology in later days. Israelis annexed the eastern part of Jerusalem from Jordan through the 1967 Six Day War. Israelis fear was translated in a form of activism to preserve the Jewish heritages and to reduce importance of the non-Jewish heritages. Prior to 1967, the Israeli government encouraged the biblical and nationalistic archaeology in the Western Jerusalem. This was proved in excavations carried out in Masada. The early Zionists who are the Israeli nationalists and founders played an important role in acquiring Jewish historical heritages. "For the Zionist movement, albeit a secular national movement, religious symbols were an important asset for acquiring legitimacy" (N. Ben Yahuda, 1995). Israeli scholar, Nachman Ben-Yahuda points out the following aspects of archeology that have been in practice in the service of Zionism, such as;

- Confirming the essence of the Biblical narrative,
- Proving the continuity of Jewish settlement in Israel as well as its size,
- To emphasize the attitude of Jewish settlers to the land,
- Emphasizing the practical side of life in the land,
- Providing the contemporary Jewish presence with a deep structural historical meaning,
- To provide the Jewish presence with concrete symbols from the past which can be transformed into symbols of historical legitimation and presence. (M.J.Breger, Y. Reiter & L. Hammer (Eds.), 2010, p. 5)

The above mentioned elements still prevail in Israel's nationalistic archaeology. In Israel, nationalistic and Biblical archaeology work hand in hand because sites of the biblical narrative are also sites of the Jewish narrative in the Judeo-Christian civilization. There is a strong belongingness to the Judeo-Christian civilization among Jews and Christians compared to Palestinians who are belongs to the Arab civilization. Civilization in fact divides Israeli archaeologists from their Palestinian counterparts and greatly influence the area of archaeology, aspect, interpretation of the holy book and overlapping claims. Clear clash of civilizations can be seen in the Holy Basin. Religious attachment and a strong drive for legitimacy

overriding gentle aspects of archaeology in Jerusalem. Since 1967, establishing sovereignty over the holy land become the prime focus in Israel's domestic and foreign policy. Thus, war as an instrument of policy is not applicable in the holy sites against international law. Israel launches non-military strategy in Jerusalem and other occupied territories where the historical sites are located.

Clash of archaeology in post-1967 period

After the Six Day War in 1967, Israel unified the Eastern and the Western Jerusalem under single municipal administrative unit. Thereafter Israeli archaeological excavations increased and become more significant to the state. Archaeology was recognized as a special field in Israel and Israeli archaeologists were given high respect for their work. "Archaeological finds have inspired nearly all the Israel national symbols, from the State Seal to medals and coins and postage stamps" (N. A. Silberman & D. Small, 1997, p.3). Archaeology has been playing an important role in the Jewish nationalism, in which history, heritage, shrines and holy places became an inspiration to the Jewish political ambition. "In the years of struggle leading up to the establishment of the new state and during its first two decades or so, the cult of archaeological relics did much to determine the direction of Israel culture" (N. A. Silberman & D. Small, 1997, p. 37). Archaeology also become one of the aspect used by Zionism in their political movements. Israeli government recognizes the power of archaeology for Israel, therefore archaeology and archaeologists are continually encouraged, helped, and funded to reveal the Jewish glorious past, which is connected directly with survival of Israel in the Middle East.



Fig. 2: Picture shows archaeological excavations in the Holy Basin (Source: Jordan and the State of Palestine Status Report 2016)

There is a complex relationship between archaeologists, their research, findings and the impact over their respective community. In some cases conflict exploded between Israel and Palestinians when Israel used archaeology as an instrument to claim sovereignty. Palestinians retaliated to maintain the *status quo* over the TMH and other holy sites. One of such contest is actively taking place at the TMH. At the TMH Israelis and Palestinians are competing to safeguard their own heritages. In that process significant damages are inflicted over the other's heritages. In contemporary politics, Palestinians are losing their historical sites in a rapid manner. Israeli settler organizations claim the Palestinians' land and properties in the name of settlements like the Village of Silwan. Historical parks are created at the TMH vicinity like the Davidson Center at the south-western Wall of the TMH.

Israel support the Biblical archaeologists, their research and excavations in the Holy Basin. Israeli archaeologists claim that many discoveries were made about the 1st and 2nd temple period, where the past Jewish temple were once stood on the TMH. Palestinians deny this declaration. Palestinians perceive that such discoveries are fabricated stories of Israelis to claim sovereignty over the TMH and Jerusalem. In addition, the Palestinians believe that Israeli archaeological excavations are used only to magnify the Jewish heritages and to minimize the Islamic heritages, in order to complicate the status of Jerusalem in the peace process. Palestinians also perceive that increasing amount of the Jewish antiquities in Jerusalem is directly strengthen the Jewish identity of the city. Undeniably Jerusalem would remain within Israel's border in the peace process based on historical evidences.

