

**The Advisory Team for the Issue of Prayer
Arrangements at the Western Wall**

Recommendations

Jerusalem 2016

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Overview

The Western Wall, all that remains of the Second Temple retaining wall, currently serves as the central place of worship for the Jewish people. For years, the Western Wall has been a magnet for many as a site of unique historic, national and religious importance. According to data gathered over the past several years, more than 10 million people visit the Western Wall site each year.¹ Most of the worshippers at the existing Western Wall Plaza pray in what is referred to as the Orthodox custom. However, there are people who wish to pray in a different manner, in accordance with their own identity, path and custom.

Over the past several years, there has been increased public discord regarding the prayer options at the Western Wall, resulting from the desire of members of the Women of the Wall organization to pray in the Women's Plaza of the Western Wall in accordance with their tradition and the severe resistance their method of worship provokes among the Orthodox public. This disagreement enhanced the need to reexamine the existing prayer arrangements at the Western Wall. To that end, the Prime Minister appointed an advisory team, which comprised: Cabinet Secretary Avichai Mandelblit; Deputy Attorney General Dina Zilber (Counsel); and Zvi Hauser. The team was asked to examine the existing prayer arrangements, the need for changes and ways to execute these changes. In order to avoid all doubt, it should be emphasized that the team limited its scope to these aspects alone, and avoided dealing with other aspects related to the status of the Western Wall in its national and official context, or other issues related to the status of the non-Orthodox denominations in the State of Israel.

After examining this issue from all sides, and having heard from the relevant parties, the team formulated a proposed framework, at the heart of which is an expansion of the possibilities for worship at the Western Wall site so that each person wishing to worship at the Western Wall can do so in accordance with their custom and faith. The proposed framework was formulated in an attempt to balance the rights of all relevant parties – to respect, to equality and to freedom of religion and worship – and to do so in a manner that preserves the special historic, national and religious place that the Western Wall holds for the Jewish people, **the entire** Jewish people. The framework is based on the Supreme Court ruling resulting from the struggle of Women of the Wall and on the principles raised therein. The framework combines the old and the new: maintaining the existing status quo with regard to the majority of worshippers at the Western Wall Plaza and establishing a new space, both physically and conceptually, for Jewish prayer in other forms, in the southern section of the Western Wall. The framework is intended, on the one hand, to provide proper expression for religious pluralism in Judaism in a manner that will allow the various denominations of Judaism to pray and worship, while on the other hand preserving the existing Orthodox method of worship in the northern section, all as part of freedom of religion, and in a manner that is in line with the principles of equality.

¹ Data provided by The Western Wall Heritage Foundation.

Following are the main points of the proposed framework:

- A. The Western Wall site, which serves as a symbol of the national, religious and cultural renaissance of the Jewish people, will be open and accessible to any Jew who wishes to pray in a manner that corresponds with their identity and faith. To this end, in addition to the section of the prayer plaza which exists today along the northern section of the Western Wall (hereinafter: **the northern section**), an additional prayer plaza will be established along the southern section of the Western Wall, south of the Mughrabi Bridge (hereinafter: **the southern section**). The two prayer plazas will operate simultaneously.
- B. In the northern section, prayers will be conducted according to Orthodox Jewish custom, in accordance with Jewish law as exercised by the Chief Rabbinate in Israel, which includes, *inter alia*, separation between the women's section and the men's section, and women's prayers are held in accordance with this custom. In the southern section, prayers will be conducted in accordance with the pluralistic and egalitarian custom in a manner that will provide a satisfactory solution for worshippers from the various non-Orthodox denominations, first and foremost the Reform and Conservative movements. In general, it is in this plaza that men and women will pray without separation. At the same time, and taking into account the pluralistic character of this section, Women of the Wall, whose unwavering struggle to pray in accordance with their beliefs in the Western Wall Plaza has lasted more than 25 years, will have the option to hold separate prayers for women in the section every *Rosh Hodesh* and on *Ta'anit Esther*, and at other times for which the supervisor of the southern section will provide specific permission, in accordance with the opinion of the Southern Section Council.
- C. The southern section will be physically adapted to serve as a proper, accessible and visible prayer area that constitutes an integral part of the Western Wall site. We note that the preparations for transforming the section to serve as a prayer plaza as aforementioned will be undertaken while taking into consideration the fact that the location, which today serves as a archaeological park, contains archaeological finds of the utmost cultural, scientific, historic and national importance, which commemorate the destruction of Jerusalem. Accordingly, the physical changes planned for the location will be done in a manner that ensures the preservation, as much as possible, of the aforementioned archaeological findings, in accordance with the law, including receiving permission from the Director-General of the Israel Antiquities Authority, as required by power of his authority as granted in the Law of Antiquities, 1978.
- D. The upper plaza, which lies west of the northern section, will not generally be used for prayer, but rather as a place to congregate and as a passageway

to the prayer section, as well as to occasionally hold ceremonies of a national, governmental or military character.² As a rule, there will not be prayers in this area, nor will there be separation of men and women. This does not include prayers held on special occasions – during the three pilgrimages, the Days of Awe (*Selichot*), Jerusalem Day and *Tisha B'Av*, as well as during large prayer convocations – with the condition that the expected number of worshippers for these prayers actively exceeds the maximal capacity of the northern section. In such cases, and only during prayer times, the custom in the areas of the upper plaza being used for prayer (the size of which will be adjusted for the number of worshippers on site) will be the custom of the northern section. All aspects of the administration of the upper plaza will remain in its current framework, i.e. under the purview of the Rabbi of the Western Wall and Holy Sites of Israel and the Western Wall Heritage Foundation.³

- E. The two prayer sections, northern and southern, will be open free of charge and accessible to anyone who wishes to enter them to visit, worship or any other purpose, as long as the conduct of those visiting these sections is in accordance with the prayer arrangements customary in the section, i.e. according to what is acceptable in each section and its character.

- F. Administration of the northern section, both the administrative and the religious aspects, will remain in its existing framework, i.e. under the purview of the Supervisor of the Holy Sites of the Jews (namely the Rabbi of the Western Wall). Administration of these aspects of the southern section will be entrusted to the supervisor of this section, who will be the Director General of the Prime Minister's Office or one of his deputies or one of the Deputy Cabinet Secretaries, to be appointed for this purpose by the Prime Minister. Alongside the supervisor, a council will work to determine the prayer arrangements at the location, and it will be authorized to instruct the supervisor with regard to exercising their authority. The members of the council will include: the Chairman of the Jewish Agency for Israel, who will serve as chairman of the council; five civil servants to be appointed by the Prime Minister; the Director-General of the Israel Antiquities Authority; and six representatives of the public, who will also be appointed by the Prime Minister and who will represent the public of worshippers in the southern section.⁴ This mechanism is intended to provide an appropriate response to the innovation and sensitivity involved

² It should be emphasized that the upper plaza will not be used to conduct the ceremony when new Torah scrolls are brought to the northern or southern sections.

³ It should be emphasized that according to the Regulations for the Protection of Holy Places to the Jews, 1981, the upper plaza is part of the Western Wall site, with all that that entails.

⁴ In accordance with the team's recommendations, two representatives of the public will be appointed as per the recommendation of the Reform Movement leadership; two additional public representatives as per the recommendation of the Conservative Movement leadership; and two public representatives representing the public of worshippers in the southern section (in this context, the team recommends appointing representatives from Women of the Wall).

in administering the southern section in light of the groundbreaking arrangement to be implemented there and the complexities resulting from the fact that the aforementioned area combines both a prayer section and an archaeological site.⁵

- G. The proposed framework will be anchored in an amendment to the Regulations for the Protection of Holy Places to the Jews, 1981.
- H. Until the proposed framework is implemented in a manner that will provide an appropriate resolution for the prayer needs of Women of the Wall, the worship practices customary at the Western Wall on the date the report is published will remain unchanged.⁶

The proposed framework strives to respect the rights and needs of all relevant parties. It incorporates both tradition and innovation; it demonstrates balance and recognizes and reflects the complexity of the situation; it has both attentiveness and hope that the Western Wall will cease to be an area of discord and that its unifying character will be restored in a manner that befits its unique status among the entire Jewish people as a national and religious site for yearning and prayer. Our only hope is that it advances peace between us.

We wish to thank: Adv. Hagit Brinkner, Yael Hakim, Adv. Danny Horin, Adv. Marganit Levy, Dr. Gil Lymon, Adv. Ronen Peretz and Shimi Shmooley, who greatly assisted us, for their insight, dedication and hard work.

We also wish to thank all those parties who appeared before us and shared their views regarding this complex and sensitive subject.

⁵ As aforementioned, the team did not deal with issues that deviated from the issue of prayer arrangements at the Western Wall, nor did it recommend changes on those issues. In general, the team avoided making recommendations on changes with regard to the Western Wall Heritage Foundation, except for a clarification – which appears later in the report – that its sphere of authority will not extend to the area of the southern section. At the same time, it should be remarked that there is a connection between this issue and the team's recommendations regarding administration of the southern section, while paying attention to some of the issues sought to be remedied in High Court of Justice 145/13 Israel Movement for Reform and Progressive Judaism et al. v. The Prime Minister et al. (see Page 17).

⁶ In this framework, the team recommends that the interim agreement will be that Women of the Wall will continue to pray as is their custom – for now – in the northern section, with the expectation that their prayers not include reading from the Torah.

"Why was the First Temple destroyed? Because of three things: idol worship and illicit sexual relations and bloodshed. 'But why was the second Sanctuary destroyed, seeing that in its time they were occupying themselves with Torah, [observance of] precepts, and the practice of charity? Because therein prevailed hatred without cause. That teaches you that groundless hatred is considered as of even gravity with the three sins of idol worship, illicit sexual relations and bloodshed together.' (Yoma 9b)

"This is how it was in the besieged Jerusalem when Titus, an emissary from distant Rome, rammed against its walls. The enemy besieged from without in his quest to destroy a people and its kingdom; and among the Jews in Jerusalem – the Jerusalemites and those who gathered in Jerusalem from all across the Land of Israel – man was against his fellow man. An enemy without and an enemy within. Such is the path of confrontations; such is the way of hatred; when confrontations and hatred destroy every good thing, when they gnaw away until there are no more human relations, when man and beast and tree are destroyed. Such is hatred, such is suspicion, such is zealousness; and zealousness above all.

"The Western Wall is a remnant of our Second Temple and again it is the source of conflict. Can we not learn from the tormented history of our people?"⁷

(Justice Michael Cheshin, High Court of Justice Further Hearing 4128/00)

Introduction

On May 22, 2013, Prime Minister Benjamin Netanyahu appointed an advisory team for the issue of prayer arrangements at the Western Wall. According to the letter of appointment, the team's task was to examine the existing arrangements, the need for changes and how to execute them.⁸

The members of the team are:

- A. Mr. Zvi Hauser
- B. Ms. Dina Zilber, Deputy Attorney General (Counsel)
- C. Mr. Avichai Mandelblit, Cabinet Secretary

The members of the team appointed Adv. Hagit Brinker from the Counsel and Legislative Department at the Ministry of Justice (Counsel) and Mr. Shimon

⁷ High Court of Justice Further Hearing 4128/00 **The Director General of the Prime Minister's Office et al. v. Hoffman et al.** (published in the Nevo Legal Database, April 6, 2003), Paragraph 1 of Justice Cheshin's ruling.

