



Balasan Initiative
for Human Rights



**Religious Tourism in the Occupied Palestinian Territory:
Monopoly, Exclusion
& Entrenchment of Israel's Annexation**





Religious Tourism in the Occupied Palestinian Territory:

Monopoly, Exclusion & Entrenchment of Israel's Annexation

Authors: **Adv. Dalia Qumsieh & Mr. Xavier Abu Eid**

Editor: **Mr. Jonathan Pope**

Photo Credits: **Mr. Afif Amireh**

*The Balasan Initiative wishes to thank Caritas Spain
for their valuable support in this report.*

Balasan Initiative © December 2021

Email: **balasan.initiative@gmail.com**
www.balasan.org

*Balasan is the Arabic word (found also in the Holy Bible) for a tree that has existed in Palestine for thousands of years, which leaves were used to extract a healing balm to cure wounds and illnesses. The name is inspired by the vision that the respect for human rights and justice are a cure needed to end violations and suffering, and restore the humanity and dignity of all people.

Table of Contents

Introduction

I - Background

II - Israeli Policies Governing the Religious Tourism Sector: Monopoly & Exclusion

1. Monopoly over All Aspects of the Tourism Sector

- a. Borders, Crossing Points & Visas
- b. Tourism Operators & Tour Guides
- c. Accommodation & Hospitality
- d. Transportation
- e. Entertainment

2. “Settlement Tourism”

3. Biblical Archaeology as a Tool of Dispossession & Annexation

III - Domestic & International Stakeholders of the Tourism Sector

1. Domestic & International Churches

- a. Christian Pilgrims
 - b. Domestic Churches
- ### **2. Palestinian Authority**
- ### **3. Businesses**

IV- Impacts

- 1. Palestinian Land Access & Movement
- 2. Palestinian Economy & Development
- 3. Palestinian Cultural & Religious Narratives

V - Legal Analysis

VI - Recommendations & Conclusions

Introduction

With its key religious significance, Palestine has always been a centre of religious pilgrimage and attraction. Over the years, it has also become an important tourist destination. While religious sites remain Palestine's main tourist attractions, world cultural heritage sites such as the Dead Sea and the Old City Walls remain significant tourist attractions.

Until the Covid-19 Pandemic hit the world in early 2020, Palestine has welcomed every year millions of visitors from all over the world, and is considered to be one of the primary global Christian pilgrimage destinations, due to the richness of its historical, religious, and cultural heritage sites and attractions. However, behind this ancient pilgrimage to the "Holy Land", hides a reality that most visitors and pilgrims are not aware of – the exploitation of religious tourism by Israel as Palestine's Occupying Power, in order to normalise its illegal annexation of the occupied Palestinian territories ("oPt"), while seizing Palestinian resources, entrenching its territorial control, and destroying Palestine's development and potential, above all through the monopolistic control by Israel over the tourism industry.

This report seeks to highlight and analyse the current policies that govern the religious tourism sector in Palestine, including the methods by which Israel imposes its exclusive control over the sector, and to give a thorough review of the features of this monopoly. The report also aims to study the impacts of such policies on human rights, economy, and development in Palestine, with a special focus on aspects impacting Palestinian Christians and Christian religious heritage sites.

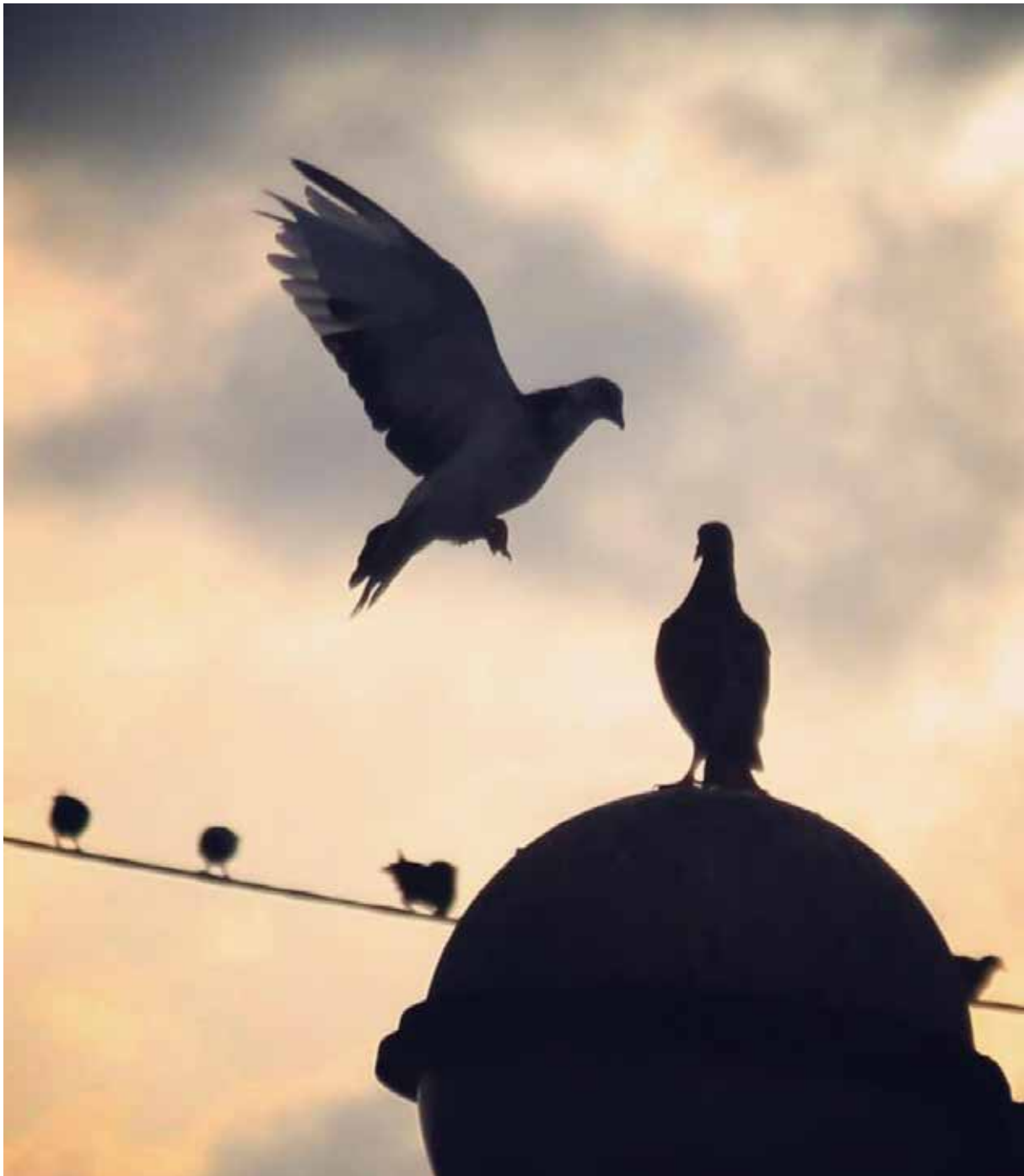
Moreover, by studying current tourism and pilgrimage trends, the report will shed light on how Christian pilgrims, often unknowingly, contribute to the normalisation and entrenchment of Israel's occupation of the oPt, and, on the other hand, promote Israel's exclusive narrative over the Holy Land, resulting in the elimination of Palestinian narratives, including Palestinian Christian narratives that date back to the very beginnings of Christianity.

This report will demonstrate how Israel's monopoly over the tourism industry has significantly marginalised several important touristic and archaeological sites in the oPt, despite their rich history and significant religious importance. After assessing the applicability of the rules of international law in the oPt, the report will analyse the impugned policies and practices in light of international law, and examine whether or not these policies and practices are in conformity.

Finally, this report will provide a set of recommendations to different decision makers and stakeholders to convert the current realities, under which pilgrimage is exploited through a system which contributes to the oppression of Palestinians, into a tool for justice instead. Accordingly, this report presents an overview of such policies and practices while presenting several recommendations for governments, churches, individual visitors, and other stakeholders.

I- Background

In 1967, Israel occupied the remainder of historic Palestine after the 1948 Nakba, extending its military rule to the West Bank, including Jerusalem, and the Gaza Strip. These occupied areas include some of the most important sites in the world for Christian pilgrimage, including Bethlehem, Jericho, Nablus, and the Old City of Jerusalem. Since its outset, Israel's occupation engendered full Israeli control over all border crossings, and the closure of civil aviation of the Palestinian Jerusalem (Qalandia) Airport. It also led to the end of Arab pilgrimage to Palestine, which had made up a considerable percentage of the visitors Palestine received, including pilgrims and visitors from Syria, Iraq, Lebanon, Egypt and Kuwait, among others.