In this regard, the Biblical archaeologists often challenged by the Waqf, the orthodox Jews, the Muslim leaders and the Palestinian archaeologists. It is interesting to note that there is an internal clash among the Jewish people about archaeology; the orthodox Jews and the extremist Jews are opposing Israeli archaeology on the basis of religious interpretation. But this interpretation is evolving in the current political environment. Israeli archaeologists are answerable to the rabbis and the orthodox Jews who are very sensitive on religious interpretations. The Israeli political parties with religious platform are able to convert the religious issue as a political agenda in the election and in the Knesset. Survival of the Israeli political parties and government are largely depend on the Jewish religious circle.

In recent years, views over archaeology at the TMH and burial grounds in Jerusalem have been changing gradually among Jews. The temple activists in Jerusalem like the Temple Mount Faithful and the Temple Institute are promoting temple ascending event and temple worship movement among the Jews. They also running guided tour to the TMH according to the "Halacha" (law of Judaism) rules to ensure sanctity of the TMH is preserved. Moreover, there are strong movement among the temple activists to build the 3rd temple on the esplanade in the near future. For this purpose, temple preparation plans are going on actively in Jerusalem. In recent time, temple activists are active to influence the members of the Knesset (MKs) to launch their plan. The Biblical archaeology is helping the temple activists by providing proofs of temple existence in the past.

Archaeology in Jerusalem also faces other issues, which are theoretically beneficial to Israel, but not to the Palestinians. Israelis and Palestinians involve in the illicit antiquities trade and looting which are done for monetary reason. Money playing an important part in the Palestinians' life to lose their heritages. Mostly the Palestinians are poor, living in the occupied territories and they tend to realize the value of their heritages. Illicit digging is done mostly by the local people from villages of the West Bank and the occupied territories. Israelis are acting as a middlemen in this lucrative trade. They willingly cause harm to antiquities in Jerusalem. At the same time they become "spoiler" in the ongoing conflict. Their activities are translated in political version to accuse one another. Beside looters and middlemen issue, archaeology also faces pressure from the Israeli collectors who have considerable influence over the government decision making process. "Some are influential public figures who have exerted pressure on parliament not to change the current law, which permits trading in antiquities" (O. Blum, 2002). Israeli military leader, Moshe Dayan, had huge collection of antiquities which was made through unauthorized digs done by soldiers under his command. Influence of powerful Israeli figures in archaeology caused the Palestinians to perceive such interest as the Israeli motivation to hide, erase or to destroy the Palestinians' heritages. Each archaeological excavation in Jerusalem and other occupied territories are perceived as a threat and prelude for oncoming conflict.

In addition, Israel established the Israeli Antiquities Authority (IAA) to administer and to monitor all archaeological excavations in Israel and the occupied territories. The IAA is perceived by the Palestinians as Israel's another instrument in the territorial policy. The Jordanian Waqf, which is responsible over administration of the TMH is cautious about Israeli activities at the TMH. There is a complex relationship between the Israeli archaeologists, the IAA and the Waqf. The Waqf has limited contacts with the IAA because they don't recognize Israel's rule in the Eastern Jerusalem. They perceive Israeli presence at the TMH with fear. In contrast, Israelis claim that the Waqf consistently declined to inform the IAA about their future plans at the TMH which caused the Jewish fear about the Palestinians' intention.

Until 1986 crisis of archaeology in Jerusalem still can be controlled. Israel's policy over archaeology was activated when Prime Minister Netanyahu of the Likud Party formed the government in the Knesset. In 1986 Israel opened up the Western Wall Tunnels at the Western Wall of the TMH. Thereafter Palestinians' nationalism exploded as the 1st Intifada in 1987, to spoil the ongoing peace process. Since then the Palestinians start to implement counter strategy to face Israeli archaeology by being non-

transparent in their archaeological activities at the TMH. Palestinians carried out construction and renovation works at the TMH to transform the Solomon Stables site to build the al-Marwani Mosque (Prior to that Palestinians come to know that Israel plan to build a synagogue in the Solomon Stables). The Waqf started construction of the al-Marwani Mosque with support of the Islamic Movement of the Northern Branch (IM) in Jerusalem. Meanwhile the Israeli archaeologists were prevented from visiting the site. The IM carried out further excavations in 1999 at staircase and entrance down into the Solomon's Stables. The IM understand and preach archaeology through Islamic perspective that all heritages are treated as the Islamic heritages based on the Islamic history. There is a wider clash in both people's philosophy about archaeology. Clash of civilization is again being a hindrance in archaeology. Israel surely cannot compromise with Islamic philosophy on archaeology. They understand archaeology from their own perspective.