⁸ See Appendix A – Letter of Appointment.

Shmooley, Assistant to the Cabinet Secretary, who was later replaced by Mr. Ronen Peretz, as coordinators for the team. They were later joined by Dr. Gil Lymon.

The backdrop to the appointments were developments in the period that preceded them, which clarified the broader need to reexamine prayer arrangements at the Western Wall, the holy site for the Jewish people, with the goal of providing a stable and long-term solution for the various denominations of Judaism.

Over the past several years, tensions flared during *Rosh Chodesh* prayers held by Women of the Wall in the women's section of the Western Wall. Their attempts to pray at the site in accordance with their custom were met by opposition to their manner of worship.

This escalation peaked during the prayers for *Rosh Chodesh Iyar 5773*, at which time five Women of the Wall were arrested and the Police requested their expulsion for the next three *Rosh Chodesh* prayers. This request was denied by the Jerusalem Magistrates' Court.⁹ An appeal submitted by the State to the District Court on this ruling was also rejected. In its ruling, the District Court analyzed the relevant normative framework and determined that they could not find any instruction that forbade Women of the Wall from worshipping in accordance with their custom in the Western Wall Plaza.¹⁰ In keeping with the District Court's ruling, Women of the Wall continue to pray in accordance with their custom at the Western Wall Plaza each *Rosh Chodesh*. However, in the months that passed since the District Court's ruling, opposition has increased. These events required widespread preparedness on the part of the Israel Police ahead of *Rosh Chodesh* prayers and significant police presence during the prayers. This has proved a burden on day-to-day police activity.

Alongside these developments regarding Women of the Wall, there have been other developments regarding prayer arrangements at the Western Wall. For some time, the Conservative and Reform movements have been requesting that they too be given the opportunity to pray in accordance with their custom at the Western Wall Plaza. In an attempt to provide a response to these requests, the Prime Minister asked the Chairman of the Jewish Agency for Israel, Mr. Natan Sharansky, to try to find a solution acceptable to all the Jewish denominations in Israel and the Diaspora. As a result, the Jewish Agency Chairman held a number of consultations with parties in Israel and the Diaspora, at the end of which he formulated a proposed framework. At the heart of the framework formulated by Mr. Sharansky was the establishment of an additional prayer section along the southern section of the Western Wall, which would be identical in size and height

⁹ State of Israel (Jerusalem Magistrates' Court) Case 21352-04-13 **The State of Israel v. Ras** (11.04.13).

¹⁰ State of Israel Appeal (Jerusalem District Court) 23834-04-13 **The State of Israel v. Ras** (24.04.13). For details on the ruling by the court, see the summary presented below.

to the existing prayer section.¹¹ According to the framework, pluralistic and egalitarian prayer (men and women together) would be conducted in this section, and this differs from the current situation in the existing prayer section where prayers are conducted in accordance with Orthodox Jewish custom. Mr. Sharansky proposed that the new prayer section be accessible to the public twenty-four hours a day and that it be administered separately from the existing prayer section.

At a later date, it was decided to establish the advisory team for the issue of prayer arrangements at the Western Wall. The team was granted broad authority to examine the existing arrangements and the need for changes, and this was in light of the desire to examine the broader issue of the rights of prayer and worship of the various denominations of Judaism, in the framework of which the specific issue related to Women of the Wall would also be examined.

Let us here clarify that the advisory team embraces the principles behind Mr. Sharansky's proposed framework. At the same time, from conversations the team held with the relevant parties, it became clear that implementation of that framework, which necessitates building a prayer platform adjacent to the stones of the Western Wall, thereby obstructing most of the northern section of the archaeological park, would limit access to the archaeological finds at the site and would present considerable difficulties, primarily due to the complexities resulting from damaging antiquities and from other weighty and significant sensitivities. Therefore, the team proposes solutions that are implementable now. At the same time, the team's recommendations do not reject the possibility of continuing to try and implement the Sharansky Framework as long as conditions allow for it in the future.

We further clarify that throughout this process, we never forgot the binding ruling by the Supreme Court on this issue. The issue of prayer by Women of the Wall was debated by the Supreme Court on a number of occasions in its role as the High Court of Justice. Although the rulings referred specifically to Women of the Wall, it was clear that the principles upheld in the rulings have decisive importance with regard to the broader issue of prayer arrangements at the Western Wall. Former Supreme Court President Meir Shamgar determined in the first ruling regarding Women of the Wall, High Court of Justice 257/89, 2410/90 **Hoffman et al. v. The Supervisor of the Western Wall et al.**, that "the door shall not be shut to the existence of the right of all who wish to pray in good faith in their own custom [...] It is appropriate that with regard to the Western Wall at least an effort be made to reach an arrangement that suits the customs of all those who wish to visit the Western Wall."¹² In the final and binding ruling on the matter, High Court of Justice Further Hearing 4128/00 **Director General of the Prime**

¹¹ Today there is a significant difference in the height of the existing prayer section north of the Mughrabi Bridge and the area visible to the south of the Mughrabi Bridge such that the area to the south is approximately 25 meters below the northern section.

¹² High Court of Justice 257/89, 2410/90 **Hoffman et al. v. The Supervisor of the Western Wall et al.**, 1994, Paragraph 3 of President Shamgar's ruling.

Minister's Office et al. v. Hoffman et al., the Supreme Court reiterated the right to freedom of worship, from which the right of Women of the Wall to pray at the Western Wall Plaza in accordance with their custom derives. At the same time, the Supreme Court noted that the right to freedom of worship is not an absolute right, but rather that "a right must – like with any other right on trial – be measured and weighed against the rights of others that are also deserving of protection. We must do all we can to minimize any affront other observers of the precepts may feel due to the manner of worship practiced by Women of the Wall, thereby also preventing serious incidents of opposition between the disputing camps" .¹³ The team kept these significant decisions by the Supreme Court in mind and it was guided by them when formulating its recommendations.

The team toured the Western Wall site and the Archaeological Park twice and convened eleven meetings.

Thirty-four invitees appeared in the framework of the meetings.¹⁴ Among the people who spoke before the team were representatives of Women of the Wall, representatives of the various denominations (Orthodox, Conservative and Reform), representatives of the Israel Police, representatives of various government offices, the then-Chairman of the Local Committee for Planning and Building in Jerusalem, a representative of the Israel Antiquities Authority and others. The team heard the invitees' statements and examined material presented by them, including with regard to the existing prayer arrangements, prayer arrangements requested by the different parties, aspects related to foreign affairs, security and safety, the archaeological importance of the area and aspects related to planning in the Western Wall Plaza area.

After examining all the facts, the team decided to recommend a framework that includes establishing an additional prayer section adjacent to Robinson's Arch, in which pluralistic and egalitarian prayer can be conducted, and which will provide a dignified place for the customs of the various denominations in Judaism, as detailed below. In this manner, the principles of the Sharansky Framework were adopted in practice.

In light of the great importance awarded to the binding court ruling regarding the issue under discussion when formulating the proposed solution, we would now like to present the legal background as a basis for the continuation of the discussion.

¹³High Court of Justice Further Hearing 4128/00 as aforementioned in Footnote 7, Paragraph 47 of Justice Cheshin's ruling.

¹⁴ For a full list, see Appendix B – Invitees Appearing Before the Team.

Prayer Arrangements at the Western Wall – Legal Background¹⁵

The issue of prayer arrangements at the Western Wall was argued before the Supreme Court as part of the struggle of Women of the Wall to hold women's group prayers at the location, including wrapping themselves in prayer shawls and reading out loud from the Torah. This method of worship was first exercised at the Western Wall on *Rosh Chodesh Tevet*, 5749, December 9, 1988, when the female worshippers wrapped themselves in prayer shawls. Since then, Women of the Wall has continued to conduct group prayers at the site every *Rosh Chodesh* except for *Rosh Chodesh Tishrei*. Throughout the years, Women of the Wall's worship has been met with opposition from other worshippers, who view their custom as an affront.

Two legislative instructions serve as the foundation for legal discussions on the issue:

Article 3 of Basic Law: Jerusalem, Capital of Israel, 1980:

"The Holy Places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings towards those places."

Article 1 of the Law for the Protection of Holy Places 1967:

"The Holy Places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings towards those places."

Based on the Law for the Protection of Holy Places, the Regulations for the Protection of Holy Places to the Jews, 1981, were drafted.

The first petition to the High Court of Justice regarding worship by Women of the Wall at the Western Wall (High Court of Justice 257/89)¹⁶ was submitted on March 21, 1989. The previous day, the police had to use tear gas to disperse the crowd after violent clashes developed during prayers for *Ta'anit Esther* at the site.

¹⁵ For a historical survey of this matter, see High Court of Justice Further Hearing 4128/00 as aforementioned in Footnote 7, Paragraphs 5-35 of Justice Cheshin's ruling; Netta Moshe, **Women of the Wall's Prayer at the Western Wall**, Knesset Research and Information Center (28.04.13). Sections of the survey presented here are based on these sources. See also: Appendix F of the Report in Hebrew (historic background regarding prayer of Women of the Wall at the Western Wall, presented in the Knesset Research and Information Center's work mentioned above, which reflects the view of the researcher) and Appendix G in Hebrew (historical background for prayer by members of the Conservative movement at the Western Wall, which was presented to the team by the Director General of the Masorati movement, and reflects the movement's position).

¹⁶ High Court of Justice 257/89 as aforementioned in Footnote 12.

In the petition, the Court was asked to issue an order nisi against the Supervisor of the Western Wall, the Ministry of Religious Affairs and the Chief Rabbis of Israel, that they explain why the petitioners in particular and Jewish women in general were prohibited from carrying Torah scrolls at the Western Wall and reading from them or from wrapping themselves in prayer shawls when praying. In addition, the court was asked to issue an order nisi against the Israel Police that it explain why it would not defend the petitioners in particular and Jewish women in general as they sought to realize their right to freedom of faith, religion, worship and conscience at the Western Wall.¹⁷

Following the filing of the petition, on December 31, 1989, the Minister of Religious Affairs published an amendment to the Regulations for the Protection of Holy Places to the Jews, 1981. The amendment added Regulation 2(A)(1A), according to which the following was prohibited, *inter alia*, in the boundaries of the Holy Places:

"Conducting religious ceremonies not in accordance with local custom, which offends the feelings of the public of worshippers towards the place."

Pursuant to the amendment to the Regulations, Women of the Wall filed an amended petition on February 28, 1990, in which they requested an order nisi against the Minister of Religious Affairs and the Minister of Justice that they explain why the court should not announce the annulment of the Regulations for the Protection of Holy Places to the Jews (Amended) 1990, or alternatively, why they should not be annulled.¹⁸

Two months later, on June 3, 1990, **another petition on the matter was filed with the High Court of Justice** by members of the International Committee for Women of the Wall, a group of Jewish-American women whose entry to the women's section had been prevented six months earlier when they arrived at the Western Wall Plaza to pray with the Israeli group of Women of the Wall. They requested a court order against the Minister of Religious Affairs, the Supervisor of the Western Wall, the Police Commissioner and the Attorney General "prohibiting them from preventing the petitioners [...] from praying near the Western Wall and the Western Wall Plaza wrapped in prayer shawls and reading from the Torah, and obligating them to allow the petitioners to bring a Torah scroll with them to the Western Wall Plaza and ensure that the aforementioned prayers can be conducted by the petitioners without interference or harm."¹⁹

The discussions on both petitions were unified, and on January 26, 1994, **the ruling on both petitions** was delivered. The Supreme Court ruled, with a

¹⁷ **Ibid.**, Paragraph 1 of Justice Alon's ruling.

