



Erasing the Past

The Destruction of an Ancient Muslim Cemetery in Jerusalem

**International
Human
Rights**

What is the Mamilla Cemetery?

The Mamilla Cemetery is an ancient Muslim burial ground and holy site believed to date back to the 7th century, when companions of the Prophet Muhammad were reputedly buried there. Numerous saints of the Sufi faith and thousands of other officials, scholars, notables and Jerusalemite families have been buried in the cemetery over the last 1000 years. The Muslim Supreme Council declared the cemetery an historical site in 1927, and the British Mandate authorities pronounced it an antiquities site in 1944. It was an active burial ground until 1948.



*The ancient burial ground with the museum site in the far background.
Photo Credit: Michael Rainer*

After the new State of Israel seized the western part of Jerusalem in 1948, the cemetery fell under Israeli control, and like other Islamic endowment properties, or waqf, the Mamilla Cemetery was taken over by the Custodian for Absentee Property. Since then, Muslim authorities have not been allowed to maintain the cemetery.

What is the “Center for Human Dignity–Museum of Tolerance”?

The Israeli government and the Simon Wiesenthal Center (SWC) are currently building the “Center for Human Dignity–Museum of Tolerance” on a portion of the Mamilla Cemetery. This construction project has resulted in the disinterment of hundreds of graves, and the whereabouts of the countless human remains that have been disposed of are unknown. Israel and the SWC plan to continue the erection of the museum atop thousands of more graves.

The Center for Constitutional Rights (CCR) and other groups have filed a petition on behalf of the Palestinian descendants of those buried in the cemetery. The petition, which was filed with several international bodies, urges Israel to: halt construction of the museum; investigate human rights violations; rebury human remains; and declare the Mamilla Cemetery a protected antiquities site.

Why is the Mamilla Cemetery Important?

The importance of the Mamilla cemetery to Muslims is well-known to Israel. In 1948, the year control of the cemetery was taken over by Israel, the Israeli Religious Affairs Ministry recognized Mamilla “to be one of the most prominent Muslim cemeteries, where seventy thousand Muslim warriors of [Saladin’s] armies are interred along with many Muslim scholars. Israel will always know to protect and respect this site.”¹ As recently as 1986, in response to an investigation by the United Nations Education, Scientific and Cultural Organization (UNESCO) regarding Israel’s development projects on Mamilla, the Israeli government stated that “no project exists for the deconsecration of the site and that on the contrary the site and its tombs are to be safeguarded.”² Despite these reassurances and the cemetery’s inclusion in a Israeli Antiquities Authority list of “Special Antiquities Sites,” Israel in fact destroyed a large section of the cemetery during the period in which the statement was made.

The Destruction of the Cemetery

Despite officially recognizing its importance, Israel has steadily encroached on the Mamilla Cemetery with the erection of buildings, parks and even parking lots. The construction of the “Center for Human Dignity – Museum of Tolerance” is only the latest such development project. Israel and the SWC have attempted to justify this development by claiming that the cemetery is no longer sanctified, based on a 1964 proclamation by a *Shari’a* or Islamic law judge who lacked legitimacy in the Muslim community. The President of the *Shari’a* Court of Appeals in Israel has since deemed this ruling to be void, and affirmed that the sanctity of cemeteries is eternal in Islam.

The museum's construction constitutes violations of the human rights of all Palestinians and Muslims, whose forbears are buried in the cemetery, and the human rights of the innumerable Palestinians from Jerusalem whose direct ancestors are buried there.

All developments on the grounds of the Mamilla Cemetery have resulted in its desecration and the undignified disinterment of graves, human remains and other important artifacts. Palestinians have consistently opposed the destruction and desecration of the cemetery, through legal petitions to Israeli bodies and other actions, without success. According to Gideon Suleimani, Chief Israeli Archaeologist assigned by the Israeli Antiquities Authority to lead the excavation of the museum site, over 400 graves containing human remains were exhumed or exposed during his partial excavation of the site. Suleimani estimated that there are four layers of graves, many dating from the 12th century, with at least 2000 graves remaining under the Museum site. Several hundred more human remains were disinterred during other phases of preparation of the site.

Can International Laws Protect Mamilla Cemetery?

Israel is violating numerous international human rights laws by permitting the construction of the "Center for Human Dignity-Museum of Tolerance" on Mamilla Cemetery.

The museum's construction constitutes violations of the human rights of all Palestinians and Muslims, whose forbears are buried in the cemetery, and the human rights of the innumerable Palestinians from Jerusalem whose direct ancestors are buried there. The desecration of this ancient and historically important cemetery also violates the rights of people of many faiths and cultures who believe that sites like Mamilla Cemetery belong to the international community's heritage and should be protected and preserved. The right to protect cultural heritage and property; to freedom from discrimination; to freedom of religion and belief; and the right to culture and family are all internationally protected human rights.

What Legal Remedies Are Available?

Israel has an obligation to respect and protect the holy sites of its minority religious and ethnic populations, including Mamilla cemetery, under international law, United Nations resolutions and under its own domestic law. Despite Israel's legal obligations, the Israeli Supreme Court ruled in favor of construction of the museum and the government has refused to halt the disinterment of bodies and the destruction of the ancient cemetery. For this reason, the petitioners have decided to bring this issue to the international community with the aid of human rights organizations such as CCR. The petition has been filed with the U.N. Special Rapporteurs on Freedom of Religion and Belief and on Contemporary Forms of Racism; the Independent Expert on Culture; the High Commissioner for Human Rights; and the Director General of UNESCO. The petitioners are urging these bodies to demand that the Government of Israel: halt further construction of the "Center for Human Dignity-Museum of Tolerance" on the Mamilla Cemetery site; document and reveal to petitioners the whereabouts of all human remains and artifacts; recover and rebury all human remains where they were originally found in coordination with the proper Muslim authorities; and declare the Mamilla Cemetery an antiquity to be preserved and protected.

Notes

¹ See Akiva Eldar, *Israel Prize laureate opposes Museum of Tolerance*, HA'ARETZ, Dec. 31, 2008, available at <http://haaretz.com/hasen/spages/1051047.html>.

² UNESCO 125 EX/15, 17 July 1986, Addendum 1, at 7.

For more information:

www.ccrjustice.org/ourcases/current-cases/mamilla

www.mamillacampaign.org