The Islamic perception expressed clearly by the head of the IM, Sheikh Ra'ed Salakh to Gideon Avni in meetings conducted in 1996;

Sheikh Salakh explained this reluctance towards allowing any scientific research at the site, saying that because this was an exclusively Muslim sacred area, archaeological data of no relevance to the Islamic identity of the site. In his view scientific research at such a site contradicts the religious character of the sacred enclosure, and any such research at the site should be avoided. Construction and development works at the site should be conducted only for the benefit of the believers, receiving precedent over all extraneous scientific interests. (G. Avni & J. Seligman, 2006)

It is extremely hard for Israelis to understand and accept Islamic perception and work with the Palestinians because they both have different interpretation about their past history. There is obvious absence of mutual respect and understandings of history and archaeology between Israelis and Palestinians. Israel able to control archaeology in the holy land to its national interest vis-à-vis the Palestinians. The power asymmetry between Israel and the Palestinians can explain why Israel able to implement the territorial policy using archaeology as an instrument.

Furthermore, Israel suspicious about the IM which made the TMH as a center of the Palestinian struggle in Jerusalem. When the 2nd Intifada broke out on September 2000, following the visit of Ariel Sharon (Israeli Defense Minister) to the TMH, the IM launched a defensive plan to protect the TMH for the Muslims. Sheikh Salakh successfully utilized the slogan "al-Aqsa in Danger" to mobilize the Palestinians. It is important to note that before the 2nd Intifada, the Camp David Summit in July 2000 collapsed when dispute arise between Yasser Arafat and the Israeli team over the TMH. Negotiations failed when Arafat denied existence of such Jewish temple on the TMH as argued by the Israelis.

In this struggle to protect historical heritages from Israel, Palestinians demonstrate "temple denial syndrome" to preserve Islamic antiquities at the TMH. This has been a part of the Palestinian nationalism to counter the strength of Zionism. In this regard, they brought up issue of archaeology to the Oslo Peace process but the talks failed when the Israelis and the Palestinians were not ready to make concessions on the historical aspect. Following the Oslo agreement between Israel and the PLO, a first exchange of views on archaeology was marked by intransigence on both sides. Israel was ready to grant the Palestinians control only over the Muslim or Arab archaeology sites on the West Bank; the PLO representatives insisted on control of all sites, including the Jewish ones, and furthermore demanded the restitution, among others, of the Dead Sea Scrolls. (N.S. Silberman & D. Small (Eds.), 1997, p.45)

Understandably the Palestinians lost trust towards the Israeli nationalistic archaeologists. Israeli archaeologists (not all) have been harmful to early Palestinian remains and heritages. "The Waqf have at times expressed its alarm and reticence to research which would, in their view, weaken the hold of Islam on the Mount by the exposure of early non-Muslim remains" (G. Avni & J. Seligman, 2006). Rise of the IM in Jerusalem make matters complicated to the Israeli archaeology. The IM determine to protect holiness of the TMH in Islam and forbid any kind of activity to undermine roots of Islam at the TMH. The Israeli archaeologists perceive the Palestinians' perception as a serious threat to the Jewish heritages. Palestinians defend this measure as a counter strategy to safeguard their heritages after they lost many heritage sites to Israelis.

Palestinians perceive that some Israeli archaeologists (not all) have been an instrument of Israeli politicians and settler groups to strengthen the Jewish claim over the holy land. This perception has a valid

foundation. Numerous archaeological investigations have been conducted from 1967 until today, in violation of the 4th Geneva Convention of 1949 and Hague Convention of 1954, under the pretext of salvage excavations. Land has been confiscated from the Palestinian owners in the name of archaeology, because the antiquities law allows the state to expropriate land containing historical sites. Palestinians practiced moderation in their earlier approach towards all historical sites in Jerusalem. They accepted the Jewish narrative about history of the TMH in 1920 to 1950 but their attitude started to change since the Six Day War. Demolition of the Mughrabi Quarter to build a bigger Western Wall Plaza and confiscation of the Mughrabi Gate key in 1967 are still a nightmare to the Palestinians. Since then, Palestinians face more atrocities in the occupied territories. Palestinians have threatening fears over the Israeli archeology and practices in Jerusalem, for various reasons, such as;

- Israeli law on archaeology and the land. "The Israeli Antiquities Law of 1978 (Law 885), Chapter 8 reads as follows: An antiquity site whose expropriation is necessary, in his opinion, for the purposes of preservation or research...or to facilitate excavations therein" (Israel Ministry of Foreign Affairs, 1978). This law shows that Palestinian land can be confiscated at any time in the name of archaeology.
- There are allegations against Israeli archeologist that they concentrate on certain layers when excavating and neglect and destroy other layers. Ghattas Sayej reports that,

I have witnessed this pattern during my involvement at the 1993 and 1994 seasons of excavations at the site of Nabi Samuel, north of Jerusalem. In the northern part of the site, thick layers of almost 1000 years of Islamic remains were bulldozed in order to uncover the Crusader era stable area. In the southern part of the site, the same approach was applied. Substantial layers containing almost 2000 years of Islamic and Christian remains were bulldozed, in order to reach pre-Christian levels before the excavation's budget ran out. (G. J Sayej, 2010)