¹⁸ **Ibid.**, Paragraph 2 of Justice Alon's ruling.

¹⁹ **Ibid.**, Paragraph 3 of Justice Alon's ruling.

majority of two (President Shamgar and Justice Alon) to one (Justice Levin) to reject the petitions because the remedies requested as part of the petitions were rejected.

However, while Justice Alon rejected the petitions, believing that the petitioners did not have the right to pray according to their custom in the women's section of the Western Wall as he felt that the term "local custom" should be interpreted as the method of worship accepted in an Orthodox synagogue,²⁰ both President Shamgar and Justice Levin believed that the term "local custom" did not necessarily refer to Orthodox practice and that the petitioners had the right to worship in accordance with their custom at the location.

Justice Levin emphasized in his ruling that it is natural for customs to change over time, and therefore the term "local custom" should include a pluralistic and tolerant attitude for the opinions and customs of others, with certain restrictions. His position was that there should not be an absolute prohibition on holding prayer services at the Western Wall site only because of the objections by certain circles. He further determined that the authorities were obligated to create the appropriate conditions to balance all the relevant interests so that anyone who wishes to gather near the Western Wall could do so and fully realize their rights without overly wounding the feelings of others.²¹

In light of the above, Justice Levin reached the conclusion that the petition should be accepted. President Shamgar, on the other hand, believed that despite the fact that "local custom" at the Western Wall was not necessarily Orthodox practice, the petitions should be rejected because the time was not ripe for deciding them through a judicial process. His position was that it was more appropriate to continue trying to find a practical way to realize the right of any person wishing to worship in good faith in their own manner at the Western Wall. Therefore, President Shamgar recommended that the government consider appointing a commission to examine the issue in depth, with the goal of finding a solution that would ensure free access to the Western Wall for all and reduce the affront to other worshippers.²²

On June 12, 1994, a request for an additional hearing on High Court of Justice Ruling 257/89 was filed.²³ The request was denied, reasoning that the parties should wait for the recommendations of the **directors general committee**, which had been appointed one month earlier (on May 17, 1994), per President Shamgar's suggestion to recommend a possible solution.

On May 30, 1995, Women of the Wall filed a **second petition to the High Court of Justice** – High Court of Justice 3358/95 **Hoffman et al. v. The**

²⁰ **Ibid.**, Paragraphs 57, 60 and 61 of Justice Alon's ruling.

²¹ **Ibid.**, Justice Levin's ruling.

²² **Ibid.**, Paragraph 3 of President Shamgar's ruling.

²³ High Court of Justice Further Hearing 882/94 **Alter et al. v. The Minister of Religious Affairs et al.** (not published).

Director General of the Prime Minister's Office et al. The relief sought was an order nisi against the members of the directors general committee that they explain "why they do not immediately submit the proposals that they were charged with submitting to the Government of Israel by May 17, 1995, in accordance with Government Resolution No. 3123 of May 17, 1994". Furthermore, the petitioners requested an interim order to instruct the Government of Israel to abstain from extending the deadline for the submission of the directors general committee's proposals.

On April 2, 1996, **the directors general committee submitted its recommendations** to the government. The committee determined that the time was not yet ripe to allow for prayer in the Western Wall Plaza itself in any form other than the traditional form of worship customary therein. The committee examined a number of alternative sites that could serve as a place of worship for Women of the Wall (including: the plaza at the foot of Robinson's Arch; the area in front of the Hulda Gate; the southeast corner of the Temple Mount wall; and the area of the Small Western Wall), and ultimately found that the southeast corner of the Temple Mount was the most appropriate alternative.

On June 2, 1997, **a ministerial committee** appointed to examine the recommendations of the directors general committee and how to implement them, decided to adopt the recommendation that the time was not ripe to allow Women of the Wall to worship in accordance with their custom in the Western Wall Plaza. In addition, the committee recommended examining possibilities to arrange an alternative prayer site for them.

On November 26, 1997, it was determined that the **Ne'eman Committee**, a committee headed by the then-Minister of Finance Ya'akov Ne'eman that had dealt with issues related to conversion, would also discuss the issues relating to Women of the Wall in an attempt to reach an agreed-upon arrangement. On September 23, 1998, the Ne'eman Committee published its conclusions. The committee believed that the petitioners should not be allowed to worship in accordance with their custom at the Western Wall Plaza. As such, the committee examined five alternate prayer sites: the parking lot area adjacent to the entrance to the Western Wall Plaza; the southern wall; the women's section in the Western Wall Plaza; the flag plaza (the upper plaza); and the Robinson's Arch site. It determined that the most practical alternative was to prepare a prayer site at the Robinson's Arch site.

On May 22, 2000, the **ruling on High Court of Justice 3358/95** was issued. The court determined that in High Court of Justice 257/89 President Shamgar and Justice Levin recognized the right of the petitioners to worship in accordance with their custom at the Western Wall Plaza. Therefore, the Court ruled that the recommendations of the three committees which discussed the issue – the directors general committee, the Ministerial Committee for Jerusalem Affairs and the Ne'eman Committee – did not comply with the Court's instructions because the solution should have been one that upheld freedom of access to the Western

Wall while reducing the affront to other worshippers. The committees that examined this issue did not discuss reducing the affront, but rather completely deprived Women of the Wall of their right to pray at the location.²⁴

The three justices who ruled on the petition – Matza, Strasberg-Cohen and Beinish – interpreted Regulation 2(A)(1A) as allowing Women of the Wall to worship at the site in accordance with their custom. Justice Matza determined that the three committees deviated from the formula of balance outlined in High Court of Justice 257/89 – a balance that would allow Women of the Wall to pray in the Western Wall Plaza.²⁵ Accordingly, the Court decided to issue an order absolute "which instructs the government to determine the arrangements and the appropriate conditions in which the petitioners can realize their right to worship in accordance with their custom at the Western Wall Plaza". Implementation of the ruling was delayed for six months in order to determine the necessary arrangements.

Two weeks after the ruling was issued in High Court of Justice 3358/95, the government petitioned to hold a **further hearing**.²⁶ In its petition, the government claimed that the solution proposed by the Ne'eman Committee, according to which a place of worship for Women of the Wall would be prepared at the Robinson's Arch site, upheld the conditions set out by President Shamgar in Supreme Court 257/89, as it was a dignified and fair solution that could be immediately implemented. The request to hold a further hearing was accepted.

On April 6, 2003, **the ruling on the further hearing** was issued. A majority of five justices to four²⁷ determined that Women of the Wall had the right to worship near the Western Wall in accordance with their custom, although it was not an absolute right, but rather a right that must be balanced against the offense felt by other worshippers because of the nature of their worship.²⁸ In order to try and achieve this balance, the Court determined that the government must ready the Robinson's Arch site to serve as an organized prayer site for Women of the Wall. It was further determined that if the site was not prepared in the next twelve months, the government would have to determine arrangements and conditions that would allow Women of the Wall to realize their right to worship in accordance with their custom at the existing Western Wall Plaza.

Justice Cheshin, who wrote the majority ruling, clarified that the issue of the right of Women of the Wall to pray at the Western Wall had been determined by President Shamgar in High Court of Justice 257/89, wherein he determined that

²⁴ High Court of Justice 3358/95 **Hoffman v. The Director General of the Prime Minister's Office**, Paragraph 25 of Justice Matza's ruling.

²⁵ **Ibid.**, Paragraph 26 of Justice Matza's ruling.

²⁶ High Court of Justice Further Hearing 4128/00, as aforementioned in Footnote 7.

²⁷ In the majority: President Barak and Justices Cheshin, Englard, Ohr and Turkel. In the minority: Deputy President Levin and Justices Matza, Beinish and Strasberg-Cohen.

²⁸ High Court of Justice Further Hearing 4128/00, as aforementioned in Footnote 7, Paragraph 47 of Justice Cheshin's ruling.

Women of the Wall had the right to pray in accordance with their custom at the site.²⁹ President Barak and Justice Ohr agreed with this determination.

Justice Turkel wrote that President Shamgar's ruling could be interpreted such that the right of Women of the Wall to worship in accordance with their custom did not necessarily refer to the Western Wall Plaza. His position was that the solution proposed by the Ne'eman Committee to worship at Robinson's Arch upheld the conditions laid out in President Shamgar's ruling.³⁰

Justice Englard determined, much like Justice Alon in High Court of Justice 257/89, that the term "local custom" should be interpreted according to the Orthodox religious custom,³¹ and that the custom of worship of Women of the Wall does not comply with this custom.

Deputy President Levin and Justices Matza, Beinish and Strasberg-Cohen felt, in their minority opinion, that the petition should be rejected. They believed that Women of the Wall had the right to pray in accordance with their custom in the existing Western Wall Plaza as determined in High Court of Justice 3358/95.

In summary: With regard to the right of Women of the Wall to worship at the Western Wall in accordance with their custom – seven justices (President Barak, Deputy President Levin and Justices Cheshin, Ohr, Matza, Beinish and Strasberg-Cohen) believed that Women of the Wall had that right; Justice Turkel believed that Shamgar's ruling in High Court of Justice 257/89 could be interpreted to mean that Women of the Wall had a right to pray in accordance with their custom at the Western Wall, but it did not necessarily refer to prayer in the Western Wall Plaza itself; and Justice Englard was the only one who believed that "local custom" at the Western Wall referred to Orthodox custom and that Women of the Wall did not have the right to pray there in accordance with their custom.

On January 6, 2013, a petition was filed with the Supreme Court – High Court of Justice 145/13 **Israel Movement for Reform and Progressive Judaism et al. v. The Prime Minister et al.** The petition demanded that a court order be issued that a reason be given why a body had not been established to administer the Western Wall in a manner that represented the various Jewish denominations and which would include significant representation of women, as well as why the determination that the Rabbi of the Western Wall and the Holy Places serve as the chairman of the administrative body of the Western Wall – The Western Wall Heritage Foundation or its proxy – should not be overturned.

The State's response to this petition was submitted on May 13, 2013. The State claimed that the petition should be rejected given a lack of cause for the Court's intervention in the matter. The response further stated that the Western Wall Heritage Foundation is a professional body, comprising representatives of relevant

²⁹ **Ibid.**, Paragraphs 40 and 47 of Justice Cheshin's ruling.

³⁰ **Ibid.**, Paragraph 5 of Justice Turkel's ruling.

³¹ **Ibid.**, Paragraphs 9-11 of Justice Englard's ruling.

governmental and public bodies, and therefore there is no basis for the demand to make the Foundation's composition representational.

The Rabbi of the Western Wall requested that he be appended to the petition as a respondent and his request was accepted. On July 29, 2013, the Rabbi of the Western Wall submitted his response in which he claimed that the petition should be rejected. In his response, he pointed out that the Western Wall is the most important and visited site in the State of Israel and that a solution for the needs and desires of a range of worshippers and visitors should be provided. It is up to the Rabbi of the Western Wall to find the desired and appropriate balance between the various interests and desires.

