

MINE, MINE, ALL MINE

Sovereignty is an emotional issue, but it doesn't have to be absolute.

What makes a place holy? And who gets to decide? Such abstract questions become concrete and emotional when we talk about Jerusalem. At sites such as the Temple Mount, holiness is shaped partly by control—that is, sovereignty.

And for many Jews and Muslims, it's clear, sovereignty over the holy sites is something worth dying for.

Disputes over sovereignty and control are at the core of many upsurges in the Israel-Palestinian conflict. For example, although the immediate cause of June's breakdown of civil order in Israel and Gaza was a legal battle over evictions of Palestinian families in the East Jerusalem neighborhood of Sheikh Jarrah, Hamas began barraging Israel with missiles after seeing pictures of Israeli troops entering the al-Aqsa mosque compound on the Temple Mount to quell demonstrations. And while Hamas had many reasons to start an armed conflict with Israel, that entry into al-Aqsa allowed it to declare itself "the sword of Islam."

For many on both sides, sovereignty is an either/or proposition. If you don't control a place absolutely, you have nothing. Some religious people feel that if the "other" so much as sets foot on your sacred ground, it loses its sacredness: Thus, Baruch Ben-Yosef, a Meir Kahane supporter who seeks to replace the Muslim shrine of the Dome of the Rock with a Jewish Temple, writes, "Every Jew is obliged to go up [to the Temple Mount] in order to nullify the desecration of God's name that has been created by Arab access and control of the site." Others believe that ownership of a holy place demonstrates the truth of their religion.

The 1648 Treaty of Westphalia created the European nation-state system and with it, the notion of "absolute sovereignty"—the idea that to be sovereign, a state must have control of all mechanisms of power in

the state. That is why Ben-Gurion ordered his troops to fire on the Irgun's cargo ship *Altalena* in the Jaffa harbor in 1948 and why he forced the left-wing Mapam militia to dismantle and become part of the IDF. But this absolutist view does not reflect earlier historical understandings, such as the Holy Roman Empire with its innumerable overlapping sovereignties.

More recently, we see numerous examples of nations "giving up" some of their sovereignty for larger purposes. In the 19th century, the slave trade became an international crime over which courts of any nation had jurisdiction. Today, genocide and other human rights violations are similarly proscribed. On a more practical level, international "functional regimes" regulate Rhine and Danube river navigation. The nations abutting these rivers have ceded sovereignty to these agreements, as have nations that agree to suspend their claims of sovereignty for joint activities in Antarctica or in space.

In August 2000, struggling with potential solutions to the Temple Mount issue, then-Prime Minister Ehud Barak met with Professor Ruth Lapidoth of the Hebrew University, who detailed a number of possible alternatives to indivisible territorial sovereignty, including "spiritual sovereignty," "joint (condominium) sovereignty," "functional sovereignty" (which draws on maritime law), "limited sovereignty," "relative sovereignty" and "suspended sovereignty," as at the South Pole. Lapidoth stressed the distinction between *de jure* and *de facto* sovereignty, that is, sovereignty on paper versus practical control on the ground. This distinction makes it possible to divide responsibilities between sides, while leaving undivided official authority in the hands of the formal sovereign.

Israeli sovereignty over the Temple Mount could be segmented in this way into "baskets," including site administration, control of access, regulation of prayer, control of security and control of



Dome of the Rock and the city of Jerusalem.

any mechanism for resolving disputes.

But when it comes to the Temple Mount, many Jews and Arabs alike believe they have to show who's in charge. To the question "Who is sovereign?" they prefer the emotional response: "It's ours!" As two National Religious rabbis wrote in a 2010 article, "If Jews do not show their bond to the area by regularly entering it and holding it to be at least as essential to their religion as the Muslims do to theirs, why should any Israeli or foreign negotiators value it as sacred and non-negotiable?"

But this is not an analytical necessity. It is a question of emotion and power. As Lapidoth's analysis suggests, what one wants from a sacred place may not require exclusive sovereignty. A place can be sacred to me and my religion, available for my use, and still be sacred to you for yours. Indeed, the late King Hussein of Jordan, perhaps seeking a workaround for the word's emotive and exclusionary connotations, told the U.S. Congress in 1994 that "sovereignty over the holy places in Jerusalem resides with God and God alone."

It is a cliché to point out that religion, which should offer us a path to peace, instead often causes violence and discord. But the New Testament teaches that "in our father's house there are many mansions"—a point also found in Jewish tradition. Holy places can serve as a place for dignity and respect for all who believe them to be holy—if we have the will to treat them that way.

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