- Palestinians have fear over the right-wing Jewish settler group called as Elad. Elad controls most of archaeological excavations in the Old City. Elad has been gaining enormous support from the Israeli Prime Minister's office, the Municipality of Jerusalem and the IAA. Elad consolidated the Jewish settlement in Silwan in 1990s by acquisition of the Palestinian properties and by direct construction on open areas, with only a passing regard for archaeology. In mid 1990s, Elad obtained a contract to manage the City of David national Park. In addition to that Elad funded the IAA excavations in the City of David for 15 years. Elad is indeed the de facto planning authority for the Wadi Hilweh neighborhood of Silwan. Palestinians are doubting the Israeli archeology since archeological rules are being bended for different objectives. "Many rules of archeological engagement are being bent and broken in the effort to accommodate the clients-the funders and the settlers" (R. Greenberg, 2007).
- Palestinians have fear about Israeli archaeologists who focus on preserving the Jewish history and tradition. The Israeli archeologists use archeology as the evidence to prove rights of the Jews over the land. Land expropriation and confiscation through law make Palestinians to carry out counter-activities to erase archaeological evidences belongs to the pre-Islamic period.

"It is hardly surprising that local communities have begun to relate archaeology with occupation and land confiscation, and some members of these communities have started looting archaeological sites which might be associated with Jewish claims to the land" (Hamdan Taha, 2010).

In this process Palestinians accidentally erase or destroy their own heritages. This was done to protect their land and property from confiscation under the Israeli antiquities law.

- Palestinians have fear about Israel's policy over the historical sites, which can change at any time. The Palestinians' heritages are claim by Israel as Jewish heritages. This is clear in the Tomb of the Patriarchs issue in Hebron and the Rachel's Tomb in Bethlehem. In year 2010, Israeli Prime Minister Benjamin Netanyahu included Tomb of the Patriarchs and the Rachel's Tomb in the national heritage plan. This was done against the Oslo Agreement. The Oslo Accords placed Hebron and Bethlehem under control of the PA. Palestinians' fear is actual

that one day Israel would take over the TMH, the same way they done it in Hebron and Bethlehem.

Unfortunately, Palestinians have many shortcomings. They fail to safeguard their heritages because of many factors. They face many obstacles to strive in archaeology and could not excel like their Israeli counterpart. Palestinians' development in archaeology is very much later than the Israeli archaeology. In fact they are late when they learn how to handle the historical heritages. Palestinians' rights in archaeology are suppressed under the Israeli occupation. The Palestinian Authority (PA) established in 1994 and they designated to handle the Palestinian archaeology. This arrangement only exists on the document. The Oslo peace process failed to revive the Palestinians' rights over their heritages. In addition, awareness of the importance of the archaeological artefacts as the Palestinian cultural heritage or as the World heritage simply never developed because;

- Majority of the population could not see the importance of cultural heritage either as our shared human past or as a store of future and past national wealth.
- Infrastructure to support protection of the ancient sites are absent.
- Funding to support the rehabilitation of archaeological sites are scarce. (G. J. Sayej, 2010)

In the hostile environment of Palestine, the Palestinian archaeology wrestles to progress. Palestinians' focus is limited to tell archaeology, investigation of indigenous landscapes, medieval Islamic remains and cultural heritage. The Palestinian Department of Antiquities and Cultural Heritage (DACH) was established in 1994 during the Oslo Peace process. But the DACH has no operative power in Jerusalem. The DACH and other organizations suffered when Palestinian Intifada occurred in year 2000. Archaeological sites were affected badly from military bombing especially at the historical cities like Bethlehem and Hebron. The DACH faced troubles when Israel build the Separation Wall in the occupied territories. It is estimated that Israel control 4500 archaeological sites through the Separation Wall construction, inclusive of 500 major archaeological sites (Hamdan Taha, 2010). Obviously the West Bank Wall is a part of Israel's strategy to control the Palestinian population, so that Israel could confiscate more land.

In later years, Palestinian archaeologists become sceptical and critical about professional ethics of Israeli archaeology. They refuse to accept the Israeli interpretation of the Palestinian history. Khaled Nashef argues that "the History of Palestine for too long has been written by Christian and Israeli biblical archaeologists. Now he says, Palestinian them-selves must rewrite that history, beginning with archaeology recovery of the ancient Palestine" (W. G. Dever, 2006, p. 240). Furthermore, Palestinian archaeologists are under influence of the "Biblical Revisionists". Biblical Revisionists such as; Keith W. Whitelam and Thomas L. Thompson have deep impact over the Palestinian archaeology. Whitelam's book, *The Invention of Ancient Israel: The Silencing of Palestinian History* (1996), translated in Arabic and read widely by the Palestinian circle. So do Thompson's book, *The Mythic Past: Biblical Archaeology and the Myth of Israel* (1999). Palestinians' writings receive considerable influence from the Biblical Revisionists. Nashef's editorial in the *Journal of Palestinian Archaeology* (July 2000) entitled "The Debate on Ancient Israel: A Palestinian Perspective" is supportive of principles of the Biblical revisionists" (W. G. Dever, 2006, p. 240). This mold their perception towards the Israeli archaeology and the "denial syndrome" over the Israeli interpretation of the Palestinian history.

