



**State of Israel
Ministry of Justice**

The Legal Counseling and Legislation Department (International Law)

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Access and Protection of Holy Sites

Introduction

Israel views the protection of holy sites for all religions as a matter of utmost importance. As will be further elaborated upon below, Israeli law requires that holy sites be respected, and Israeli authorities are aware of the sensitivity associated with these sites, particularly in times of mounting tensions between communities or groups of individuals. In a country where the holiest sites of different religions are located in very close proximity to one another, the challenge that Israeli authorities are faced with is to protect all holy sites equally and to enable freedom of access without discrimination, while maintaining peace and public order to defuse any tensions that might arise. The challenge is a daunting one, and efforts are continuously being made to strike the proper balance.

Legislation

Israeli law grants freedom of worship and provides for the safekeeping of and access to holy places to members of all faiths.

The *Protection of Holy Places Law* 5727-1967 prohibits (1) the desecration or other violation of any holy site and (2) the infringement of the freedom of access of the members of the different religions, to holy sites sacred to them or their feelings with regard to those sites. These offenses are punishable by imprisonment for seven and five years, respectively.

Furthermore, Section 170 of the *Penal Law* 5737-1977 provides that the demolition, damaging or desecration of a holy place, or any object sacred to members of a religion,

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with the intent of deriding their religion or with the knowledge that they might perceive it as such, is punishable by three years imprisonment. In addition, Section 171 provides that the act of maliciously disturbing a gathering of persons lawfully assembled for religious worship, or of maliciously assaulting a person who officiates at such a gathering or one of the participants, without lawful justification or reasoning, is punishable by three years imprisonment.

Protection Measures for Holy Sites

The State of Israel actively works to ensure the protection and preservation of all holy sites and free access thereto without any discrimination, while empowering the various religious communities to manage their holy sites in the manner that they see fit. As such, absent overarching security concerns, these communities are responsible for the day-to-day management of holy sites.

The Department for Non-Jewish Communities in the Ministry of Interior regularly conducts discussions with representatives of the different religious communities regarding preparations and arrangements for religious events, in order to maintain and enhance the accessibility of the holy sites.

Given the particular sensitivity of the Temple Mount, the Western Wall and the Church of the Holy Sepulcher, a special police unit is assigned to these sites. In extenuating circumstances, based on specific intelligence reports, the Israel Police may, consistent with its duty to protect holy sites and maintain public order, find it necessary to temporarily restrict access to certain holy places.

The Temple Mount

The State of Israel respects the Waqf's management over the Temple Mount area (also referred to by the Jewish community as Har HaBayit and by the Muslim community as the Haram ash-Sharif), Islam's third holiest site. As a general rule, Israeli authorities do not interfere with the Waqf's activities and impose no access restrictions on Muslims wishing to enter the Temple Mount for prayers, so long as they entered Israel legally. However, when there is a high level of risk to public peace and order, based on intelligence information and security assessments, the Police may limit access to

prayers based on age, again for the sole purpose of protecting the site and maintaining public order. The decision to take such a measure is never taken lightly, and is weighed carefully in consideration of all the circumstances. This practice has proven to be efficient in preventing violent events. Note that even when such restrictions apply, the general access to the site continues and the worshippers' right to practice their faith is preserved.

Residents of the West Bank who do not have entry visas or permits are not allowed to access Israel nor its holy sites. Nevertheless, Israel allows Muslims from the West Bank who do hold permits, to pray in the Temple Mount area, and tens of thousands enter each year to practice their faith through the a gate monitored by the Waqf.

It should be noted that the Temple Mount, as the historic location of the First and Second Jewish Temples that stood there thousands of years ago, is the holiest site in the Jewish religion. Despite this, Jewish worshipers are excluded from praying in the Temple Mount in spite of the site's great importance in the Jewish faith for a range of religious and practical reasons.

Data regarding access to the Temple Mount during 2014

In 2014, 235,637 tourists and 11, 754 Israelis entered the Temple Mount through the Mugrabi Gate. Of these, 7,483 tourists and 1,386 Israelis visited the Temple Mount during the months of June and July, despite the fact that Israel was engaged in a military operation against terrorist infrastructures in Gaza and the West Bank.

It should be noted in this context that the Temple Mount remained open and accessible during the greater part of June and July 2014 despite incessant rocket attacks on Israel from the Gaza Strip and the outbreak of numerous violent riots in several locations including in the Temple Mount area.

Indeed, throughout the entire year of 2014, age based restrictions were imposed 41 times, of which only seven during the months of June and July and only four during the month of Ramadan.

In 2014, the Temple Mount was closed 24 times due to violent demonstrations and riots, with six of those closures occurring during June and July. Note that in 2014, the

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Police were forced to enter the Temple Mount 15 times due to the outbreak of violence and riots, including twice during the months of June and July.