II– Israeli Policies Governing the Religious Tourism Sector: Monopoly and Exclusion

Taking advantage of its effectively exclusive control over all elements related to religious tourism and pilgrimage in Palestine, Israel's tourism policies and practices have always sought to normalise Israel's annexation of the occupied territories and perpetuate its control over the land and its inhabitants. Moreover, the policies imposed by Israel in the oPt have deliberately sought to detach Palestinians from their land and history. While Israeli policies on religious tourism impose a heavy toll on a wide set of Palestinian rights, as this report will demonstrate, Israel itself greatly benefits from the ever-increasing economic profits derived its occupation of Palestinian lands and the exploitation of its rich resources and heritage.

1. Monopoly over all Aspects of the Tourism Sector

Tourism, and the main services that comprise it, such as accommodation and hospitality, entertainment, transportation, and travel services are dominated by the Israeli tourism industry's monopolisation. In contradiction to international law, Israel extends its sovereignty over the West Bank¹ and intentionally hinders the development of the Palestinian tourism industry through, inter alia, controlling permits, entry, and movement, imposing its own narratives, and excluding Palestinian businesses from commercial opportunities.

a. Borders, Crossing Points & Visas

Israel exercises control over all border crossings belonging to the State of Palestine. Even the rather cosmetic arrangements included in the Oslo Agreement (such as the presence of Palestinian customs officers at the Karama/Allenby Bridge) or the possibility for the Palestinian government to issue visitation permits have not been respected by Israel.

As for airports, Palestine currently has no functioning airports, and Palestinians wishing to travel to or from Palestine have to go through Queen Alia International Airport in Jordan, which is a much lengthier and costlier mean of international travel than through Israel's Ben Gurion International Airport, for example. The only airport to have been operated by Palestine is the Yasser Arafat International Airport in Gaza, which was built in the aftermath of the Oslo Accords and started operating in the year 1998. However, following the eruption of the second intifada, Israel destroyed the airport three years later, in 2001, and it remains as chunks of rubble today. Israel has plans to turn the Jerusalem Airport (Qalandia) - which it took over after the War in 1967 and annexed several years later - into a large new illegal-settlement.² Gaza's seaport is neither accessible nor functional, due to Israel's illegal³ blockade of the Strip since 2007.

1 See Jean S. Pictet, Commentary: The Geneva Convention Relative to the Protection of Civilian Persons in the Times of War 275 (1958).

2 Al Monitor Palestinians to lose only airport in Jerusalem to Israeli settlements - Al-Monitor: the Pulse of the Middle East (al-monitor.com). Last accessed on March 13, 2021.

3 "How can Israel's blockade of Gaza be legal? – UN independent experts on the 'Palmer Report'",

Accordingly, with Israel's full control over Palestinian border crossings, in addition to its control over the Palestinian population registry, it becomes necessary to gain Israeli permission before accessing Palestine.⁴ This system of absolute control applies to both Palestinian citizens themselves leaving or returning to Palestine, and foreigners wishing to visit Palestine.

The permit system interferes with and restricts day-to-day tasks of Palestinian civilians such as their freedom of movement, travel, and their ability to work, effectively controlling every aspect of Palestinians' lives, which also extends to other sectors as a result. Thus, the Israeli permit system runs deeper than controlling just Palestinians' lives, by managing and restricting incoming tourists' and pilgrims' flow in and out of the oPt. Within this industry, Israel holds a monopoly over visas, tour guide permits, and tour agency licensing.



With regard to visas, tourists are also subjected to arbitrary policies, where Israel exercises effective sovereignty by controlling all immigration/tourism entries into the oPt. If a pilgrim is suspected of denouncing Israel on social media or through public statements, or expressing support for Palestinian rights, Israel claims the right to deny that pilgrim or visitor from entry using a policy formalised by the Israeli Ministry of Strategic Affairs, currently headed by Israel's ambassador to the US, Gilad Erdan,⁵ who has been criticised by many human rights groups, including denunciations by Church-affiliated groups such as the World Council of Churches.⁶

13 September 2011

4 While Gaza could be an exception, it remains under complete Israeli siege of its land, sea and airspace. Even if access was granted into Gaza from Egypt, it would still be required to receive an Israeli permit in order to cross into the West Bank, including East Jerusalem.

5 Haaretz (25 July 2017) "These four things will get you barred from entering Israel under its new BDS travel ban" - Israel News - Haaretz.com. Last accessed on March 13, 2021.

6 The Economist (12 March 2017) The other travel ban - The World Council of Churches clashes with Israel over a ban on boycotters | Erasmus | The Economist. Last accessed on March 13, 2021.

In line with its policy of restricting access to Palestine, Israel routinely denies access to tourists of Arab or Palestinian background, even if they carry Western passports. The US State Department includes as part of their travel advisory: “[a]ll persons seeking to enter or depart Israel, the West Bank, or Gaza are subject to immigration and security screening, possibly including prolonged questioning and physical searches, and may be denied entry or exit... [s]ome U.S. citizens of Arab or Muslim heritage (including Palestinian-Americans) have experienced significant difficulties and unequal and occasionally hostile treatment at Israel’s borders and checkpoints”.⁷

b. Tourism Operators & Tour Guides

A crucial element in ensuring Israel’s control over tourism in Palestine is controlling the narrative that is presented through tour guides, exercised via access and licence controls. There is no access for Palestinian tour guides in Israel, aside from a select number of individuals who were approved at the time of signing the Paris Protocols (approximately 40), and limited licences are granted to Palestinians from occupied East Jerusalem.

Before a tour guide is awarded a tour licence to work in both Israel and Palestine, they must go through a process designed to master the official history and narratives of Israel by enrolling in a tourism school. The curriculum is centred on narrating a connection between modern Israel and biblical Israel, making it seem like there has been a continuity of presence, and a genealogy for that matter, in Palestine throughout Jewish history, all while undermining the narratives and claims of other indigenous populations, such as Palestinian Christians and Muslims. Throughout the courses and training of prospective tour guides, students are reminded that they are the future ambassadors of Israel and must treat the information they receive with care.⁸ After the completion of the academic section, the Israeli Tourism Ministry examines candidates, who must pass certain tests before a tour-guiding licence is issued. Like its schools’ curriculum, the exam is centred on biased and distorted Israeli narratives.

Tour guides who deviate from the official Israeli narrative are not only at risk of losing their licences, but also jeopardise the tour agencies that employ them, who risk losing their permit to operate within Israel and Palestine. For Palestinian tour guides licenced by Israel, it is particularly peculiar as they must avoid making political remarks regarding their communities’ plight, and even avoid answering when asked questions about Palestinians. Instead, they stick to Israel’s dictated discourse in hopes of keeping their jobs. In some instances, Palestinian tour guides with guide licences issued by the Palestinian Authority are contracted by Israeli companies to bring visitors into Area A, for example when visiting Bethlehem, however, due to the precarity of this work, Palestinian tour guides avoid speaking about topics of a political nature, for fear that they will not be contracted again in the future.

⁷ US State Department Israel, the West Bank, and Gaza International Travel Information (state.gov). Last accessed on March 14, 2021.

⁸ Several Interviews with Palestinian tour guides from occupied East Jerusalem.

Although the Paris Protocol's⁹ stipulations require equal treatment between Palestinian and Israeli tour guides, including access to both territories, Israel has unilaterally and selectively disregarded the agreement and limits Palestinian tour guides from operating at full capacity. For instance, some Palestinian tour guides cannot even access Occupied East Jerusalem and hold tours. By contrast, Israeli tour guides operate in Palestine effectively without any restrictions. In addition, the Israeli tourism industry frequently misleadingly advertises Palestinian cities as Israeli cities and offers tours in those same cities without any reference to Palestine.