Israeli and the Palestinian archeologists are seeing their field in different dimensions because they grow up with different understanding about the archaeology. Both have dilemma about their profession when their works are influenced by politics and religion. They face three main dilemmas as archaeologists in the holy land. First is to act purely as an archaeologist with authentic historical facts, evidence and interpretation without prejudice. Second is to accommodate political aspiration of politicians and interest groups. And the third is to satisfy the religious groups on the validity of archaeological endeavor. This phenomena is getting very serious in the contemporary politics. Prof Raphael Greenberg asserts that "The issue is still far from being resolved, and it seems that a lot of ink and, regrettably, more blood too will be spilled before this issue is resolved satisfactorily" (S. Pollock & R. Berbeck (Eds.), 2005, p. 72).

Israeli law and archaeology in Jerusalem (1917-2014)

Law enforcement in archaeology does not solve tension between the two-people. For Palestinians, their first experience about law in Jerusalem holy sites cultivated under the Ottoman rule for 400 years (1517-

1917). The Ottomans practiced stricter rules against archaeological excavation at the TMH. According to the Ottoman Law, no excavations can be carried out in the TMH area except at the sides and the vicinity of the TMH. The Ottoman Law also prohibited the non-Muslims from entering the TMH. Archaeologists need to obtain special permission from the Waqf to excavate the sites of the TMH.

Since the Ottoman period, the Waqf is empowered to protect the Islamic holy places. When the British took over Jerusalem after the World War I on December 1917, the British Mandate adopted religious freedom as a policy which expressed by General Edmund Allenby. Palestinians started to develop fear about the status of the TMH when the Jewish immigration into Palestine was gradually increasing. They demanded the *status-quo* to be maintained at the TMH. The League of Nations ratified British obligation towards the holy places in Article 13 of the Mandate. International ratification failed to convince both people. They reluctant to consider ratification as a secured agreement at that time because Zionism and Arab nationalism were spreading throughout the holy land.

British maintained peace and order in the holy land by maintaining the *status-quo*. They created the Supreme Muslim Council and granted *de facto* control over the waqfs in Palestine. British also created the Grand Mufti position in Jerusalem to accommodate the voice of Arabs. Promise of law failed to stop the 1929 riots in Jerusalem which ended with a massacre. Arabs and Jews clashed for their rights of worship at the TMH. The International Commission on the Wailing Wall gave Jews access to the Wall with conditions that Jews allowed to pray at the Western Wall. This law failed to solve the Arab-Jews crisis over the TMH although it maintain order for the time being. However, the Arab Rebellion broke out in 1939 to bring more disasters to the Palestinians.

Israel passed new laws to protect the holy city and the holy places when Israel occupied Jerusalem through the 1967 war. These laws set a clear guidelines to archaeologists. The Israeli Knesset adopted Protection of Holy Places Law 5727 on 27th June 1967 (Israel Ministry of Foreign Affairs, 27 Jun 1967). A minister for Religious Affairs was appointed to be in charge of the law implementation. The ministry entrusted to make regulations with consent of Minister of Justice and representatives from various religious communities. Through this law, the Israeli government assured all communities that historical and cultural heritages are protected. The law stipulates three main applications;

1. The Holy places shall be protected from desecration and any other violations and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings with regard to those places,
2. Whosoever desecrated or otherwise violates a Holy Place shall be liable to imprisonment for a term of seven years, and
3. Whosoever does anything likely to violate the freedom of the access of the members of the different religions to the places sacred to them or their feelings with regard to those places shall be liable to imprisonment for a term of five years.

Archaeology in Israel and the occupied territories also placed under authority of the Basic Law, which was adopted by the Knesset on 30th July 1980. There is a clear clause on protection of holy places to strengthen the existing law. The Basic Law reads,

The Holy Places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings towards those places (Israel Ministry of Foreign Affairs, 30 July 1980).

In this regard, recognition for Abrahamic religions on the TMH further enhanced by the Israel Supreme Court decision (HG 4185/90) concerning religious and legal status of the TMH in Jerusalem on September 23, 1993 (Israel Supreme Court). Officially law on the holy places looks so ideal. In reality Israel never follow the law in archaeology. Israeli Law of Antiquities provides some details to understand the way archaeology really works in Jerusalem. Chapter two; State Ownership of Antiquities defines clearly that all antiquities discovered in Israel and the occupied territories are belongs to the state (Israel Antiquities Authority, 1978). Chapter eight; Expropriation in the law describes matters on expropriation where the Minister can expropriate an antiquity site (Israel Antiquities Authority, 1978). Expropriation of land is conducted in accordance with the Land Ordinance, 19433. This law is extremely dangerous to the Palestinians' land and property. Palestinians perceive expropriation law in the name of archaeology causes tremendous impact on them. They lost their land and property slowly to the state in the name archaeology. Israel's strategy is a smart strategy to occupy the Palestinians' land in the name of archaeology and by the

name of law. Israel also empowers settler organizations in Jerusalem. Palestinians' fear is getting worse with involvement of settler groups in archaeology, such as Elad in Jerusalem. Prof Raphael Greenberg asserts that,

As the time of writing, the IAA has completed nearly 15 years of continuous excavation in the city of David, virtually all of it requested and funded by El'ad, which has become the de facto planning authority for the Wadi Hilweh neighborhood of Silwan (R. Greenberg, 2007).