Because of the work conducted by the advisory team on the issue of prayer arrangements at the Western Wall, the date of the discussion on the petition is deferred from time to time, with the agreement of both sides.

On March 11, 2013, a discussion was held under the auspices of the then-Deputy Attorney General (Civil Affairs), Sarit Dana, during which it was agreed that the Robinson's Arch site had been prepared in accordance with the Court's ruling in High Court of Justice 4128/00, and that it should be considered an alternative to the Western Wall Plaza where Women of the Wall could worship. As a result, it was determined that Women of the Wall could be prevented from exercising their customs (wrapping themselves in prayer shawls, reading from the Torah and having a *minyan* of women, including reciting the *Kaddish*) at the Western Wall Plaza.

On April 11, 2013, during prayers for *Rosh Chodesh Iyar* 5773, five members of Women of the Wall were arrested. The State requested that the women be released on condition that they be prohibited from entering the Western Wall site for prayers on *Rosh Chodesh Sivan*, *Tamuz* and *Av* of that same year. Jerusalem Magistrates' Court Judge Sharon Larry Bavly rejected the State's request finding that there were no grounds for the women's arrest or for making their release conditional. She stated in her decision:

"The disorderly conduct at the location, as much as there was disorderly conduct, was not that of the respondents... Under these circumstances, it was not Women of the Wall that provoked the situation."³²

On April 24, 2013, the District Court of Jerusalem rejected an appeal filed by the State regarding the women's release.³³ In his ruling, Judge Moshe Sobel rejected the State's interpretation that the very arrival of members of Women of the Wall at the Western Wall wrapped in prayer shawls is in violation of the law and of the High Court of Justice's ruling. Judge Sobel ruled that there was no legal instruction

³² State of Israel (Jerusalem Magistrates' Court) 21352-04-13 **Ras et al.**, as aforementioned in Footnote 9.

³³ State of Israel Appeal (Jerusalem District Court) 23834-04-13 **The State of Israel v. Ras**, as aforementioned in Footnote 10.

that prohibited members of Women of the Wall from wrapping themselves in prayer shawls at the Western Wall Plaza.

With regard to High Court of Justice Further Hearing 4128/00, Judge Sobel determined that the ruling did not contain a clause forbidding Women of the Wall from worshipping at the Western Wall Plaza, as the wording therein was not a directive but rather a recommendation. The Judge further determined that, in the absence of a judicial determination confirming that the government fulfilled the condition set out in the aforementioned ruling with regard to readying the Robinson's Arch site "properly and as required", the original order could not be viewed as any kind of order absolute.³⁴

With regard to the violation of Regulations 2(A)(1A) and 5 of the Regulations for the Protection of Holy Places to the Jews regarding performing a prohibited practice in the bounds of the Holy Places, having examined the interpretation of the phrase "local custom" in light of the High Court of Justice ruling, the Judge determined that "there is no reasonable suspicion that the respondents violated the prohibitions in the Regulations for the Holy Places, as one of the necessary components is 'conducting a religious ceremony not in accordance with local custom.'"

Following the ruling, the Attorney General instructed the police to allow Women of the Wall to worship at the Western Wall Plaza in accordance with their custom.

Recently, efforts by various parties to bring Torah scrolls to the Western Wall Plaza for the purpose of prayer in the women's section have increased. After a number of incidents during which these attempts were prevented, a damages claim was filed in the Jerusalem Magistrates' Court on November 29, 2015, in accordance with the Law Prohibiting Prayer in Products, Services and at the Entrance to Places of Entertainment and Public Spaces, 2000, by two women seeking to allow such prayer (Civil Case 62763-11-15 **Prof. Magnus et al. v. Rabbi Rabinovitz et al.**). At the same time, the two women filed a petition with the High Court of Justice requesting that the Rabbi of the Western Wall be instructed to allow them to use the Torah scrolls already located in the men's section, as well as to abrogate the regulation governing "Bringing Torah Scrolls into the Western Wall Plaza", which prevented the bringing in of the Torah scrolls (High Court of Justice 8124/15 **Prof. Magnus et al. v. Rabbi Rabinovitz et al.**). The legal proceedings are still pending.

³⁴ **Ibid.**, Paragraph 7 of the ruling.

"Without patience and tolerance between people there will be no society nor will the kingdom be established"

(Justice Michael Chesbin, High Court of Justice 5016/96)³⁵

Proposed Framework

Principles of the Proposed Framework for Prayer Arrangements at the Western Wall³⁶

The Western Wall is a remnant of the Second Temple, and one of the most important and holy places to the Jewish people. The holiness of the Western Wall extends along its entire length in equal measure; as is written in our religious literature: "The *Shechina* (Divine Presence) will never depart from the Western Wall".³⁷

The total length of the Western Wall is 490 meters, and it extends from the southwest corner of the Temple Mount to the northwest corner. A significant portion of the Western Wall is not visible above the surface. The exposed area includes approximately 140 meters, of which 60 meters are located in the existing prayer section and approximately 80 meters are located in the area of the archaeological park located south of the existing section.

The Western Wall Plaza includes a prayer area divided into a men's section and a women's section. The area of the uncovered prayer section is 2,000 square meters, but there are additional covered sections in which prayers are conducted. From testimony presented to us, it is clear that the aforementioned prayer area is ascribed, according to Jewish custom, the "sanctity of a synagogue".³⁸ However, the sanctity is also the result, as aforementioned, of its being part of the Western Wall, in addition to it being a synagogue.

West of the prayer plaza there is an upper plaza that is not usually used for prayer, but rather as a gathering space and as a passageway to the prayer section, and occasionally also as a place to hold ceremonies of a national, governmental or

³⁵ High Court of Justice 5016/96 **Horev et al. v. The Minister of Transportation**, 1997.

³⁶ It should be emphasized that, in accordance with the Regulations for the Protection of Holy Places to the Jews, 1981, the Western Wall site includes, in addition to the Western Wall Plaza, "any structure and any upper or underground passageway with an entrance from the plaza". In accordance with the map attached as an appendix to the Regulations Regarding Limitations on Trade in the Area of the Western Wall, 1972, this area also includes the passageways to the plaza located between the Dung Gate and the Shoken Building (pedestrian and vehicular access paths to the Shoken Building, Goren Square and the stairs). Although the Regulations from 1981 did not include the aforementioned map, no other framework was determined. Therefore, the Rabbi of the Western Wall operated in the aforementioned area in his duties as Supervisor of the Western Wall Plaza in an egalitarian manner, even though he avoided enforcing some of the prohibitions detailed in the Regulations for the Protection of the Holy Places, and he will continue to do so in the future as well (including the prohibition to play instruments or improper attire).

³⁷ Yalkut Shimoni Book of Kings A, Chapter 8

³⁸ For further explanations regarding the sanctity of synagogues, see: the ruling by Justice Alon at the High Court of Justice 257/89, as mentioned in Footnote 11, pp. 318-319 (in Hebrew), as well as the book written by the Rabbi of the Western Wall, **Questions and Answers Gates of Zion, Part One**.

military character. In general, prayers are not conducted in this plaza and there is not normally separation between men and women (except during specific occasions such as Jewish holidays, the Days of Awe (*Selichot*), Jerusalem Day and *Tisha B'Av*, as well as at mass prayer convocations). It should be clarified that according to the proposed framework, the prayer arrangements, which will be detailed below, will only be implemented in the northern and southern sections, as opposed to the upper plaza, which will, in general, continue to serve as an area with a national character, as detailed above.

After hearing from a number of relevant parties, and after due consideration of all relevant aspects, the team formulated a detailed framework for prayer arrangements at the Western Wall, which include physical and legal changes to the existing situation.

As aforementioned, when beginning to formulate the proposed framework, we referred to the Supreme Court rulings detailed earlier, as well as the principles resulting therefrom, including the instructions provided by retired Supreme Court President Meir Shamgar in High Court of Justice 257/89, according to which "practical avenues should be sought so that all people who wish to beseech their Creator should be permitted to do so in their respective style and fashion, with the exception that it not pose a significant affront to the prayers of others".³⁹ In addition, we kept in mind the principles of the framework proposed by Mr. Sharansky, as aforementioned.

According to the framework proposed by the team, an additional prayer plaza will be prepared, in a comprehensive and dignified manner, along the southern section of the Western Wall (adjacent to the site known as Robinson's Arch, which includes the Jerusalem Archaeological Park) (**the southern section**), which will operate alongside the currently existing plaza along the northern section of the Western Wall (**the northern section**), and it will constitute an inseparable part of the Western Wall site.

Prayers in the northern section will be conducted in accordance with Jewish Orthodox custom as practiced by the Chief Rabbinate, including a partition separating the women's section from the men's section, and women's prayers corresponding to that custom. Prayers in the southern section will be in accordance with the pluralistic and egalitarian worldview, in a manner that will provide a solution for those worshippers from the non-Orthodox Jewish denominations, first and foremost the Reform and Conservative movements. In general, prayer will be conducted in this space without a partition between men and women. In addition, at *Rosh Chodesh* and on religious dates (such as *Ta'anit Esther*) Women of the Wall will be allowed to hold separate prayers for women, in accordance with their beliefs and custom.⁴⁰

³⁹ High Court of Justice 257/89, as mentioned in Footnote 12, Paragraph 3 of Justice Shamgar's ruling.

⁴⁰ On this matter, we would like to positively point to the approach by the representatives of the Conservative and Reform movements, who expressed their understanding and support regarding the duty to provide a response to the needs of Women of the Wall in the southern section by erecting a symbolic

The proposed framework recognizes the productive yet complex tension that exists in Judaism between tradition and innovation, as well as the religious pluralism that exists in Judaism. It is fitting that the Western Wall, which in the eyes of many is a symbol of the national, religious and cultural renaissance of the Jewish people, be open and accessible to any Jew who wishes to worship in a manner that suits their identity and faith. The framework further expresses recognition of the Western Wall's special importance to the entire Jewish people and of the duty of the State to ensure equal access to the Western Wall.

Explanatory Remarks

Article 3 of the Basic Law: Jerusalem, Capital of Israel determines that "the Holy Sites will be preserved from desecration and any other harm **and from any other thing that may harm the freedom of access of the members of the religions to the Holy Sites or their sensitivities towards those same sites**" (emphasis added).

An identical instruction was issued in Article 1 of the Law for the Protection of Holy Sites. Based on these instructions, retired President Shamgar determined in High Court of Justice 257/89 that "the door should not be shut to the existence of the right of all who wish to pray in good faith in their own custom".⁴¹ President Shamgar further determined that "**practical avenues** should be sought and found to realize the legislative reasoning behind the two aforementioned laws, which is the continuation and fulfillment of the declarative principle of the Declaration of Independence".⁴² There was good reason for President Shamgar to refer to the Declaration of Independence, which states, "After being forcibly exiled from their land, the [Jewish] people kept faith with it throughout their Dispersion and never ceased to pray and hope for their return to it and for the restoration in it of their political freedom...THE STATE OF ISRAEL will be open for Jewish immigration and for the Ingathering of the Exiles... it will be based on **freedom, justice and peace... it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience,** language, education and culture; it will safeguard the Holy Places of all religions..." (Emphasis added).