Restrictions on movement and licencing, requirements for self-censorship and difficulties in competing with more established Israeli tour companies, among other reasons, have resulted in a decrease in the number of Palestinian tour guides who received a tour guide licence from the Palestinian Authority since the year 2000, despite an increasing number of incoming tourists and pilgrims. The Palestinian tour guides which still operate are limited in several ways, with the most restrictive measures affecting freedom of movement between both sides of the Green Line, development of sites and construction and renovation of hotels, and the development of other tourism related infrastructure.

c. Accommodation & Hospitality

Palestinian accommodation and hospitality services, along with the food and beverages services, experience considerable disadvantages compared to the same services as provided by Israeli providers. Despite the fact that these services are relatively inexpensive when compared with Israel's prices, Israel maintains a competitive advantage over Palestinian providers as Israeli controlled tourism agencies steer potential customers away from Palestinian services, instead directing them to Israeli businesses.¹⁰

The majority of religiously motivated visitors are one-day excursionists to the oPt. This means that Palestinian hotels lose out, given that these visitors prefer, or are advised to stay overnight in Israel. For instance, in the case of Bethlehem, which is generally placed on one of the last days of Israeli-designed tour itineraries, some groups of religious excursionists visit the Church of the Nativity and then are rushed out of manger square without having any major interaction with Palestinians. Such one-day visitors may get to visit three places during their visit to Bethlehem: the Nativity Church, the Shepherds Field, and a Souvenir store that will end up paying a high commission to the Israeli tour operator.¹¹

This practice has caused many hotels and restaurants to close down, as is clearly evident in East Jerusalem, where the number of hotels has decreased since 1967, and fell sharply again after 2005. Moreover, due to Israel's exclusive control over Area C,¹² Palestinians are, in practice, prohibited from freely building any hotels

9 Also known as the Protocols for Economic Relations, signed between the PLO and Israel in 1994.

10 Interviews with Palestinian businesspeople.

11 Id.

12 Areas C: As a result of the Oslo Accords signed between the PLO and Israel in 1993, the oPt

or tourist attractions in over sixty percent of their land, due to their obligation to seek planning approval from Israeli authorities – nearly impossible to attain, as notably, such applications are almost always rejected. For example, in 2014, only one Palestinian application for planning permission in Area C was approved.¹³ As stated by the United Nations Office for the Coordination of Humanitarian Affairs, “the restrictive planning regime applied by Israeli authorities in Area C ... makes it virtually impossible for Palestinians to obtain permission to build”.¹⁴ This seriously affects their abilities to market and draw tourists to the sites of religious and historical significance contained in these vast swathes of land. Palestinian hotels are therefore normally limited to the heavily urbanised Area A, which in theory falls under Palestinian jurisdiction, despite frequent incursions by the Israeli Forces.



With the current Israeli monopoly in place, there are few incentives for Palestinians to develop new touristic infrastructure across the oPt, given that such high-cost investments will inevitably be risky and dependent on the whims of Israeli authorities. This is compounded by the tendency of Israeli tourism agencies to steer commerce away from Palestinians and towards businesses which are sympathetic to or in cooperation with the occupation, or those who simply do what they must to survive. Such factors weaken the ability of Palestinian service providers to compete in offering affordable services to pilgrims and religious excursionists.

was divided in 3 main Areas (A, B and C). Israel retains exclusive control over Area C, which constitutes over 60% of the West Bank.

13 Figures as reported by Ma'an available at <https://www.maannews.com/Content.aspx?id=765222>.

14 "Displacement and insecurity in Area C of the West Bank", OCHA, August 2011.

In addition, Israel's monopoly over tourism is a major factor preventing visits to various Christian shrines and communities all over the oPt, severely affecting the historic ties and connection between those sites and the faithful with the global church due to its selective route planning. For example, historic communities such as Burqin (where the miracle of the ten lepers took place), Aboud (Saint Barbara), and even large cities such as Nablus (Jacob's Well) are left outside regular pilgrimage routes. As a result, such places have no incentives to develop any touristic facilities, creating a self-perpetuating cycle of disenfranchisement. A change in this pattern would represent a tremendous boost in the life of those communities, both economically and spiritually.

15

d. Transportation

Palestinians working in transportation and travel services are at a real disadvantage, both politically and economically. To start with, Palestinians do not have an operational airport. As previously explained, the Yasser Arafat International Airport in Gaza was destroyed by Israel during the second Intifada, and Qalandia airport was taken over after the 1967 War. The only port into Palestine is either through Ben Gurion International Airport in Tel Aviv or the King Hussein Bridge, both controlled by Israel.

One key disadvantage imposed by Israel on Palestinian transportation and travel service providers is its limitation/ restriction of access for Palestinian drivers. Before the second Intifada, according to the terms of the Paris Protocol, Palestinian tour agencies had limited freedom to access areas outside of the oPt. This allowed Palestinian transport service providers the opportunity to pick up pilgrims from the airport, drop them off at Palestinian hotels, and even operate tours throughout historic Palestine. Today, with Israeli restrictions on movement and its system of checkpoints extending all over the oPt, Palestinian tour agencies who wish to pick up pilgrims from the airport need to coordinate with an Israeli company, which significantly reduces their profit.

Moreover, buses with Palestinian plates are prohibited from traveling outside the areas under Palestinian control, including occupied East Jerusalem. Not only does this complicate the coordination process, but it also adds unnecessary and burdensome costs to Palestinian agencies. In fact, many Palestinian tour agencies and bus operators have gone bankrupt due to such obstacles to movement since the second Intifada.

Tour agencies and bus operators are not the only providers negatively affected by this policy. Palestinian car rental companies also have to deal with the issue of Israel's arbitrary control of "borders". Individual pilgrims who wish to rent a car in Israel are fined a hefty sum if they cross into the oPt. If they rent a car from Palestinian companies in the occupied West Bank, they are prohibited from traveling into occupied Jerusalem or Israel. This makes travel between Israel and Palestine extremely complicated and time-consuming. As a result, many individual pilgrims and visitors choose an Israeli agency to have a more "pleasant" experience, without the hassle of having to pass through Israel's checkpoints.

15 Interviews with Parish priests of Aboud, Zababdeh and Bir Zeit, January – March 2021.

e. Entertainment

Historical and agricultural sites, along with shopping centres, fall under the rubric of entertainment services. Here too, Palestinians are at a great disadvantage. Even though the majority of the most important sites relevant for Christian pilgrims are situated inside the oPt, Palestinians see little revenue from these sites. Israel sets entry prices and collects the fees for such sites inside the oPt for its exclusive benefit. Two prominent Israeli controlled examples are Herodion and the Baptism site (Al Maghtas), both of which are located in the oPt.

Furthermore, there have been several documented cases where pilgrims have been discouraged by Israeli tour guides from shopping at Palestinian souvenir shops, their having instilled a xenophobic and racist fear that Palestinians are dangerous and untrustworthy. Instead, tourists are told to shop at their hotels, or at souvenir shops picked and chosen by the tour guide. Avoiding Palestinians altogether goes along with the more significant objective of Israel's narrative - depicting Palestinians as non-existent. The most affected from this policy are small shop-owners, some of them carriers of a familiar tradition in the olive wood and mother of pearl businesses.



2. “Settlement Tourism”

Despite Israeli settlements inside the oPt constituting serious violations of international law amounting to war crimes,¹⁶ and their systematic violation of a wide set of Palestinian human rights as stipulated under international law,¹⁷ they continue to grow unabated and with direct official Israeli support and sponsorship.

For economic, political, and ideological objectives, Israel maintains a policy of developing tourism in settlements built illegally inside the oPt, including inside occupied East Jerusalem and Area C of the West Bank.

Economically, the Israeli government’s support for settlements exceeds the subsidies and incentive packages provided to settler population to encourage an artificial growth of Israeli Jewish demography in the oPt and control occupied Palestinian lands, to include considerable financial resources dedicated to the development of the “settlement tourism” sector, which has increased over the past number of years. For instance, in 2010 Israel allocated in \$10 million USD to develop infrastructure for tourism sites inside the oPt (13 in Occupied East Jerusalem and 30 in the West Bank) that “reflect the national heritage of the Jewish people”.¹⁸ Inevitably, despite this substantial investment in touristic sites in the oPt, the Palestinian people have seen no material benefit. Indeed, this investment has had the effect of exasperating their dispossession and disconnection from their own cultural and religious heritage. Moreover, Palestinian Christians are among the worst affected by this, as their religious and historic sites are among the most popular for exploitation by Israeli tour operators.