International Law and Archaeology in Jerusalem

The Arab-Jews crisis during the British Mandate period forced the British to withdraw from Palestine. They handed over the Palestine Mandate to the UN. The United Nations (UN) came up with the partition plan to resolve the crisis. The UN gave special attention to the status of Jerusalem in the Resolution 181, part III, in which the UN delivered its final plan about Jerusalem (United Nations General Assembly, 29 November 1947). The UN plan drew some guidelines to follow on the holy places, religious buildings and sites in Jerusalem. Accordingly, Jerusalem was established as a *corpus separatum* under a special international regime of the UN called as the Trusteeship Council. The Trusteeship Council supposedly responsible over the holy places. However, the UN plan failed to materialize and solve the crisis. Thereafter the Jewish leaders declared the formation of Israel and immediately the 1948 Arab-Israel War broke out. Jordan annexed the Eastern Jerusalem and Jerusalem city until 1967.

After the Six Day War in 1967, the Knesset passed the Protection of Holy Places Law 5727-1967, which ensures protection of the holy places and heritages. The Israeli government returned the TMH administration to the Waqf. This does not mean that ideal law was in force in Jerusalem. Law is misused by the state agencies in favor of state and non-state actors. The UN resolutions criticize, condemn Israeli act and Israeli Law enforcement in Jerusalem. All resolutions declared by the Security Council and the General Assembly refer to safety of holy places and Israeli occupation against the International law.

Israel is well known for non-compliance policy over the status of Jerusalem which was shown through the Protection of the Holy Places Law of 5727-1967 and the Basic Law in 1980. The Basic Law is the most critical law against the Palestinians. This law states that "Jerusalem, complete and united, is the capital of Israel (Sec.1), that is "the seat of the President of the state, the Knesset, the Government, and the Supreme Court" (Sec.2) (R. Lapidot, 2011). The Basic Law created widespread protest from Palestinians. With this law Israel declared solemn rights as the sovereign ruler of Jerusalem vis-à-vis international law. International law condemns Israel as an occupier but international law has no legal contract to bind Israel. International system still evolves around sovereign power of a state and there is no supreme power above the state. This explains the limitation of international law and institutions against the violating states.

In addition, Israel also added two sections in the Basic Law on Jerusalem in November 2000 (R. Lapidot, 2011). The section reads, transfer of any powers concerning Jerusalem and its 1967 boundaries requires the consent of a majority of the members of the Knesset (61). This law is a control mechanism over the Israeli prime ministers, to deter them from making any easy concessions to the Palestinians in peace talks without consulting the Knesset. This is another strategy Israel use to check its leaders. Israeli hawkish or the right wing leaders are cautious towards the dovish or the left wing leaders who favor peace settlement with the Palestinians. In this way Israel aim to control moderate leaders who can act like the former Prime Minister Yitzhak Rabin. Rabin was assassinated in 1995 for being moderate to the Palestinians in the Oslo Accord.

Israel's behaviour in archaeology shocked the Hashemite Kingdom of Jordan, which is a friendly Arab state to Israel. Israel and Jordan signed the 1994 Treaty of Peace and Israel agreed to recognize the special position of Jordan in the matter of the Islamic holy sites in Jerusalem. Jordan expressed its concern over safety of historical and cultural heritages in the Old City and the TMH. In 1980s, Jordan requested the UN to register the Old City and its walls under the World Heritage List, in the UNESCO Convention for the Protection of the World Cultural and Natural Heritage (1972). Through the UNESCO listing, monuments, buildings and sites that "are of outstanding universal value" and constitute a world heritage for whose protection it is the duty of the international community as a whole to cooperate" (M. J. Breger & O. Ahimier (Eds.), 2002, p. 231). The convention imposes obligation on Israel to avoid any urban or architectural transformation that might damage or destroy the historical, cultural or religious character of the Old Jerusalem.

In theory, Israel binds by Hague Convention for Protection of Cultural Property in the Event of Armed Conflict (UN Convention 1954) to protect historical buildings and historical centers, including those of a religious nature, against damage they might suffer as a result of military operations. In ideal manner, the UNESCO listing hopes to protect the Jewish heritages from the Palestinians and the Palestinian's heritages from the Jewish people. However, in reality the UNESCO Conventions do not protect Jerusalem and its heritages from archaeologists who act based on national inspiration rather than international obligation.