This weighty ethical infrastructure appears to serve as the foundation of the most recent ruling by the Supreme Court in this regard (High Court of Justice Further Hearing 4128/00), which determined that "Women of the Wall have the right to pray near the Western Wall in accordance with their custom... The government is obligated to find an appropriate avenue to allow Women of the Wall to pray in

partition that will allow the members of the group to hold separate prayers for women, given that it is a singular exception and while taking into account the uniqueness of the needs of Women of the Wall.

⁴¹ High Court of Justice 257/89, as aforementioned in Footnote 12, pg. 355 (in Hebrew).

⁴² **Ibid.**

good faith, as is their custom, at the Western Wall Plaza".⁴³ At the same time, the Court determined that Women of the Wall's right, as with any legal right, is not absolute; "A right must – like any other right on trial – be measured and weighed against the rights of others, which are also deserving of protection."⁴⁴

It should be emphasized that when proposing a solution to the issue of prayer at the Western Wall, the team was motivated by a feeling of profound responsibility – both to Jewish traditions and the many people wishing to express those traditions, particularly at the Western Wall, in the Orthodox manner as defined by the Chief Rabbinate of Israel, and to the demand for innovation and providing a solution to the prayer needs of the non-Orthodox communities at the Western Wall. It is the duty of those dealing with this issue to design a solution that provides both groups actual space at the Western Wall.

The proposed framework was therefore formulated as part of an effort to balance the rights of all the relevant parties – to respect, equality and freedom of religion and worship – and to do so in a manner that preserves the special historic, national and religious status of the Western Wall for the Jewish people, **the entire Jewish people**.

In fact, one central right which, in our opinion, can be found on both sides of the debate – the right of devout Jews to pray in accordance with their beliefs and customs in the Western Wall Plaza – is a basic right to **freedom of religion and worship**. On one side stands the right of the worshippers from the Orthodox public to freedom of religion and worship, a right which obligates the avoidance of any affront to their sensitivities with regard to the Western Wall. On the other side is the right of Women of the Wall and that of other Jews, including Jews from various denominations, to also pray in accordance with their beliefs and customs, in the Western Wall Plaza – a right that should be applied equally and respectfully. The right to freedom of worship derives from the principle of human dignity and intersects with freedom of expression, and in our opinion, **to equal accessibility** to a site of historic, national and religious importance to all Jews.

A situation in which the rights of one side are invalidated by the identical right of the other side is not in line with the principles of equality and respect, which are already laid out, as aforementioned, in the Israeli Declaration of Independence, and later on in the Basic Law: Human Dignity and Freedom. As we are dealing with fundamental rights, we are obligated to find a balanced formula that will minimize an affront to either side. In this regard, it should be remembered that "protecting the feelings of one part of the public may easily digress and become an affront to the feelings of the other part of the public".⁴⁵

⁴³ High Court of Justice Further Hearing 4128/00, as aforementioned in Footnote 7, Paragraphs 47-48 of Justice Chesin's ruling.

⁴⁴ **Ibid.**, in Paragraph 47 of Justice Chesin's ruling.

⁴⁵ High Court of Justice 3872/93 **Mitral Ltd. v. The Prime Minister and Minister of Religious Affairs**, 1993

In the ruling issued in High Court of Justice 257/89, retired Deputy President Alon wrote: "Logic dictates that the fundamental change in the status of women and their place in the current century will become more prominent as time passes, and will provide a suitable solution to the complicated and sensitive issue of the existence of 'prayer groups'."⁴⁶ The two decades that have passed since that ruling was issued have made clear and emphasized all the more forcefully the need for a formal arrangement for a place of worship for those who wish to pray in an egalitarian manner that differs from the prevailing custom, one that respects their beliefs and provides a suitable resolution to their rights and needs.

The proposed framework does respect the rights and needs of both parties. We hope that in this manner, the Western Wall will cease to be an area of discord and will regain the tenor that suits its special status for the entire Jewish people, as a site of national and religious expression of yearning and prayer.

The proposed framework also illustrates the principle of **distributive justice**. This principle deals with just social distribution of limited public resources. The issue of accessibility to the Western Wall and the right of anyone seeking to realize their right in good faith to meaningful worship near it must be assured in accordance with this principle. In terms of distributive justice, it is not just about freedom of worship, but also the broader right of the individual in the context of public domain. "Public domain" is something to which each individual in a society has a right – the right of some type of public ownership – and therefore society cannot expropriate that type of public ownership unless **specifically** authorized to do so by law or statute".⁴⁷

Details of the Framework⁴⁸

A. The Northern Section

The existing prayer plaza is located in the northern section of the exposed part of the Western Wall, from the Mughrabi Bridge in the south to the entrance to the Western Wall Tunnels in the north. The area of the uncovered section of the existing prayer plaza is 2,000 square meters (this area does not include additional covered areas that are also used for prayer). This section will be established as a religious site and location for worship, and prayer and ceremonies conducted therein will be in accordance with Jewish Orthodox tradition as determined in Jewish law, which the Chief Rabbinate of Israel follows, and will include the separation of men and women and women's prayers will be in accordance with this custom.

⁴⁶ High Court of Justice 257/89, as aforementioned in Footnote 12, p. 329 (in Hebrew).

⁴⁷ High Court of Justice 5016/96 **Horev**, as aforementioned in Footnote 35, p. 148 (in Hebrew).

⁴⁸ It should be clarified that the framework hereby presented is a basic framework. Its implementation requires the necessary arrangements in accordance with law.

B. The Southern Section

According to the proposed plan, the Robinson Arch site, adjacent to the southern section of the Western Wall, will be converted to also serve as a religious site and location for pluralistic and egalitarian worship, as suits the needs of the various non-Orthodox denominations of Judaism, i.e. the Reform and Conservative movements, including mixed worship by men and women, and it is this framework that will provide a solution to the needs of Women of the Wall.

The site will be physically adapted to serve as a religious site for worship, and will constitute an integral part of the Western Wall site. As such, a platform designated for prayer will be built in the northern part of the archaeological park, adjacent to the Mughrabi Bridge. In addition to the platform, the southern section will also include an area that will not be developed, including the area of the Herodian road, and worship there will be conducted in a manner that takes into account the important archaeological findings existing on site, as well as the possibility that the site will be visited for non-religious purposes, all in accordance with the instructions of the Southern Section Council as detailed below.⁴⁹

The fundamental and basic values that will guide the activity in the southern section will be pluralism, equality and tolerance. Prayer arrangements implemented in this section will provide a suitable solution to a broad range of worshippers and visitors among the non-Orthodox public, and specifically the worshippers from the Reform and Conservative movements. Men and women will pray without a partition in this section. At the same time, a solution will be provided to meet the needs of Women of the Wall, and temporary separation will be arranged for them (for example, with a movable partition) during their prayers each month for *Rosh Chodesh* and *Ta'anit Esther*, and at other times for which the supervisor of the southern section will provide specific permission, in accordance with the opinion of the Southern Section Council.⁵⁰

When preparing the site to serve as a prayer plaza, the following changes, *inter alia*, as described in the Plan to Prepare the Southern Section and Access Arrangements for the Western Wall Site (Appendix D), will be made in accordance with planning and building laws:⁵¹

1. A prayer platform will be erected, and wide and suitable access paths will be built in a manner that allows the public of worshippers and visitors

⁴⁹ In accordance with the Plan to Prepare the Southern Section and Access Arrangements for the Western Wall Site (Appendix D), the southern section be demarcated in a manner that will enable the public of worshippers to arrive and have maximal access to the stones of the Western Wall. Beyond the section adjacent to the temporary stage where the rockslide of stones from the destruction is located, it will be possible to use the Herodian road for prayer as well, such that the entirety of the area of the southern section will serve as a pluralistic and egalitarian space.

⁵⁰ See Footnote 40 above.

⁵¹ See The detailed plan will be prepared in accordance with the instructions of the Israel Antiquities Authority and the Israel Police.

convenient and safe access to the site.⁵² The plan for preparing the site will include landscape development, which will provide the prayer plaza and its surroundings a distinguished and formal appearance, as well as the removal of existing landscaping hazards (the wooden partitions, wire fences), while preserving the archaeological findings.⁵³

2. The section will be open to the public seven days a week, twenty-four hours a day, for prayer and for visiting.
3. Access to the section will be open and free of charge. Visitors to the plaza will not have to undergo an additional security check, only the one conducted at the entryway to the Western Wall site.⁵⁴
4. Access to the section will be through an entryway shared by both prayer sections – the north and the south (see below). In addition, accessibility for people with disabilities will be ensured.
5. The overall plan for the physical arrangements for the southern section ensures the maximum possible visibility of the site, including from the shared entryway and from the direction of the various access paths to the Western Wall site. Any physical change which is not the result of maintaining public security at the Western Wall site that could affect the aforementioned field of visibility will be made with the agreement of the Southern Section Council.
6. The administrators of the site will provide the worshippers with religious services (including providing Torah scrolls and other ritual articles, which will be stored in a holy ark, for public use by both male and female worshippers), as well as other services, such as ushering services, assistance in organizing Bar/Bat Mitzvahs, providing equipment for the ritual washing of hands, etc.

C. The Upper Plaza

The upper plaza will only be used as a place to gather and as a passageway to the prayer plaza, and occasionally ceremonies of a national, governmental or military nature will be held there.⁵⁵

Nevertheless, on special religious occasions – the three pilgrimages (Succoth, Passover and Shavuot), the Days of Awe (*Selibot*), Jerusalem Day and *Tisha B'Av*, as well as at large prayer convocations – when the number of worshippers actively exceeds the maximal capacity of the northern section, prayers will also be held in

⁵² For more information, see Paragraphs 47-48 of Justice Cheshin's ruling in High Court of Justice Further Hearing 4128/00, as aforementioned in Footnote 7.

⁵³ It should be clarified that, like the northern prayer section, permanent shading will not be erected in the southern section, but rather canopies will be used.

⁵⁴ When implementing the framework, attention will be paid to the necessary separation between the southern section and the rest of the archaeological park.

⁵⁵ It should be emphasized that the upper plaza will not be used to conduct the ceremony when new Torah scrolls are brought to the northern or southern sections.

the upper plaza. In these cases alone and only during prayers, the custom in the upper plaza in the areas being used for prayer (the size of which will be in accordance with the number of worshippers at the location) will be the custom prevailing in the northern section, i.e. with separation of men and women. To that end, separation partitions will be erected on site as necessary. Areas that are not being used for prayer during the aforementioned occasions will continue to serve the broader public.

Except for the above situation, the upper plaza will not be used for any other purpose. Administration of the upper plaza will remain in its current configuration, i.e. under the responsibility of the Supervisor of the Jewish Holy Places (namely the Rabbi of the Western Wall) and the Western Wall Heritage Foundation.⁵⁶

D. Shared Entryway for Both Sections⁵⁷

The entryway to the Western Wall Plaza, which is currently located in the lower section of the entry structure to the Western Wall site (the Shoken Building), will be relocated to the upper section of the structure (adjacent to the eastern side of the upper section). Three checkpoints will be set up at this location – one checkpoint for women, one checkpoint for men and one mixed checkpoint.⁵⁸ North of the mixed checkpoint, a bridge and stairs leading to the lower section of the entry structure will be built. This will all be done in accordance with planning and building laws.⁵⁹ This bridge and the stairs will lead from the broad stairs linking the path between the lower Shoken Building and the Dung Gate to the southern section (between the Umayyad walls). The passage to the bridge will be open to anyone coming to the public plaza, including those arriving from the additional entry points to the Western Wall site.⁶⁰

The plan to prepare the shared entryway will also include dealing with the pedestrian access path from the Dung Gate to this entryway in a manner that suits the number of people using this path, as well as obstructed access to the Western Wall site from the direction of the existing path (which connects the Dung Gate to the lower section of the Shoken Building), except for during unusual times when it is necessary because of the number of visitors to the site (i.e. events like *Tisha B'Av* and mass prayers conducted during the three pilgrimages; or when it is

⁵⁶ As aforementioned in Footnote 2, according to the Regulations for the Protection of Holy Places to the Jews, 1981, the upper plaza is a part of the Western Wall site, with all that that entails.