Another example of this is Israel’s plan to develop infrastructure for tourism sites inside Occupied East Jerusalem, with its announcement in May 2018 on the allocation of \$13 million USD for excavations at the City of David, a settler-managed archaeological site in the Palestinian neighbourhood of Silwan, in East Jerusalem, whose exploitation has come at the expense of Palestinian families who are at risk of forced eviction in order to facilitate excavation and tourism.¹⁹ Indeed, a spokesperson for the Elad Foundation, the organisation which is overseeing the excavation, stated that their aim was to “Judaize” Jerusalem.²⁰ In the same month, an additional \$54 million USD was designated for a cable car project that will connect the visitors’ centre at the City of David to West Jerusalem.²¹ In 2016, the Prime Minister’s Office also announced subsidies for the “establishment, conversion and expansion” of hotels, B&Bs and guest rooms in settlements in the West Bank”.²²

Such official Israeli investment and sponsorship in tourism activities and infrastructure in and around settlements comes with an increasing number of visitors, with Israeli guidebooks listing hundreds of tourism sites and services in

16 Article 8(b)(viii) Rome Statute of the International Criminal Court.

17 See Section V below.

18 Amnesty International: “Destination Occupation: The Tourism Industry of Settlements”. Last accessed: March 14, 2021.

19 Id.

20 Id.

21 Id.

22 Id.



these areas. Two of the most visited sites by incoming visitors to Israel are the Old City of Jerusalem and the Dead Sea, both often misleadingly labelled as being in Israel.

As for Area C settlement tourism, despite the lack of official governmental data, it is estimated that hundreds of thousands of tourists visit Israeli settlements in Area C of the oPt, consuming tourist services there. For example, the Yesha Council, an umbrella body for Israeli settlement municipal councils, stated that, during the Passover holiday in 2018, some 300,000 people visited various “tourist sites, routes, museums, festivals, wineries and archaeological sites”.²³

Israel possesses ideological objectives behind “settlement tourism”; such sites are used to propagate an exclusive version of biblical Jewish history, and an “eternal belonging” in occupied Palestine. “Settlement tourism” serves in stressing the link between settlements inside the oPt and Jewish history of the land of “Judea and Samaria”, the name that Israel gives to the occupied West Bank, where Israel misleadingly markets settlements as Israel proper. Besides the fact that propagating “settlement tourism” is in and of itself a legal violation due to the effect it has on perpetuating the occupation and violating Palestinians’ right to self-determination, it is also an ethical deceit of foreign visitors who are usually not aware that they are in fact visiting sites on occupied territory and contributing to the occupation’s profit thereof.

²³ Id.

3. Biblical Archaeology as a Tool of Dispossession & Annexation

Since the outset of Israel's occupation, archaeology has been used as a tool to lay out colonial territorial claims of occupied Palestinian lands, seeking to secure a misrepresented historical version of continued, uninterrupted Jewish presence in the land of Palestine. Indeed, Israeli archaeological policy is deeply embedded in the Israeli nationalist project. Israeli archaeology is mainly concerned with ancient biblical history, while other historical sites tend to be given little relevance. Biblical archaeology is central to Israel's tourism policy because it plays a decisive role in contributing to the continuation of an Israeli Jewish national identity and it provides Israeli society historical myths with which to identify the past. Moreover, it reinforces Israel's historical claims to the country and promotes its unique Jewish character, while also capitalising on its benefits to the Israeli tourism industry.

Israel's archaeological policies in the oPt come in a specific context. As a result of Israel's objectives to ensure permanent control of the oPt through what constitutes *de facto* annexation, Area C was never handed over to full Palestinian control as required by the Interim Agreements.²⁴ Thus, Area C remains firmly under the control of Israel, and the oversight of archaeological and historical sites falls within the jurisdiction of the Israeli Archaeological Department of the Civil Administration ("ADCA").

The protection of the sites threatened with destruction, looting, and decay also falls with the ADCA. Since 1967, the ADCA has been given a free pass to excavate areas within the oPt with no oversight from any advisory council or cooperation with Palestinian Authorities. The ADCA has indeed moved many artifacts and objects found during excavation conducted inside the oPt to areas outside the oPt.

Instead of protecting sites inside occupied territory as is required of Israel as Occupying Power under international law, Israel looted, damaged, and destroyed them, and many of those sites which have been maintained have been exploited for touristic purposes for the sole benefit of Israel. Palestine's predicament regarding archaeological oversight in Palestine is a direct result of a long history of neglect at the hands of its Occupying Power. The division of Palestine into Areas A, B, and C allowed Israel to carry out archaeological excavations in a unilateral, arbitrary, illegal and irresponsible manner.

Archaeological excavations with harmful effects on the preservation and celebration of Palestinian history and culture continue to take place with impunity and in the name of a negotiated policy through the Oslo Accords. Furthermore, Israel has frequently used the declaration of national parks and archaeological zones in Area C in the past to close areas off from Palestinians and prohibit construction and development.²⁵ Oftentimes, these areas later become the sites of new illegal

²⁴ Area C was a temporary arrangement in the context of an interim agreement that included progressive transfer of land to Palestinian administration. More information available in Acting the Landlord: Israel's Policy in Area C, the West Bank | [site:name (btselem.org)] last accessed on March 17, 2021.

²⁵ "A Locked Garden - Declaration of Closed Areas in the West Bank" Kerem Navot, March 2015.

settlements. Taking again the example of Silwan, the area circumscribed for the archaeological excavation will now include a specific zone where new settlement construction will take place.²⁶

However, such archaeological policies are controversial not only because they decimate Palestinian history and cultural heritage and section off large swathes of Palestinian land from construction and development, but also because Israeli-led archaeology does not excavate for the sake of knowledge and artifacts, but rather to reassert its exclusive claims to the land, to secure its national roots, and to “prove a point”.

Jewish artifacts and architecture become highlights of Jewish achievements, and thus become a link with the past, forcing a historical argument. In essence, biblical archaeology lays the foundation for creating an exclusive Israeli narrative that puts Jewish history above all, while simultaneously segregating Palestinians from their heritage and erasing their narrative.

Thus, biblical archaeology plays a significant role in establishing a link between the modern state of Israel and the Israelite period in biblical times. Consequently, Palestinians’ pluralistic nature and history have virtually disappeared. Various Jewish agricultural sites are highlighted, to the exclusion of other archaeological sites that are not associated with Jewish history.



26 Amnesty International: “Destination Occupation: The Tourism Industry of Settlements”. Last accessed: March 14, 2021.

III- Domestic & International Stakeholders of the Tourism Sector

Despite Israel's upper hand in terms of dictating policies pertaining to tourism inside the oPt, other important stakeholders exist and influence the religious tourism sector, the most important of which are churches and their affiliated institutions, incoming pilgrims, and the Palestinian Authority through its Ministry of Tourism and Antiquities.

1. Domestic and International Churches

a. Christian Pilgrims

Christian pilgrims constitute an important percentage of incoming visitors to the oPt. Although a journey of pilgrimage "should be a journey of faith and a prayerful search for justice and peace in the land that is holy to us" and "many pilgrims are moved to work for justice and peace upon their return", ²⁷ the current practices of Christian pilgrims in the oPt can be often considered as unsatisfactory, or at times toxic, for Palestinians, including Palestinian Christians who share their faith.

For Palestinians in general, and Christians in particular, pilgrimage represents a unique opportunity to share their cultural and religious traditions with people that do not have the daily exposure to the most important religious shrines according to their faith. It also represents a unique economic activity that presents some of Palestine's finest products to the world, from olive wood and mother of pearl carvings to embroidery and olive oil, among others. However, Israeli policies constitute a barrier which effectively prevents this cultural and economic exchange and enrichment.

Over the past number of years, Israel has created obstacles for the pilgrimage of individuals or groups that have taken public positions calling for the fulfilment of Palestinian rights. This includes incitement of and blacklisting against officials from the World Council of Churches, as well as several Christian groups worldwide, including the Church of Scotland and the Quakers. Such measures are fully in line with Israeli attempts to control the narrative and prevent Palestinian Christians from linking with solidarity groups that will stay in Palestine rather than in Israel. Other restrictions, including making visitors sign commitments not to visit the occupied West Bank, have also been required in recent years.

It must be stressed that Christian pilgrimage is not uniform. When talking about Christian pilgrimage, it is important to differentiate between diverse groups. There are different origins and denominations, from Armenians and Orthodox to Evangelicals, and they may all show their own inclinations towards particular sites and tours. In general, pilgrims can be divided into three main groups: Christian Zionists; Ethical pilgrims; and Traditional pilgrims.