International institutions and international law are not a binding factor over Israel in archaeology. International law has clear precedence on archaeology. Michael Dumper discusses about UNESCO's seven conventions on the World Heritage (M. Dumper, 2014, p. 294) such as;

- The Hague 1907 Convention prohibits occupying powers from the destruction, pillage and theft of cultural property (The Hague 1907, articles 47 & 56).
- The fourth Geneva Convention (United Nations 1949) article 33 prohibits occupying powers from destroying all types of properties in the occupied territory, stating that 'in case of armed conflict, cultural objects must be respected and safeguarded from possible effects of war'.
- The Convention for the protection of Cultural Property in the Event of Armed Conflict (UNESCO 1954), Article 4(3) insists that contracting parties must prohibit, prevent and, if necessary, put a stop to, any form of theft, pillage or misappropriation, and any acts of vandalism directed against cultural property and to refrain from requisitioning movable cultural property.
- UNESCO's Recommendation on International principles applicable to archaeological excavations of 1956 stipulates that the occupying power must refrain from carrying out archaeological excavations in the occupied territory.
- UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (1970)-not ratified by Israel.

In 1990, a non-governmental organization ICOMOS (International Council on Monuments and Sites) published the Charter for the Protection and Management of the Archaeological Heritage ([emek shaveh, alt.arch.org/en/old-city/](http://emek.shaveh.alt.arch.org/en/old-city/)). This Charter contains values that should serve as guidelines for cultural heritage management. This is a consensus document recognized and respected by academics and professionals in the field of culture preservation all over the world. The ICOMOS in its evaluation insisted that Jerusalem's association with "the history of the three great monotheist religions", significant historical monuments, and testimonies of vanished civilizations when Jordan made the proposal to the UNESCO to include the Old City of Jerusalem and its Walls in the List of World Heritage in Danger. The ICOMOS supported the Jordanian proposal to the UNESCO on the ground to preserve the historical heritages in Jerusalem.

Unfortunately, UNESCO is dragged in the Israeli-Palestine conflict over archaeology. Relationship between the UNESCO and Israel began to suffer when Israel made counter proposal to the UNESCO in June 2000 to include Jerusalem-the Old City and Ramparts to include the Mount Zion. However the 2nd Intifada in September 2000 caused the World Heritage Committee to postpone Israel's proposal. UNESCO realize that Jerusalem need to be protected from political conflict to preserve the historical heritages after the 2nd Intifada. In spite of all efforts taken by the UNESCO in Jerusalem, conflict spurred again between Israel and the UNESCO in the Mughrabi Gate Bridge crisis in 2007 and Bethlehem in 2012. UNESCO is concern about the Israeli archaeological excavations and works in the Old City and on both sides of the walls, that is the Givati Parking Lot and other excavations that are carried out in Silwan.

"Politicization of Jerusalem's heritage" affected efficiency of the UNESCO in Jerusalem. Israel and the PA perceived UNESCO functions against their interest in Jerusalem. UNESCO's intervention has limitation in the Israeli-Palestinian Conflict. Conflict is in fact limiting its capability to enforce international law over Israel and the Palestinians. When the UNESCO added Jerusalem's Old City and walls to the World Heritage List (WHL) in 1981, Israel refused to endorse the World Heritage Convention (WHC). Israel protested that Jordan as the nominator is not the responsible power to do suggestion (C. Larkin & M. Dumper, 2009). This dispute led to growing alienation between the UNESCO and its main funder, the United States. Since the 2nd Intifada, relationship improved between Israel and UNESCO when the UNESCO attempted to involve all parties in disputes resolution and maintain good relationship with Israel. Israel and UNESCO signed the Memorandum of Understanding on Cooperation recognizing and acknowledging existing partnerships and heritage commitments. This phenomena shows that UNESCO has limited power and controlled by the big powers like the U.S. UNESCO depends on the contribution of fund from the big powers to run the

organization. In this context, “special relationship” between US and Israel is limiting the power of the UNESCO.