⁵⁷ See Appendix D (Plan for Preparing the Southern Section and Access Arrangements for the Western Wall Site).

⁵⁸ It should be clarified that if the need arises to construct a room for security checks, a solution will be found, but not on the level of the new entranceway.

⁵⁹ The detailed plan will be prepared in accordance with instructions from the Israel Police.

⁶⁰ In this context, the team recommends that the Minister of Tourism examine, in cooperation with the Ministry of Public Security and the Ministry of Justice, different solutions which will allow for the possibility of using the Mughrabi Gate to address too many people entering the Western Wall site at once.

necessary at the request of the Israel Police because of urgent and obligating considerations to protect public order at the Western Wall site).⁶¹

E. Free Access for All Worshippers to Both Sections and the Prohibition Against Offending the Sensitivities of the Worshippers

Both sections will be open and freely accessible to anyone who wishes to enter them, to visit, worship or for any other reason, but only if behavior on site is in accordance with the local customs, i.e. in accordance with what is acceptable in each of the sections and their respective characters as detailed above and as outlined in the Regulations.

F. Administration of the Southern Section

The southern section will be administered by whomever the Prime Minister appoints to be the supervisor of the southern section, from the following: the Director General of the Prime Minister's Office, one of the Deputy Directors General of the Prime Minister's Office or one of the Deputy Cabinet Secretaries. The supervisor will be responsible for the daily administration of the site and the activities conducted therein. The supervisor's decisions will be made with all due consideration for the character and purpose of the southern section, primarily providing a solution for the right to prayer and worship of the worshippers from the non-Orthodox Jewish denominations, first and foremost the Reform and Conservative movements, in a pluralistic and egalitarian manner.

Alongside the supervisor, a council will operate and carry out the duties assigned to it in the Regulations for the Protection of Holy Places to the Jews. These duties will also include the council's agreement on directives issued by the supervisor to ensure the efficient application of the prohibitions that will apply to the southern section, as well as any instructions related to conducting religious ceremonies in accordance with local custom as applicable in this section. To that end, the council will be authorized to define the prayer arrangements and the manner in which religious ceremonies will be conducted in the southern section. In addition, the council will be authorized to instruct the supervisor on issues related to ongoing maintenance and daily administration of the southern section which are not part of the authorities held by the supervisor as outlined in the Regulations for the Protection of Holy Places to the Jews, as detailed below.

The composition of the council will be as follows:

1. The Chairman of the Jewish Agency for Israel – who will serve as Chairman of the Council;
2. The Cabinet Secretary;
3. The Director General of the Ministry for Jerusalem and Heritage;
4. The Director General of the Ministry of Diaspora Affairs;

⁶¹ It should be clarified that these unusual cases will be limited to the shortest period of time needed because of the unusual circumstances, and in any event this will not be a permanent situation.

5. The Director General of the Ministry of Tourism;
6. The Supervisor of the Southern Section;
7. The Director-General of the Israel Antiquities Authority
8. Two representatives of the public, to be appointed by the Prime Minister, as recommended by the Reform Movement leadership;
9. Two representatives of the public, to be appointed by the Prime Minister, as recommended by the Conservative Movement leadership;
10. Two female representatives representing the public of worshippers in the southern section, to be appointed by the Prime Minister, (the team recommends that the Prime Minister appoint representatives from the Women of the Wall organization, in accordance with this clause);

Council decisions will be passed by a majority vote. In cases of a tie, the council chairman will have the deciding vote.

It should be noted that the team saw fit to recommend the establishment of the aforementioned Southern Section Council for two reasons: one, because of the fact that this is a new prayer area and the arrangements to be implemented therein should be determined by a collegial body that reflects a range of relevant interests and illustrates the existing complexity and innovative framework; and two, because of the dual nature of the site, which will serve both as a place of prayer and as an archaeological site of unique importance.

As aforementioned, ongoing maintenance of the southern section will be conducted in accordance with the instructions of the council, and will be carried out by an existing governmental body with appropriate experience, with whom the supervisor will work, with the approval of the council.⁶² To this end, the Prime Minister's Office will allocate a suitable budget, which will cover providing religious services (including providing Torah scrolls and ritual articles for public use and assisting with organizing Bar/Bat Mitzvah ceremonies), maintenance services (ushering, security, janitorial) and advertising services (in this framework, the supervisor for online governmental publications will publicizes the pluralistic prayer options in the southern section as part of the Prime Minister's Office website). This budget will be anchored in the Prime Minister's Office base budget.⁶³

It should be emphasized that the establishment of the council and the authorities granted it in no way affect the areas of authority granted the Israel Antiquities Authority in the Antiquities Law, 1978, nor detract from them. It is further

⁶² It should be emphasized that, in accordance with the opinion of the Deputy Attorney General (Counsel), Dina Zilber, dated March 12, 2014, on the matter of "Granting Operational Rights for the Western Wall Site and the Archaeological Park to Private Entities", the Western Wall site and the archaeological park adjacent to the site must be administered and operated by a governmental party and not by a private organization or any other private entity.

⁶³ According to an examination conducted by the Director General of the Prime Minister's Office, the operating budget for the southern section for the first operational year will be NIS 5 million, in addition to a one-time investment of NIS 2.5 million. Of course, the budget will be updated each year, in accordance with changes in the number of visitors to the site.

clarified that the authority granted the Western Wall Heritage Foundation will remain as they are defined today, except for the southern section.

G. Regulations

The proposed framework, which includes two equivalent prayer sections, will be regularized in an amendment to the Regulations for the Protection of Holy Places to the Jews, 1981. A proposed draft of these Regulations is attached herewith.⁶⁴ The amendment to the regulations will regularize, *inter alia*, the following issues:

1. The geographic boundaries of the northern and southern sections to be determined;⁶⁵
2. Prohibited practices within the bounds of the sections;⁶⁶
3. The separate administration of each of the sections;
4. The supervisor's areas of authority vis-à-vis each of the sections;
5. Establishing the Southern Section Council and defining its authorities;
6. "Local custom" in the prayer plazas.

It should be pointed out that in the existing version of the regulations, there is a punitive clause that sets a punishment of six months' incarceration or a fine of NIS 500 for performing one of the practices prohibited at the Western Wall. The team's position is that it is not proper that "local custom" be enforced through a punitive instruction, as is currently the case. Therefore, the team recommends that the punitive clause not be applicable with regard to preserving "local custom", while still maintaining the supervisor's authority to remove any individual from the

⁶⁴ See Appendix C.

⁶⁵ See Appendix C1 – Boundaries of the Prayer Sections. It should be clarified that the determination of the geographic boundaries of the southern section in no way detracts from the responsibilities of the Rabbi of the Western Wall (the Supervisor of the Holy Places to the Jews) with regard to the rest of the areas included in the Western Wall site according to the Regulations for the Protection of Holy Places to the Jews, 1981, as aforementioned in Footnote 36 above. In other words, all the aforementioned areas included in the Western Wall site will be the responsibility of the Rabbi of the Western Wall (the Supervisor of the Holy Places to the Jews), excluding the southern section which will be the responsibility of the supervisor of the southern section. In any case, both supervisors will coordinate any events related to the southern section in the area between the Dung Gate and the Shoken Building, including the issue of the access path to the southern section during such events.

⁶⁶ Two additional practices have been added to the forbidden practices described in the existing regulations, and they anchor the status quo at the Western Wall. The first is a prohibition to play any musical instrument or to play music without permission from the supervisor and subject to their conditions (such permission will be granted subject to the preservation of the character of the place and its sanctity, and in any case will not be granted for the playing of musical instruments or music of any kind on the Sabbath or religious holidays). The second is a prohibition on holding wedding or Brit Milah ceremonies.

prayer section under their authority who does not comply with local custom.⁶⁷ This arrangement appears in the proposed amendment to the Regulations.

It should also be pointed out that, according to the proposed draft of the Regulations, the arrangements related to the supervisor's authorities in each of the sections and the local custom therein will only come into force if the following cumulative conditions are met and an announcement to that end is published by the Prime Minister on the record:

1. The appointment of the supervisor of the southern section.
2. The establishment of the Southern Section Council.
3. The determination by the Prime Minister, in consultation with the Chairman of the Jewish Agency for Israel, that the preparations for the southern section have been completed.⁶⁸

Implementation of the Framework

A number of years ago, a temporary platform was erected in the area adjacent to the southern section of the Western Wall. Free entry is permitted into this area 24 hours a day, seven days a week, through a gate that was opened near the current exit of the archaeological park.

We hope that the Government of Israel will work towards the swift implementation of the framework detailed herein, in accordance with the characteristics presented: completing the establishment of a dignified, comfortable and accessible prayer space adjacent to the southern section of the Western Wall, determining separate administration arrangements, etc. To that end, a Roadmap to Implement the Plan for Preparing the Southern Section and Access Arrangements for the Western Wall Site is attached to this report (see Appendix E).

At the same time, we wish to clarify that until the principles which form the basis for the permanent framework are realized in a manner that provides a suitable solution for the prayer and worship needs of Women of the Wall, the customs in practice at the time of this report's publication will remain unchanged with regard to their worship at the Western Wall. In this context, the team proposes that in the aforementioned time period, Women of the Wall continue to pray in accordance with their custom in the northern section, with the expectation that the worship not include reading from the Torah.

After completing the implementation of the permanent framework, the Cabinet Secretary will from time to time and as needed invite the various official parties involved in the Western Wall site in order to examine various issues that may arise

⁶⁷ In this regard, see the opinion of the Deputy Attorney General (Civil Affairs), Sarit Dana, dated February 3, 2010, on "The Discussion on Dealing with Panhandling at the Western Wall".

⁶⁸ In this context, see the Roadmap to Implement the Plan for Preparing the Southern Section and Access Arrangements for the Western Wall Site attached as Appendix E to this report.

vis-à-vis the administration of the site, including issues that have not yet been resolved as part of this current report.⁶⁹

Conclusion

The team was faced with the task of finding an agreed-upon solution, as much as could be, for the complex and sensitive issue of prayer arrangements at the Western Wall, based on the principles outlined in the related Supreme Court rulings.

We believe that the proposed framework, at the heart of which are two separately administered prayer sections to provide space for the needs of different populations and respect them, will be able to ensure that the various Jewish denominations will enjoy not only freedom of access to the Western Wall, but also an equal opportunity to realize their right to prayer and worship near the Western Wall in accordance with to their respective paths and customs. This will prevent any affronts that may be felt by some of the worshippers given the customs of other worshippers.