27 Holy Land Pilgrimage Guidelines | USCCB. Last accessed on February 20, 2021.



Christian Zionist pilgrims are affiliated with a theological ideology that borrows some elements from the Bible in order to justify the backing and support of the State of Israel, specifically in order to accelerate the second coming of Jesus and bring about the “End of Times”. The existence of Israel is just a part of a prophecy, and other aspects of the prophecy include the return of all Jews to Israel. Usually, pilgrimages to the Holy Land seek to follow the footsteps of Jesus, however, in Christian Zionist pilgrims’ cases, the focus is not on religious tourism, but rather on Christian Zionism. They come to see where Jesus will walk during the “End of Times”, instead of where he walked.

Taking a closer look at an itinerary for a Christians Zionist group, the Christians United for Israel’s (CUFI’s) pilgrimage itinerary, it is evident that the purpose of the trip is not a pilgrimage to the Holy Land, but rather a trip to justify Israel’s occupation and actions in the region. For instance, in the “Daughters for Zion” pilgrimage, there are more Zionist and Jewish sites than Christian biblical sites. In fact, two-thirds of the sites are Zionist or Jewish sites. These sites include a stop at a Kibbutz situated on the border with Lebanon, and visits to IOF bases. According to the itinerary, the purpose of visiting sites like Kibbutz Misgav Am is to learn «the key role the area plays to [sic] Israel’s safety”.²⁸ CUFI provides several Zionist focused trips to the region. On some trips, like the «Pastor Leadership Tours», sites include trips to Sderot, overseeing the Gaza Strip, and talks with the controversial Zionist religious figures. Unsurprisingly, there are no mentions of Palestinians or Palestine within their itinerary. In the “Daughters for Zion” pilgrimage, the trip excludes Nazareth and even Bethlehem altogether. Instead, Bethlehem is only seen from a viewpoint from afar. Avoiding contact with Palestinians, portraying the Palestinian population as unsafe, and highlighting Israeli “vulnerability” is at the top of CUFI’s pilgrimage agenda.

²⁸ <https://cufi.org/wp-content/uploads/2020/03/CUFI-DFZ-Trip-Itinerary.pdf>, last accessed 19/12/2021.

On the other side of the spectrum are the ethical pilgrims, such as the Living Stones, who come to right the wrongs of the more extreme Christian Zionist pilgrims. Instead of avoiding Palestinians like Christian Zionists, these pilgrims actively seek out Palestinians to meet and listen to their perspective. Unlike both the traditional and Christian Zionist pilgrims, the ethical pilgrims seek accommodation in Palestinian hotels, shop at Palestinians souvenirs shops, and visit pilgrim sites deep in the oPt, such as Jacobs Well in Nablus, Sabastya and Aboud. Moreover, they not only make an effort in shopping at Palestinians souvenir shops, but more importantly in spending their money in venues to support the Palestinians civil society (co-ops) and communities in need. The Living Stones make a conscious effort to seek out prayer with the local population. Ethical pilgrims tend to have the most information of the three groups with regard to the realities of the current political situation in Palestine.

The more traditional pilgrims are less likely to seek any understanding of the situation on the ground. Their main desire is to visit the different churches across the land and travel to as many sites mentioned in the Bible as possible. Their itineraries are apathetic about the Israeli occupation, and instead focus their main points of interest on religious sites. For many traditional pilgrims, knowledge about the geography of the region comes from the Bible. Any present-day knowledge of the region is generally from media and television commercials. Most traditional pilgrims that visit Palestine are generally uninformed about the day-to-day politics of the region and have very little knowledge concerning the occupation. Such pilgrimages are particularly vulnerable to fall into acceptance of Israel's branding of the situation and narrative control, to the exclusion of Palestinian realities.



b. Domestic Churches

With the exception of individual visits by members of certain parishes in Palestine, there is no overall program organised by any of the Churches operating in Israel or Palestine for their members to get to know the holy sites within their country. The benefits of having such programs go beyond the spiritual side and include an important boost to the presence of small Christian communities, as well as to the overall economy of the region. Furthermore, such visits would enhance the Palestinian national identity of these areas.

Indeed, there are several important sites in the northern West Bank that could be easily boosted by visits from Palestinian citizens of Israel, including Burqin, Zababdeh, the chapel of Kuft Kud, and even Sabastiya. This could lead to the development of additional infrastructure for the benefit of tourism, including guest houses, hotels and restaurants.

Domestic tourism is certainly an activity that could be promoted by churches, and its importance has been proven, particularly during the COVID-19 pandemic in the context of global travel restrictions.

2. Palestinian Authority

Without control over its borders, points of entry or Area C, the Palestinian Authority is heavily limited with regard to its ability to promote and increase tourism. Its ability to effectively market tourism abroad is further limited by the fact that all tourism must effectively pass through Israel first, giving Israeli companies the first opportunity to book tourists into tours, and Israel the first opportunity to market its own narrative. What adds up to this is that the Palestinian Authority is unable to even guarantee entry into their territory.

With this said, there are still difficulties in the way that the Palestinian Authority approaches tourism, and there are many areas which could see improvement and where gains can be made. The Palestinian legislation surrounding tourism is heavily outdated, dating back mostly to Jordanian Law,²⁹ and despite the lack of implementation by Israel of the Paris Protocols, advocacy by the Palestinian Authority on this topic is lacking.

A number of years ago, the State of Palestine produced the State of Palestine National Export Strategy – Tourism Sector Export Strategy 2014-2018. This was an excellent step in identifying the current gaps in Palestine's tourism sector and examining methods by which it could be improved. However, reporting on the implementation of this strategy has been largely left to the wayside, and upon the expiry of the strategy in 2018, it seems that no follow up document was produced in order to continue what had previously been started. Strategies such as these are of the utmost importance, as they provide a forward-thinking and holistic view with vision for the future and steps to achieve this. The Palestinian Ministry of

²⁹ "The status of tourism legislation in Palestine", Alternative Journalism Journal, May 2017, last accessed 02/12/2021.



Tourism and Antiquities also needs to do more in the way of provision of up-to-date and accurate tourism statistics, as it is impossible to determine where you want to go and how to get there, if you do not know where you are.

Despite the Palestinian Authority's inability to exert control in Area C, where approximately half of Palestine's 7000 historic, cultural and religious sites are located, more should be done in order to invest in historic, cultural and religious sites located in Areas A and B, for example the Nativity Church. It is essential that public information adequately portraying Palestinian narratives is available and clearly visible to tourists when they arrive at sites of significance, especially given that most visitors are one-day excursionists with tour guides which are prohibited from conversing on topics which are politically sensitive for Israel. Efforts and resources need to be given to the effective marketing of Palestinian narratives to compete with Israeli propaganda, such that they are accessible and attractive. Sufficient budget needs to be allocated for such investments, along with investments in Palestinian businesses in the tourism sector in order to bring them up to a high standard which encourages tourism. Unfortunately, the Palestinian Ministry of Tourism and Antiquities suffers from budget deficiencies and sees large amounts of its resources spent simply on running costs such as staff and other overheads, and, as such, it struggles to achieve the potential that it should have.

3. Businesses

In a 2016 report, the United Nations Office of the High Commissioner for Human Rights (OHCHR) stated that “businesses play a key role in facilitating the overall settlement enterprise, contributing to Israel’s confiscation of land and transfer of its population through commercial development”, and that some businesses “provide services that ensure the sustainability of residential settlement communities, such as [...] tourism activities that contribute to the profitability of settlements”.³⁰ The report also makes specific reference to tour companies, online accommodation and travel booking sites which help to make the settlements profitable and sustainable.³¹

While tour companies have been discussed in depth above, including their role in entrenching the occupation and sapping the Palestinian tourism economy through the promotion of colonialist narratives, providing custom and commerce to settlements, and outcompeting the indigenous tourism economy via the competitive edge provided by discriminatory Israeli policies, attention must also be given to international online accommodation, travel booking and tourism sites, which contribute in their own way to a form of tourism, including religious tourism, which feeds the occupation and harms Palestinian narratives.