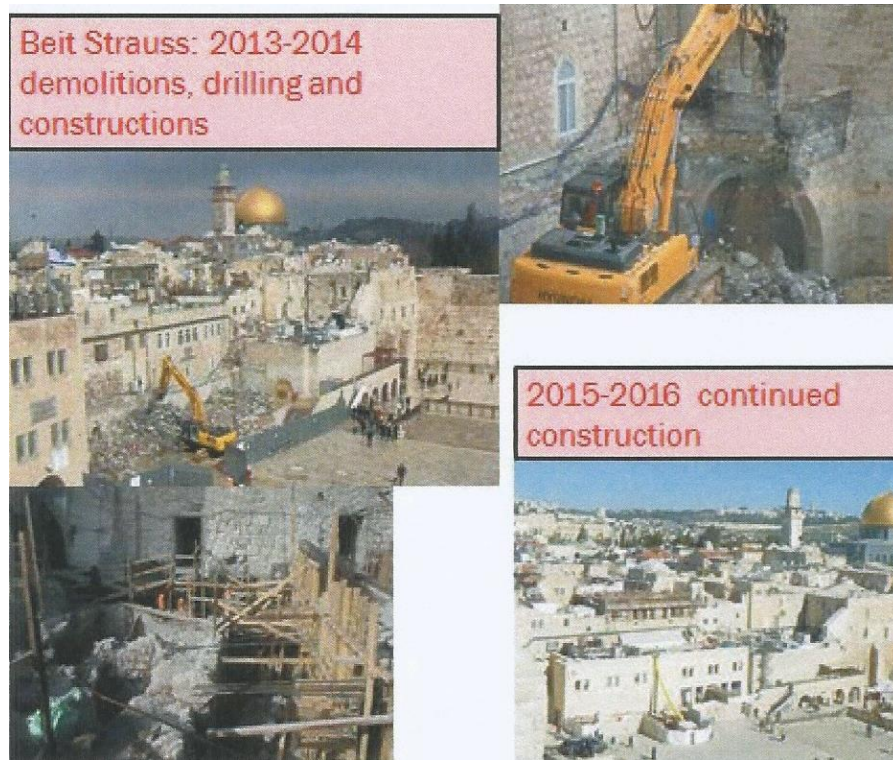


Fig. 3: Picture shows Beit Strauss project at the Haram al-Sharif (Source: Jordan and the State of Palestine Status Report 2016)

In this hostile environment, Palestinians only trust two principles regarding the TMH; 1) there is no need for archaeological and historical research at the site to provide additional proof of the Muslim hegemony, 2) exposure of early remains on the Haram could undercut exclusive Muslim control. Palestinians activities on the TMH caused serious reaction from the Jewish fundamentalist who are constantly fighting for the Jewish rights over the TMH. They place pressure on the Israeli government through the MKs in the Knesset, pressing for stricter law to safeguard the Jewish heritages at the TMH. Israel has obligation to respect the 1994 peace treaty with Jordan. In addition, Israel need to consider peace process with the Palestinians, international mediation headed by the US, and international community at the United Nations. In most circumstances, Israel places national interest above any other factors and they show non-compliance to international law. History and heritages are strong fundamental factors behind Israel's claim over Jerusalem. Israel uses force as a strategy to annex Jerusalem in 1967. By theory Israel achieved its objective. In fact International condemnation against Israel motivated Israel to implement other strategies to consolidate Jerusalem within its borders since 1967. Israel demonstrates perseverance in implementing strategy to consolidate Jerusalem.

Israel unilaterally declared Jerusalem as the capital city of Israel in 1980. However all foreign consuls are stationed in Tel Aviv. European Union supports the *corpus separatum* status for Jerusalem. The Holy See of the Vatican prefers Jerusalem to be maintained as an international city under the UN. The U.S. the closest ally of Israel in the Middle East maintained its embassy in Tel Aviv although international system is well verse with “special relationship” between U.S. and Israel. The American Jewish lobbies and Congressmen worked hard to influence the U.S. policy on the Jerusalem issue. Prior to President Trump, the US administration follows consistent foreign policy that status of Jerusalem is *corpus separatum*. Under President Trump, there is a dramatic twist in the U.S. Jerusalem policy. U.S. officially recognized Jerusalem as the capital city of Israel in December 2017 and moved its Embassy from Tel Aviv to Jerusalem on May 2018. Undeniably Israel's strategy to consolidate Jerusalem become easier with the U.S. recognition. In the current political condition Palestinians lost Jerusalem as the capital city of their future state. Moreover, President Trump delivered the “Deal of the Century” to force the Palestinians to accept the U.S. made peace

deal with Israel. In this deal, President Trump reconfirmed that Jerusalem will remain undivided and Israel has sovereignty over Jerusalem.

Conclusion

There is no international regime in Jerusalem to manage and administer archaeological activities except of UNESCO, which has limited control over Israel. International law or international agreements are not binding factors in archaeology. Archaeologists influence by their own roots, state politics and nationalism. They utilize archaeology to frame national image for their people and state. "Politicization of archaeology" in Jerusalem is more obvious than any other place in the world. Israel's strategy through archaeology to consolidate Jerusalem within its borders, supported by all state and non-state actors as a patriotic project.

Rashid Khalidi asserts,

Indeed, it is in and over Jerusalem, which has such great significance to so many people in so many different ways that the contrasting narratives regarding Palestine came most bitterly into conflict. It is in Jerusalem as well that one sees the most extreme instances of the various local parties attempt to assert physical control over the country, and to obtain validation of their conflicting claims to the space they share (Rashid Khalidi, 1997, pp. 13-14).

Israel's strategy through archaeology is slow, systematic, full of perseverance, with secrecy, and without definite time frame. Gradually, Israel is winning the "non-military battle" in Jerusalem with help of the nationalistic archaeologists. Many historical sites are transformed as historical parks to deter the Palestinians' claim. At the same time Palestinians' land and properties are confiscated to remove the Palestinian identity in Jerusalem. Archaeology functions as an "instrument of policy" to Israel to achieve its prime national interest that is occupying the whole land of Palestine. Therefore, archaeology in Jerusalem will remain as a contagious issue to jeopardize the peace process, regional stability and security in the Middle East.

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