We further believe that the formulation of this report, which was conducted with consideration for and ongoing dialogue with the relevant parties, should serve as a significant milestone with regard to the relations between the different denominations of Judaism. As was clarified in the introduction, the team was restricted to dealing with prayer arrangements at the Western Wall, and avoided examining other issues or making recommendations about those issues; however, we recommend examining the possibility that a suitable framework be formulated under the auspices of the Prime Minister's Office to continue the dialogue in order to discuss various issues with the participation of all interested parties.

⁶⁹ It is hereby clarified that the issue of signs directing people to the prayer section will be discussed as soon as possible in this framework and will be agreed upon only with the agreement of all the relevant parties. As long as this agreement is not reached, signs will not be posted directing people to the prayer area.

Final Thoughts

"The Second Temple was destroyed and burned in 70 CE. Nothing was left of it but ruins, and very few at that. Since then, for one thousand nine hundred years, the ruins were under the control of foreigners. The Jews were temporary visitors in their Holy Places; they were guests. On June 7, 1967, the Western Wall – all that remains of the Temple's external wall – was liberated from the outsiders who were holding it. The Western Wall did not redeem itself. It was the paratroopers, paratroopers from the Israeli Defense Forces, who liberated it from the yoke of outsiders. And ever since the liberation, we have made ourselves at home in this remnant of the Temple. Some of the paratroopers who liberated the Western Wall observed the Jewish precepts and some of them did not. Even those who observed the precepts came from different places. But they were all emissaries of the nation of Israel – the entire nation of Israel. When that war ended – in fact immediately after the liberation of the Western Wall from its captors – the paratroopers did their duty and gave the people of Israel the precious charge they held, which had been gained through bloodshed. The Western Wall was given to all the people of Israel, not just one part of the nation. The entire nation of Israel – not just one part of the nation – had the right to the Western Wall."

"Just as the Temple Mount and the Temple which stood there symbolized the unique religious world and political independence of the people of Israel, the Western Wall – all that remained of our Temple that was destroyed – symbolized the most sacred of places for the people of Israel and our aspiration and yearning for a reinstatement of our national-political independence". Thus wrote Deputy President Alon in the first ruling, and indeed, this is true. The Western Wall belongs to the entire nation of Israel, not just part of it."

(Justice Michael Cheshin, High Court of Justice Further Hearing 4128/00)

We hope that the framework hereby proposed will be adopted by the Government of Israel and that it work towards its speedy implementation. Our sincere hope is that this will bring an end to years of struggle, and that the way of peace, tolerance and genuine love of Israel will prevail over the Western Wall Plaza, which is "for the entire nation of Israel".

Would that it come to pass.

Zvi Hauser

Avichai Mandelblit
Cabinet Secretary

Dina Zilber
Deputy Attorney
General (Counsel)

Appendices

Appendix A – Letter of Appointment

[Translation]

Jerusalem
May 22, 2013

Mr. Zvi Hauser
Mr. Avichai Mandelblit, Cabinet Secretary
Ms. Dina Zilber, Deputy Attorney General (Counsel)

Dear Mr. Hauser, Mr. Mandelblit and Ms. Zilber,

**Re: Letter of Appointment – Advisory Team for the Issue of Prayer
Arrangements at the Western Wall**

I appoint you to serve as the advisory team for the issue of prayer arrangements at the Western Wall and other issues that may arise therefrom.

The team's role is to examine the existing arrangements, the need for changes and ways to implement them.

The team's recommendations will be submitted as soon as possible to the Prime Minister, the relevant ministers and the Attorney General.

Sincerely,
Benjamin Netanyahu

cc: Mr. Naftali Bennett, Minister of Religious Services
Ms. Tzipi Livni, Minister of Justice
Mr. Yehuda Weinstein, Attorney General

Appendix B – List of Invitees Who Appeared Before the Committee

Meeting on June 11, 2013

1. **Anat Hoffman**, Chair of the Board of Women of the Wall
2. **Rachel Yeshurun**, Board Member and Prayer Manager, Women of the Wall
3. **Lesley Sachs**, Director of Women of the Wall
4. **Einat Horowitz**, Legal Counsel for Women of the Wall, Israel Movement for Reform and Progressive Judaism
5. **Natan Sharansky**, Chairman of the Jewish Agency for Israel
6. **Vera Golovensky**, Adviser to the Chairman of the Jewish Agency for Israel
7. **Yogev Kresanti**, Director of Administration and Measurement, Jewish Agency for Israel
8. **Yitzhak Pindrus**, Deputy Mayor of Jerusalem and representative of the United Torah Judaism party in the Jerusalem Municipality
9. **Dvir Kahana**, Director General of the Ministry for Jerusalem and Diaspora Affairs
10. **Jordana Cutler**, Adviser to the Prime Minister for Diaspora Affairs

Meeting on June 17, 2013

11. **Orna Mizrahi**, Deputy Director of the Policy Division, National Security Council
12. **Commander Moshe Barkat**, Chief of the David Precinct, Israel Police
13. **Commander Eilat Elishar**, Deputy Legal Counsel, Israel Police
14. **Chief Superintendent Avi Biton**, Commander of the Holy Places Division, Israel Police
15. **Yuval Baruch**, Jerusalem District Archaeologist, Israel Antiquities Authority
16. **Yizhar Hess**, Executive General of the Masorti Movement
17. **Rabbi Andrew Sacks**, Director of the Rabbinical Assembly of Israel
18. **Rabbi Gilad Kariv**, Executive Director of the Movement for Reform and Progressive Judaism
19. **Ricky Shapira-Rosenberg**, Legal Counsel, Israel Movement for Reform and Progressive Judaism

Meeting on June 23, 2013

20. **Gideon Meir**, Deputy Director General, Ministry of Foreign Affairs
21. **Leora Herzl**, Deputy Director General for North America, Ministry of Foreign Affairs
22. **Daniel Meron**, Deputy Head of UN and International Organizations Bureau, Ministry of Foreign Affairs
23. **Shmuel Ben Shmuel**, Head of the World Jewish Affairs and Inter-Religious Affairs Bureau, Ministry of Foreign Affairs

24. **David Guvrin**, Jordan and Maghreb Bureau, Ministry of Foreign Affairs
25. **Koby Kahlon**, Deputy Mayor of Jerusalem and Chairman of the Local Council for Planning and Building in Jerusalem
26. **Shlomi Attias**, Director General of the Jewish Quarter Development Company
27. **Rabbi Shmuel Rabinovitch**, Rabbi of the Western Wall and the Holy Sites of Israel

Meeting on July 1, 2013

28. **Rabbi Haim Meir Drukman**, a leader of the Religious Zionist public
29. **Rabbi Avigdor Nebenzahl**
30. **Yossi Deutsch**, Deputy Acting Mayor of Jerusalem
31. **Yaniv Saipin**, Rabbi Drukman's assistant

Meeting on July 17, 2013

32. **Professor Ruth Gavison**
33. **Dr. Dalit Atrakchi**, Secretary General of the Israeli Commission for UNESCO
34. **Aryeh Rachamimov**, architect, Chair of the Israeli Commission for UNESCO

Appendix C – Draft of Proposed Amendments to the Regulations (Consolidated Version Including the Proposed Corrections)

Regulations for the Protection of Holy Places to the Jews, 1981*

By the power of the authorities granted to me in Article 4 of the Law for the Protection of Holy Places of 1967, and after consulting with the Chief Rabbis of Israel, I impose the following regulations:

1. In these regulations –

"The Holy Places" – The Western Wall and its Plaza, including any structure and any upper or underground passageway with access from the plaza, including the southern section; and the places holy to the Jews as detailed on the list in the first addition;

"The northern section" – the boundaries of the northern section of the Western Wall, as detailed in the second addition, and as delineated by a blue line in the plan of the plaza presented in the second addition and signed by the Minister of Religious Services on _____; copies of the plan for the plaza will be deposited at the Prime Minister's Office, the Government Secretariat, the Ministry of Religious Services and the Ministry of Justice, and anyone interested in the subject may examine them during the reception hours of the aforementioned offices;

"The southern section" – the boundaries of the southern section of the Western Wall, as detailed in the second addition, and as delineated by a blue line in the plan of the plaza presented in the second addition and signed by the Minister of Religious Services on _____; copies of the plan for the plaza will be deposited at the Prime Minister's Office, the Government Secretariat, the Ministry of Religious Services and the Ministry of Justice, and anyone interested in the subject may examine them during the reception hours of the aforementioned offices;

"The supervisor" – whomever the Minister of Religious Services appoints, in accordance with the recommendation of the Chief Rabbis of Israel, to serve as the chief supervisor or the supervisor of any given holy place.

"The supervisor of the southern section" – whomever the Prime Minister appoints to serve as the supervisor of the southern section, from one of the following: the Director General of the Prime Minister's Office, one of the Deputy Director General of the Prime Minister or a Deputy Cabinet Secretary.

2. (A) The following is prohibited within the bounds of the Holy Places:
- (1) Desecrating the Sabbath and Jewish holidays;
 - (2) Improper attire;
 - (3) Erecting kiosks or stands, peddling or any other business;

Prohibited
Practices

- (4) Providing religious services of any kind that have not been approved by the supervisor;
- (5) Distributing advertisements without the approval of the supervisor;
- (6) Giving a speech or any spoken declaration and hanging posters or signs without permission from the supervisor. If permission is granted, these activities will be performed in accordance with the conditions stipulated by the supervisor;
- (7) Panhandling or begging, excluding placing charity boxes in places designated for this purpose by the supervisor and for objectives determined by them;⁷⁰
- (7A) Playing any musical instrument, as well as playing any music, without permission from the supervisor and in accordance with the conditions stipulated by the supervisor, subject to the preservation of the character and sanctity of the place. Permission will not be granted for the playing of any instruments or music on the Sabbath or Jewish holidays;
- (8) Animal slaughter;
- (9) Eating, drinking or holding any celebration outside the places designated for that purpose by the supervisor;
- (10) Smoking;
- (11) Sleeping outside places designated for that purpose by the supervisor;
- (12) Bringing in animals, except for service animals.

Limitations on
Photography at
the Western Wall
Plaza

3. (A) In the area adjacent to the Western Wall, photography for a fee may be undertaken only with the supervisor's permission, and in accordance with the conditions stipulated.

(B) The supervisor can, at their own discretion, provide the aforementioned permission if the photography is being conducted for educational, cultural or religious purposes or is to be presented in a film or on television, subject to the preservation of the character and sanctity of the place.

(C) Permissions granted in accordance with this regulation may be general or particular and may be conditional.

Supervisor's Sphere
of Authority

4. (A) The supervisor may, with the agreement of the Chief Rabbis of Israel and the Minister of Religious Services, provide instructions to ensure the efficient observance of the prohibitions aforementioned in Regulation 2 and of the binding instructions in Regulation 4B.

(B) Anyone in the boundaries of the Holy Places must obey the instructions of the supervisor, as issued in accordance with the law.

(C) The supervisor may remove from any Holy Place anyone who interferes with the fulfillment of their duty or who violates any of the instructions in Regulations 2, 3 or 4B.

⁷⁰ See the regulation in the Collection of Publications No. 5496 dated February 19, 2006, p. 1928 (in Hebrew)

4A. (A) With regard to the southern section, the same authorities granted to the supervisor in Regulations 2-4 and 4B will be granted to the supervisor of the southern section.