Amnesty International, in its 2019 report “Destination Occupation: The Tourism Industry of Settlements”, highlights four main online accommodation, travel booking and tourism sites³² who are responsible for supporting the occupation and illegal annexation through the provision of accommodation services in illegal Israeli settlements in the West Bank. According to the report, in a number of instances, accommodation options located in illegal settlements are not clearly marked as such, and in other instances they are in fact labelled as being located in Israel itself. Not only does this contribute to the erroneous narrative that annexed land on which settlements are built is in fact land in Israel proper, but it also deprives tourists of the ability to choose whether they wish to contribute to the occupation by staying in illegal settlements, or whether they would prefer to stay in Palestinian towns and villages, supporting the local economy. Oftentimes, tourists make accommodation and tourism choices which they are unaware propagate the occupation because of this. In the case of TripAdvisor, the report uncovered a number of Palestinian heritage sites which were listed as being in Israel rather than in the oPt, and similarly tourism activities in settlements, including tours, which were also listed as being in Israel. Even from a cursory glance, it is clear how such practices and failure of verification on behalf of these websites contribute to the illegal annexation of Palestinian land and the theft of their heritage.

As noted by the OHCHR, business practices such as these help to make the settlements profitable and sustainable, which in turn proliferates the human rights violations caused by the settlements themselves, including forced transfer, demographic alteration, home demolition, destruction of farmlands and attacks on Palestinians, along with jeopardising the right to self-determination of the

³⁰ A/HRC/37/39, para 46.

³¹ Id, para 47.

³² Airbnb, Booking.com, Expedia and TripAdvisor.

Palestinian people. According to the UN Guiding Principles on Business and Human Rights, businesses have a corporate responsibility to respect all internationally recognised human rights standards. Indeed, in addition to this, humanitarian law standards also apply to business enterprises in situations of armed conflict, including occupation.³³ Furthermore, in these situations, businesses have an “enhanced due diligence”.³⁴

To add insult to injury, these companies are completely aware of the damage that the abovementioned practices create. Indeed, numerous NGOs and the United Nations itself have specifically drawn attention to the possibility of their complicity in human rights violations, while the four companies mentioned above have all been included in a UN database,³⁵ mandated by a resolution of the Human Rights Council,³⁶ of business enterprises involved in activities which raise particular human rights violations. Furthermore, the OHCHR has stated that “considering the weight of the international legal consensus concerning the illegal nature of the settlements themselves, and the systemic and pervasive nature of the negative human rights impact caused by them, it is difficult to imagine a scenario in which a company could engage in listed activities in a way that is consistent with the Guiding Principles and international law”.³⁷ Although the companies mentioned above have made some representations that they intend to rectify the situation and re-evaluate their practices, few tangible results have thus far been noted.

As seen above, businesses, as stakeholders, have a strong ability to contribute to the persistence of the occupation and the theft of Palestinian land, and thus they must have a corollary responsibility, termed by the OHCHR as an “enhanced due diligence”, not to further contribute to these violations of international law. Rather, these companies should exercise corporate social responsibility in promoting local Palestinian tourism services, businesses, cultural, historic, and religious sites, and narratives.



33 A/HRC/37/39, para 35i.

34 Id, para 39.

35 A/HRC/43/71.

36 A/HRC/RES/31/36.

37 A/HRC/37/39, para 41.

IV– Impacts

Israel's monopolistic tourism policies, including religious tourism, impose a hefty price on the land and the people of Palestine, violating a wide range of basic Palestinian rights, including the right to self-determination, access to land, access to natural, cultural and historical resources, and economic development.

1. Palestinian Land Access & Movement

In a manifest violation of international law, Israel systematically confiscates occupied Palestinian lands and constructs illegal Israeli settlements, transferring Israeli settlers into the oPt.³⁸ The violations resulting from the settlement enterprise exceed land confiscation and undermine every aspect of life for Palestinians. Such violations include home demolitions, forcible transfer, denied land access and freedom of movement, among many others. Palestinians' access to most their land is further hindered due to Israel's exclusive control over Area C, which constitutes over 60% of the oPt, and the density of settlement presence in these areas.

This is aggravated by the "settlement tourism" industry, which cannot be isolated from the overall settlement context and its underlying objective of control and annexation of occupied Palestinian lands. In fact, tourism services in Israeli settlements have contributed directly to their expansion. A report by the UN Office of the High Commissioner for Human Rights (OHCHR), published in 2018, noted that tourism activities "ensure the sustainability of residential settlement communities" and "contribute to the profitability of the settlements".³⁹ Increased profitability means increased capacity for occupied land grabbing and a proliferation and expansion of multi-layered systems which violate Palestinians' rights.

In addition, for settlement sites, as well as for any claimed biblical archaeological site in the oPt, a "jurisdiction area" is imposed in which Palestinian access is prohibited, generally ensured with a complex military security system: military presence, watch towers, security cameras, the Annexation Wall and settlement "security" personnel – aside from Israeli settlers. In 2013, a UN Human Rights Council report documented that more than 43% of the West Bank is under the jurisdiction of Israeli settlement councils, which control 86% of the Jordan Valley and the Dead Sea.⁴⁰ With the constant expansion of settlements, the settlement council jurisdiction areas and buffer zones have significantly increased since this report, signifying additional land confiscation, exploitation and denial of access to Palestinians. A stark example is that of Rachel's Tomb, a pilgrimage site which was separated from Bethlehem by the Annexation Wall. The neighbourhood surrounding it, Kubbet Rahil, was, prior to its annexation to greater Jerusalem, a primary economic hub for Bethlehem, which derived considerable tourism revenue from the religious site. Since, Bethlehem has been deprived of this economic benefit.

³⁸ See, for example, UN Security Council Resolution 2334 (2016).

³⁹ A/HRC/37/39.

⁴⁰ A/HRC/22/63.

Such ruthless land confiscation and control policies come hand in hand with movement restrictions for Palestinians. The division and segregation of Palestinian land into areas A, B, and C, Israel's control of exit and entry points of Palestinian cities, the Annexation Wall, Jerusalem's closure policy, and the denial of Palestinian access into historic Palestine have all gravely undermined Palestinians' right and ability to move freely in their own land, effectively limiting their movement to urban municipal areas in Area A.

Such restrictions have had a drastic effect on Palestinian society, including on the tourist industry. The majority of Palestinian tour guides do not have a permit to guide in Israel⁴¹ and thus cannot travel there with pilgrims. Just like tour guides, Palestinian transportation services are restricted from crossing out of the oPt and are subjected to checkpoints within the oPt. Movement within the oPt is frequently restricted by "flying checkpoints". If stopped by Israeli forces manning the checkpoints, Palestinians and pilgrims alike are forced to negotiate the continuation of their journey, often after lengthy interrogations and frequently humiliating searches. In addition, frequent reports of excessive use of force by Israeli Forces at these checkpoints contribute to a climate of fear associated with these stops, and thus with movement itself, severely reducing the attractiveness of pilgrimage tours in Palestine. Incoming visitors to the oPt often have to switch tour guides at each checkpoint because the original guide cannot pass due to Israeli restrictions.

This has a crippling effect on Palestinian tourism, often leading many pilgrims to opt for an Israeli tour agency, rather than having an interrupted tour with more than one Palestinian guide which includes interrogations, searches, and safety concerns. The lack of mobility within the region and restrictions imposed on tour guides and vehicles profoundly affects Palestinian development and devastates the Palestinians' tourism industry.



41 Out of approximately 350 – 400 Palestinian tour guides licenced by the Palestinian Authority, only approximately 50 have licences to operate in Israel.

2. Palestinian Economy & Development

Occupation, as a whole, has had a drastic effect on the tourism industry in Palestine, and indeed on the Palestinian economy itself. Palestine's powerlessness to control their borders means that many tourists who wish to visit the country are turned away or denied visas. This is especially true for potential Muslim and Arab visitors who wish to see sites of historic, cultural, and religious importance, but who are put off by discriminatory entry policies implemented by Israeli border officials. According to the UN World Tourism Organisation,⁴² "[b]order formalities and visitors access to destinations (particularly from Arab and Muslim countries) need to be facilitated. UNWTO research clearly shows a direct link between visa facilitation on the one hand, and increase in tourism demand, economic growth and job creation, on the other".

Due to severe restrictions, often including denial of entry, placed on travellers wishing to visit the West Bank, the number of tourists which can visit the West Bank outside of the context of a tour or a one-day excursion from Israel is severely limited. This also affects the ability of Palestinian tour operators to market tourism in Palestine, as the entry of tourists who buy packages with them cannot be assured. Lack of stability and inability to reliably foresee risk also hamper investment in the sector. Similarly, due to Israeli control of narratives and their military excursions into the West Bank, Palestine is still globally perceived as an insecure tourist destination, while Israel has managed to shirk this perception to some degree.

Israeli monopoly over the tourism industry in the West Bank due to heavy restraints placed on Palestinian tour guides and other policies mentioned above has led to serious leakages in potential revenue for Palestinians engaged in the tourism sector, who have to compete with more established Israeli tour agencies, accommodation providers and other hospitality services, even though Palestinian service providers invariably provide much cheaper alternatives. Even when Israeli tour companies bring tourists into the West Bank, they avoid shopping in Palestinian shops, and when they do, they charge high commission rates of up to 35%.⁴³ The number of religious pilgrims that visited Palestine was set at a record high in 2019, yet its economic impact was hardly noticeable.

Palestine lags behind its neighbours in Israel and other nearby Arab countries in terms of percentage of GDP made up by tourism, and similarly the percentage of total workers employed by the tourism industry is significantly lower than in comparable tourist destinations (approximately 2%).⁴⁴ Indeed, high unemployment, given the lack of development in the tourism sector, has led to high emigration rates and an associated brain drain effect. This has a particularly onerous effect on Palestinian Christians living in the areas of Bethlehem, Beit Sahour and Beit

42 The value and potential of tourism for socio-economic development in Palestine – World Tourism Organization statement, April 2014.

43 "Israel's exploitation of Palestinian tourism and International Complicity: Tourism as a Tool To normalize occupation", State of Palestine, Palestine Liberation Organization Negotiations Affairs Department, December 2017.

44 The State of Palestine National Export Strategy, Tourism Sector Export Strategy 2014-2018, page 19.

Jala, most of whom work in or are associated with the tourism sector given the areas' relevance for religious tourism and its connection to their faith. Indeed, out of the population of these areas, Christians and Muslims alike, an estimated 20% of inhabitants rely on tourism to make a living.⁴⁵ According to some estimates, approximately one-tenth of Bethlehem's Christian population have left Bethlehem for other countries since September 2000,⁴⁶ due mainly to loss of livelihood from tourism.

Israeli restrictions on construction and the exploitation of touristic cultural, historic and religious sites in Area C of the West Bank saps a large margin of potential tourism revenue for Palestine and keeps the state in a perpetual state of underdevelopment. Infrastructure such as roads and hotels, along with water, electricity and sewage systems, which are essential to tourism, cannot be built by the Palestinian Authority, and so expansion of the tourism industry is severely hindered, and Palestinians are deprived their right to development. In addition, damage to Palestinian tourist facilities from Israeli military incursions, along with demolitions due to lack of construction permits exacerbate this problem. What's more, Israeli authorities control a number of important religious sites in the oPt due to their alleged connection to Judaism, such as the Ibrahimi Mosque, the Al Aqsa compound and Rachel's Tomb, and the revenues generated by ticketing at religious, cultural and historical sites are often taken in by Israel or Israeli tour companies, without any benefit being derived by the indigenous Palestinian population. In a 2016 report, the World Bank estimated that granting Palestinian businesses access to work in and develop Area C would increase Palestinian GDP by one-third.⁴⁷



45 "Tourism under occupation" – Rami Isaac.

46 Id.

47 Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank Report (19 April 2016), page 1.

3. Palestinian Cultural & Religious Narratives

There is a direct link between official Israeli tourism policies and its pro-occupation propaganda designed to eliminate the Palestinian narrative. These are tools used to normalise its occupation, promote Zionist exclusivity, and reject Palestine's cultural identity and heritage. With a simple examination of Israel's Ministry of Tourism documents and maps, the total erasure of any reference to Palestine is very evident.

Visual representations in the form of tourist maps, guidebooks, short films, and advertisements are employed by Israel to entice potential visitors to the region. For instance, despite the fact that the international community does not recognise Israeli sovereignty over the territory occupied in 1967, (including through UNSC Resolution 2334), Israel deliberately blurs the borders between Israel and Palestine and intentionally refrains from naming Palestine when publishing maps, instead referring to the West Bank as "Judea and Samaria". Renaming vital regions and cities is central to the Judaization and exclusion of Palestinian territorial entities.

In some cases, foreign entities other than Israel also become party to this policy unintentionally. For example, there are often references to "the Holy Land", instead of naming Palestine. This not only has the effect of negating Palestinian existence, but it also gives the impression that there is no conflict in the region, and that Israel's sovereignty runs uninterrupted from the Mediterranean Sea to the Jordan River.

Avoiding the name Palestine is problematic for several reasons: inter alia, it contributes to the denial of the Palestinian right to self-determination; it denies the Palestinian narrative and negates its proper culture, endorsing Israel's exclusivist approach; and finally, it hinders the promotion of Palestinian cities, including Bethlehem, Nablus and even East Jerusalem, instead inferring Israeli sovereignty over the areas despite applicable international law to the contrary.

Palestinian Christians are particularly affected, as many of their holiest sites, such as the Church of the Nativity, form the basis of religious tours and excursions into the West Bank by Israeli tour guides. Established traditions which Palestinian Christians have surrounding these religious sites are ignored during these tours, as the narratives surrounding the sites themselves are divorced from the indigenous Palestinian population in whose religious rites they are entrenched. Indeed, these sites are viewed as if they are in a museum, rather than as forming fundamental elements in the day-to-day modern worship of Christians in the West Bank.

The onus placed by Israel on securing access of tourists to these sites, and thus the revenue associated, often leads to the establishment of closed zones which bar Palestinian access and disrupt established practices of worship which date back to centuries ago. For example, a traditional religious procession route between Jerusalem and the Nativity Church at Easter and Christmas has been severely disrupted by the construction of the Annexation Wall. Palestinian Christians and their centuries old traditions have thus been required to change and adapt to these realities.

V- Legal Analysis

Since 1967, when Israel occupied the remainder of historic Palestine, i.e., the Gaza Strip and the West Bank, including East Jerusalem, virtually all States, international organisations, and other international bodies have recognised the 1967 Palestinian territory as being occupied in their entirety.⁴⁸ As a result, international humanitarian law (IHL), which applies in situations of armed conflict, is applicable, as it also covers situations of occupation - whether or not armed hostilities are taking place⁴⁹. More specifically, the Fourth Geneva Convention, which covers situations of occupation, applies, along with the rules of customary IHL, including those drawn from the 1907 Hague Regulations.

The law relating to occupation was designed with the understanding that occupations are meant to be temporary. However, Israel's occupation of the oPt currently stands as the longest occupation since the advent of modern IHL.⁵⁰ Among the most important rules contained in IHL relating to occupation are those which state that the sovereign rights of the occupied territory cannot be transferred to the occupying power⁵¹, and that the Occupying Power cannot make irreversible changes to the status of the occupied territory.⁵² These rules are particularly pertinent with regard to Israel's annexation of East Jerusalem, which includes several religious sites at the centre of Palestinian tourism, the expansion of its settlement enterprise, its de facto control of Area C, and its control over other touristic sites, including the Dead Sea, and as a result it is quite clear that Israel has violated, and continues to violate, core principles of IHL relating to occupation.

Israel's violation of the laws of IHL, as listed above, is accompanied by a series of other IHL violations, for example the prohibition on forced transfer and the transfer of parts of its civilian population into the territory it occupies;⁵³ the prohibition on various types of seizure and destruction of public and private property;⁵⁴ the obligation to respect protected persons, their honour, family rights, religious

48 For the UN Security Council, see, e.g., S.C. Res 2334 (Dec. 23, 2016); S.C. Res. 242 (Nov. 22, 1967). For the UN General Assembly, this is reaffirmed annually in its resolutions; see, e.g., most recently, Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, U.N. Doc. A/RES/75/97 (Dec. 10, 2020). See also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J. 35, ¶ 78 (July 9).

49 Geneva Convention Relative to the Protection of Civilian Persons in Time of War, art. 2, Aug. 12, 1949, 75 UNTS 287 [hereinafter Fourth Geneva Convention] (this is Common Article 2 to the four Geneva Conventions).

50 See RULAC, Geneva Academy, <http://www.rulac.org/browse/countries> (under the category of "military occupation.").

51 See Jean S. Pictet, *Commentary: The Geneva Convention Relative to the Protection of Civilian Persons in the Times of War* 275 (1958).

52 See Hague Convention IV - Laws and Customs of War on Land art. 43, Oct. 18, 1907, 36 Stat. 2277, 1 Bevans 631, 205 Consol T.S. 277, 3 Martens Nouveau Recueil (ser. 3) 461 [hereinafter Hague Regulations]. See also ICRC, *Occupation and international humanitarian law: questions and answers* (Aug. 4, 2004), <https://www.icrc.org/eng/resources/documents/misc/634kfc.htm>.