(B) Without detracting from the aforementioned in Sub-Article (A), with regard to the southern sections, the authority of the supervisor of the southern section as per Regulation 4(A) does not require the agreement of the Chief Rabbis of Israel or the agreement of the Minister of Religious Services, but rather the agreement of the Southern Section Council.

4B. (A) Religious or prayer ceremonies held at the Holy Places will be conducted solely in accordance with local custom;

(B) Religious or prayer ceremonies at the Western Wall will be conducted in the northern section or in the southern section.

(C) With regard to the northern section – local custom will be in accordance with Jewish law, as interpreted in the Law of Rabbinical Court Jurisdiction (Marriage and Divorce), 1953, and as followed by the Chief Rabbinate of Israel. Without detracting from the aforementioned, prayers in the northern prayer section will be held in two separate areas – a women's area and a men's area.

(D) With regard to the southern section –

(1) Local custom will be based on the principles of pluralism and gender equality, and worship will be egalitarian, with men and women praying together, without a partition, as is the custom of those who do not worship according to the custom aforementioned in Sub-Article (C) above.

(2) Despite the aforementioned in Sub-Article (1), at the beginning of each Hebrew month and on *Ta'anit Esther*, a temporary partition will be erected in part of the southern section to allow for separate worship by women alone.

(3) Without detracting from the aforementioned in Sub-Section (2), the supervisor for the southern section can permit, with the agreement of the Southern Section Council, separate prayers for women in some of the southern section by erecting a temporary partition at times other than those mentioned in Sub-Section (2).

(E) Despite the aforementioned in Sub-Article (B), the supervisor can permit religious or prayer ceremonies to be conducted at the Western Wall site outside of the northern and southern sections in accordance with the local custom in the northern section, given the following cumulative conditions:

(1) The supervisor can provide such permission during the three pilgrimages, the Days of Awe, Jerusalem Day, *Tisha B'Av* and at other large prayer convocations, but only if the expected number of worshippers, in the supervisor's estimation, is greater than the maximal capacity of the northern section.

(2) The number of worshippers in the northern section actually exceeds the maximal capacity of this section.

(3) The ceremony will be limited to an area corresponding to the actual number of worshippers.

(F) Wedding and brit milah ceremonies will not be permitted to be celebrated at the Western Wall.

Southern Section
Council

4C. (A) The Southern Section Council will be established, and will comprise thirteen members (in this Article – the Council).

(B) The members of the Council will be:

(1) Chairman of the Jewish Agency for Israel, who will serve as chairman of the Council;

(2) Five civil servants to be appointed by the Prime Minister;

(3) The Director-General of the Israel Antiquities Authority;

(4) Six representatives of the public to be appointed by the Prime Minister, who represent the public that worships at the southern section in accordance with the local custom to be determined with regard to this section.

(C) The representatives of the public will be appointed for a period of four years, and can be reappointed for an additional four-year period.

(D) The legal quorum at Council meetings will be a majority of its members.

(E) Council decisions will be passed by a majority of attendees at the Council meetings. If the vote is a tie, the Council chairman will have the deciding vote.

(F) The Council will convene every three months; however with the agreement of five of its members, the Council will convene for a non-scheduled meeting.

(G) The Council will determine its order of priorities unless otherwise outlined in these Regulations.

(H) In addition to its duties outlined in Regulation 4A and Sub-Article 4B(D), the Council is authorized to instruct the supervisor of the southern section on issues related to the ongoing maintenance of the southern section and its administration that are not included in the supervisor's authorities according to these Regulations.

Starting Date

4D. (A) These regulations, except for Regulations 4A and 4B, come into force on [Hebrew date/Western date].

(B) Regulations 4A and 4B will come into force at the time when the Prime Minister publishes an announcement on the record that the following cumulative conditions have been met:

(1) The supervisor of the southern section is appointed.

(2) The Southern Section Council is appointed as aforementioned in Regulation 4C.

(3) The Prime Minister determines, in consultation with the Chairman of the Jewish Agency for Israel, that the preparations for the southern section, access to it and the main shared entrance to the Western Wall site have been completed.

Penalty 5. The penalty for violating any of the instructions in Regulations 2 or 3 will be a six month prison sentence or a NIS 500 fine.

Annulment 6. Annulments –
(1) The Regulations for the Protection of Holy Places (the tomb of Rabbi Shimon Bar-Yochai at Meron), 1968;
(2) The Regulations for the Protection of Holy Places to the Jews, 1969;
(3) The Regulations for the Protection of Holy Places (Limitations on Trade at the Western Wall Plaza), 1972.

First Addition
(Regulation 1)

1. Jerusalem – The Cave of Shimon the Righteous; the Small Sanhedrin Cave; the Tomb of Rabbi Ovadia of Bartenura; the Tomb of Zachariah the Prophet; the Tomb of Absalom.
2. Haifa – The Cave of Elijah the Prophet.
3. Tiberius – The Tomb of Maimonides; the Cave of Rabbi Akiva; the Cave of Rabbi Hiyya and His Sons.
4. Meron – The Tomb of Rabbi Shimon Bar-Yochai.
5. Peki'in – The Cave and Spring of Rabbi Shimon Bar-Yochai; the Jewish Cemetery; the Tombs of Rabbi Yossi and Rabbi Joshua Ben Hananiyah; the Ancient Synagogue; the New Synagogue.

Second Addition
(Regulation 1)

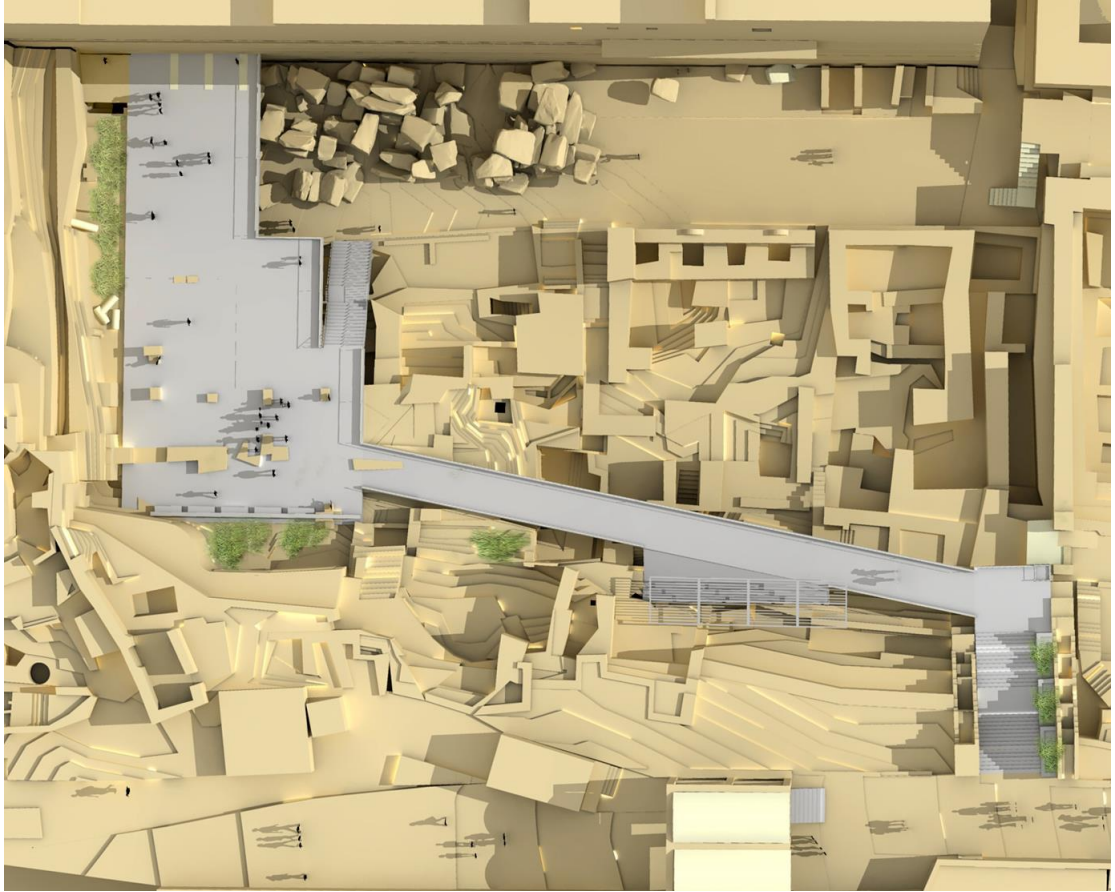
Boundaries of the northern section of the Western Wall
Boundaries of the southern section of the Western Wall

Appendix C1 – Boundaries of the Prayer Plaza



Appendix D – Plan to Prepare the Southern Section and Access Arrangements for the Western Wall Site





Appendix E – Roadmap to Implement the Plan for Preparing the Southern Section and Access Arrangements for the Western Wall Site

- A. Upon approval of the Report of the Advisory Team for the Issue of Prayer Arrangements at the Western Wall by the government, detailed planning for all the physical components included in the Plan for Preparing the Southern Section and Access Arrangement for the Western Wall Site (Appendix E), will be completed by an architect hired by the Prime Minister's Office. The detailed plan will be approved by the relevant parties, in accordance with instructions from the Israel Antiquities Authority and the Israel Police, and will be completed within 60 days of the date the architect is hired.
- B. In parallel, a request to expand the area of the building permit issued for the southern prayer platform (Regional Plan) will be submitted as soon as possible, in accordance with the plan as it appears in Appendix D. If the examination conducted vis-à-vis the architect of the plan and planning officials at the Jerusalem Municipality show that the building permit corresponds with the municipal building plan for the site, the authority to provide the permit is that of chairman of the local planning and building committee and the city engineer.
- C. Upon completion of the detailed planning, and subject to the receipt of the necessary legal approvals, the work to realize the detailed plan aforementioned in Article A above will begin, including the erection of the new main entrance to the Western Wall site (and preparing the access path from the Dung Gate), preparing the exit from the Western Wall site in the direction of the Dung Gate (solely an exit excepting unusual situations), erecting the bridge and stairs leading to the southern section, erecting an access path to the southern section (including stairs between the Umayyad walls), erecting the southern prayer platform and completing the landscape development (including removing landscape hazards).
- D. Upon completion of the construction aforementioned in Article (C), the Cabinet Secretary will announce to the Prime Minister and the Chairman of the Jewish Agency that the preparations for the southern section have been completed, as aforementioned in Article 4(B)(3) of the Regulations for the Protection of Holy Places to the Jews.

The instructions in this Paragraph are conditional on the necessary building permit to expand the area of the southern prayer platform beyond the area outlined in the Regional Plan under the authority of the local licensing authority.

If it eventually becomes clear that approval from the local planning and building committee is necessary to expand the area of the platform, the

deadline for determining if the preparations for the southern section as aforementioned in Article 4(D)(3) of the Regulations will be reset by the Cabinet Secretary, with the agreement of the parties involved in the negotiations on the team's recommendations.

- E. The ongoing administrative budget for the southern section, including one-time purchases, will be agreed upon by the Ministry of Finance and the Prime Minister's Office, before the announcement by the Cabinet Secretary aforementioned in Article D above.