53 See Fourth Geneva Convention art. 49.

54 See, the various rules, based on IHL treaty and customary law at: ICRC, Rule 51. Public and Private Property in Occupied Territory, Customary IHL Database, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule51.

convictions and practices, and their manners and customs;⁵⁵ the prohibition on pillage (the forcible taking of private property);⁵⁶ and the prohibition on collective punishment, inter alia, in the form of restrictions of freedom of movement.⁵⁷

Alongside IHL, international human rights law (IHRL) is also applicable in the oPt, as confirmed by the International Court of Justice (ICJ).⁵⁸ As a result, human rights laws stemming from both treaties and customary law must be respected by Israel with regard to its activities in Palestine. The International Convention for Civil and Political Rights (ICCPR) obliges States to “respect and [to] ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the [ICCPR]”.⁵⁹ The extraterritorial application of the ICCPR, including in situations of occupation, has been reaffirmed by the UN Human Rights Committee,⁶⁰ as well as by the ICJ.⁶¹ Moreover, it is not only the ICCPR that applies extraterritorially, but also a number of other IHRL treaties, for example the International Convention on Economic, Social, and Cultural Rights, as confirmed by the UN Committee on Economic, Social, and Cultural Rights.⁶²



55 Fourth Geneva Convention art. 27. See also ICRC, Rule 104. Respect for Convictions and Religious Practices, Customary IHL Database, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule104#Fn_A9C9FACF_00022 and Hague Regulations art. 46.

56 See Fourth Geneva Convention art. 33.

57 See Fourth Geneva Convention art. 33, see also Claude Bruderlein, Protection, occupation and International Humanitarian Law in the OPT, Humanitarian Practice Network (Nov. 2004), <https://odihpn.org/magazine/protection-occupation-and-international-humanitarian-law-in-the-opt/>.

58 Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226, International Court of Justice (ICJ), 8 July 1996; “Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory”, International Court of Justice (ICJ), 9 July 2004.

59 International Covenant on Civil and Political Rights (ICCPR) art. 2(1), Dec. 16, 1966, 999 UNTS 171 [hereinafter ICCPR]; “all individuals within its territory and subject to its jurisdiction”.

60 See C.C.P.R., General Comment 31: Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), ¶ 10.

61 ICJ Wall Advisory Opinion, 136, ¶ 102-113.

62 See, e.g., C.E.S.C.R., Concluding observations of the Committee on Economic, Social and Cultur-

Among the human rights violations caused by the Israeli tourism industry in the oPt, one can count violations of the right to self-determination, recognised as a “peremptory norm” of international law,⁶³ the right to non-discrimination,⁶⁴ the right to freedom of movement,⁶⁵ the right to work,⁶⁶ the right to just and favourable work conditions,⁶⁷ the right to participate in cultural life,⁶⁸ and the right to development,⁶⁹ among others. Above all, it should be noted as a fundamental tenet that human rights cannot be adequately enjoyed without first enjoying the right to self-determination.⁷⁰

As concerns businesses’ human rights obligations, the UN Guiding Principles on Business and Human Rights state that businesses should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.⁷¹ Similarly, addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation.⁷² In addition to this, humanitarian law standards also apply to business enterprises in situations of armed conflict, including occupation,⁷³ and in these situations, businesses have an “enhanced due diligence” requirement.⁷⁴ Finally, as noted by the OHCHR, “considering the weight of the international legal consensus concerning the illegal nature of the settlements themselves, and the systemic and pervasive nature of the negative human rights impact caused by them, it is difficult to imagine a scenario in which a company could engage in listed activities in a way that is consistent with the Guiding Principles and international law”.⁷⁵

al Rights: Israel, UN Doc. E/C.12/ISR/CO/3 (Dec. 16, 2011), para. 8.

63 Case Concerning East Timor (Portugal v Australia) Merits, Judgment, ICJ Reports 1995 4 at 102, para 29.

64 Article 26 ICCPR.

65 Article 11 ICCPR.

66 Article 6, International Covenant on Economic, Social and Cultural Rights (ICESCR).

67 Article 7 ICESCR.

68 Article 15 ICESCR.

69 General Assembly resolution 41/128 of 4 December 1986.

70 CCPR, General Comment 12 (HRI/GEN/1/Rev.9 (Vol. I)).

71 Principle 11(a), Guiding Principles on Business and Human Rights: Implementing the United Nations «protect, Respect and Remedy» Framework., United Nations 2011.

72 Id. Commentary.

73 A/HRC/37/39, para 35.

74 Id, para 39.

75 A/HRC/37/39, para 41.

VI- Recommendations & Conclusions

With the described set of policies that dictate the conditions of the tourism sector in Palestine, it is evident that Israeli religious tourism relies on the military and economic suppression of Palestinians, resulting in a situation of complete Israeli monopoly where Palestinian land, resources and people are oppressed and exploited for the benefit of entrenching Israeli occupation on the one hand, and where other stakeholders, including Christian pilgrims, are complicit in such oppressive monopoly on the other. It is thus imperative to make a variety of recommendations to mitigate the damage resulting from tourism policies on Palestine, its land and people, and to achieve responsible, ethical pilgrimage and tourism, as follows:

Third State Parties & International Community

- In line of their own obligations under international law, States should ensure correct labelling of settlements and settlement products; and respect UNSC Resolution 2334, according to which a separation must be drawn between Israel and the territory occupied in 1967 in any formal dealings;
- Continue to make, and increase, public statements reaffirming the 1967 borders of Palestine, calling for an end to occupation, and decrying illegal Israeli settlements in the occupied Palestinian territories;
- Continue to apply international pressure on Israel for disrespect of international law through international targeted sanctions, UN Human Rights Council and Security Council resolutions, and in other international fora;
- States hosting businesses implicated in human rights violations in the occupied Palestinian territories should use domestic legal means to hold such businesses accountable for their actions.



State of Palestine

- Actively engage with international organisations, including UNESCO and the World Tourism Organization, in order to prevent Israeli attempts at normalising its colonial-settlement occupation and annexation of Palestinian territory through the use of tourism;
- Promote sites in Palestine other than Bethlehem, including by engaging with local authorities to develop much needed tourism infrastructure, particularly including the northern West Bank and villages around Ramallah;
- Provide resources for the effective marketing of Palestinian narratives to compete with Israeli propaganda, such that they are accessible and attractive, along with providing adequate resources to the Ministry of Tourism and Antiquities and direct investment for small Palestinian businesses in the tourism sector;
- Engage with the various Churches in Jerusalem and abroad in order to create and promote programs of ethical pilgrimage. The State of Palestine should ensure that churches understand that they have a responsibility to play with regard to informing their pilgrims about the situation on the ground, and their responsibility not to contribute to it;
- Engage with civil society in efforts to promote Palestine, supporting local initiatives and bringing international support;
- Increase data collection regarding tourism statistics, create and implement an up-to-date Tourism Sector Export Strategy and update the national legislative framework surrounding tourism.



Churches & Church Institutions

- Raise awareness and inform international counterparts about the importance of conducting ethical pilgrimage, including through removing Israeli settlements from their itineraries;
- Work in cooperation with local communities and authorities, whether the Palestinian Government, municipalities (excluding Israel's Jerusalem Municipality) and civil society, in promoting tourism and developing sites and additional infrastructure where needed;
- Develop programs for domestic tourism, including interaction with local Palestinian communities on both sides of the "Green line".

Individual Pilgrims & Visitors

- Conduct careful & informed research before embarking on visits and pilgrimages to ensure that service providers, businesses, corporations and institutions involved in the visit are not complicit in the monopoly and exploitation of tourism in Palestine;
- Ensure that the program of the visit does not include visits to Israeli settlements and avoid visits to sites inside the oPt that are promoted as Israeli sites;
- Conduct visits to Palestine with a solidarity mindset, which includes direct engagement with Palestinians, their tourism service providers, and increase Palestinian itinerary engagement.



Businesses

- Cease operations in illegal Israeli settlements and halt direct contribution and complicity in the perpetuation of war crimes in occupied territory;
- Abide by the UN Guiding Principles on Business and Human Rights;
- Respect the responsibility to abide by standards of international humanitarian law, including those pertaining to protection of people in occupied territory;
- Conduct thorough vetting of advertised services to ensure that locations and other relevant aspects are correctly labelled.





Balasan Initiative
for Human Rights

balasan.initiative@gmail.com
www.balasan.org