

# Custodians of Descent

## The House, the Church, and the Family Waqf in the Orthodox Patriarchate of Jerusalem

Clayton Goodgame

### Abstract

This article examines a conflict within the Orthodox Patriarchate of Jerusalem between the Greek hierarchy and the Palestinian laity over property. Connecting historical scholarship with ethnography from the Old City of Jerusalem, it demonstrates how Orthodox ownership was transformed by the Ottoman definition of Church property as a family waqf. This legal change led Greeks and Palestinians to express their property rights in the idiom of custodianship: the ability to hold and transmit property as descendants of the Church. As a result, ownership in the Orthodox community became less tied to legal title and increasingly aligned with claims of kinship and descent.

### Keywords

Church property; home ownership; kinship; indigeneity; continuity; waqf; Old City.

Every year on Christmas Eve, the patriarch of Jerusalem travels by motorcade to the Nativity Church in Bethlehem. He is greeted by an official of the Palestinian Authority and together they proceed with great pageantry into the church, Greek monastics at their side and Palestinian foremen leading the way, their iron scepters clattering in unison on the pavement.

In 2018, Patriarch Theophilos was met instead by Palestinian protestors who lined the streets to hurl eggs and garbage at his car and strike it with their shoes. They called out “spy” and “shame” and waved flags with the

patriarchate symbol embossed over a kufiya design. Palestinian police cleared the streets in riot gear but the protestors chanted on, demanding the ouster of the patriarch. They carried banners that read *ghayr mustahiqq* (unworthy).

This event marked the culmination of months of protest following the discovery by Israeli newspapers that the patriarchate had been selling and leasing valuable property to unnamed investors registered in Caribbean tax havens. This was scandal enough, but news of the land deals coincided with the decision of the Jerusalem District Court on a similar deal from 2005 involving the previous patriarch, Irenaios. In that deal, the settler organization Ateret Cohanim acquired the lease on Church property inside the Old City's famous 'Umar ibn al-Khattab Square, the tenants of which are Palestinian businesses. The court ruled in favor of the settlers. In June of 2019, the Supreme Court upheld the decision. Patriarch Theophilos was not in office when that deal was made, but the news that he continues in the tradition of his predecessor, coming in the same month as the court decision, sparked protests of a scale not seen since Irenaios was deposed fourteen years prior.

This article seeks to contribute to the scholarship on the conflict in the Orthodox Patriarchate of Jerusalem between a hierarchy composed of Greek monks and a lay population composed of Palestinians.<sup>1</sup> The conflict is longstanding and well documented, but I hope to provide a different perspective in two respects: first, by looking explicitly at religious experience as a determining factor in the shape of the conflict; and second, by shifting focus away from the political reform movement in favor of a broader view of the Christian neighborhoods of the Old City. This view is based on ethnographic research that provides a localized, contemporary perspective to complement the existing sociological and historical scholarship.<sup>2</sup> As we will see, residents of these neighborhoods hold a range of political positions but maintain a common discourse of belonging and ownership in the Church. This discourse is less recognized in the literature, but it is widely shared in the Old City. In fact, it has recently been adopted by a countermovement in support of the patriarch.

After the Christmas protest, the patriarchate held its annual New Year's celebration. In attendance was a group of working-class Palestinian men from different churches representing Seeds of a Better Life (*markaz buthur al-hayat al-afdal*), an organization founded to improve the lives of Old City Christians. These representatives read out a statement for the patriarch and the Greek hierarchy. They condemned the protests. Describing the event as "an attack on our celebration of the Holy Nativity . . . the attack of Belial," the representatives pledged their support to the Church. Employing a biblical passage on the "adoption of sons" into the Church, the mostly non-Orthodox group went on to characterize themselves as the Church's children. It concluded with a final declaration: "We, your beatitude, trust in you and your ability to protect our Church and . . . *our Orthodox faith*."<sup>3</sup>

A few months later, Seeds of a Better Life (often abbreviated to "Seeds of Life") moved into a new building owned by the Orthodox Patriarchate. The grand opening took place in the presence of the patriarch and members of the monastic hierarchy. The father of the center's director, a Catholic, again claimed the Orthodox heritage

and pledged allegiance to the patriarchate:

We consider ourselves guardians [*humat*] of the patriarchate. . . . We reject what happened in Bethlehem . . . and deny the names [of the protestors]. That behavior is unethical and unacceptable for us. We will be careful to ensure it does not repeat itself in Jerusalem at the Holy Fire [*sabt al-nur*] ceremony . . . we will strike with an iron fist anyone who dares to tamper with our feasts and celebrations.<sup>4</sup>

The language employed here diverges from that of the protestors and the Orthodox national movement in general not only in its expression of political allegiance but also in its form. Where the protestors speak of injustice, racism, and greed, the Old City Christians speak of kinship, guardianship, and faith. In what follows, I will show that this divergence is indicative of a much wider division within Palestinian Christian society along class lines.

The fieldwork on which this article is based took place in the Old City of Jerusalem as well as the more suburban neighborhoods of East Jerusalem. When the scandal broke, anger and frustration with the patriarchate was pervasive in both areas, but the activists mobilizing against the patriarch and higher clergy lived almost universally outside the Old City. The activists readily admitted the discrepancy, explaining that many Old City Palestinians live and work on patriarchate property, which means “they cannot speak out.”<sup>5</sup>

Salim Tamari has shown how the movement against the patriarchate during the British Mandate was shaped by “a mercantile bourgeoisie that freed itself from dependency on Orthodox charity.”<sup>6</sup> Christians in the Old City, by contrast, were materially tied to the Church:

The most effective weapon in the hands of the [Greek] Brotherhood . . . was the Church’s dispensation of charity and services to the poorer members of the Arab community. These included subsidized housing on Church property, the provision of schooling, and daily distribution of free bread (*talami*). *Talami* was not only a symbolic feature of class division within the Christian community, but a real material instrument in the allocation of influence within the community.<sup>7</sup>

Tamari adds that even more than *talami* bread, Church housing provided the most significant material influence over Old City residents, constituting a major form of class difference between them and the rest of the lay population.

Taking a cue from Tamari’s observations about the Mandate, this article suggests that this difference is worth considering further and that the property relations between Old City Palestinians and the Church deserve particularly close attention. It thus focuses on the type of property the Church owns and the way ownership of it has been discursively defined, by the hierarchy and the laity, but also by the state. The social landscape of Jerusalem obviously looks very different today than it did in the 1930s, but the political movement against the patriarchate is still led by the highly educated

and generally upper-class members of Orthodox society, most of whom live outside the Old City on property not owned by the Church. Old City Christians, by contrast, mostly live on waqf property.

A waqf is a form of endowment established to prevent the sale or division of property and thereby protect its continuity over time.<sup>8</sup> Islamic law typically distinguishes between two types of waqf: the *khayri* or religious endowment and the *tharri/ahli* or family endowment. The original condition for both types is that they please God. The religious endowment accomplishes this either by serving a directly religious (Islamic) purpose, for example by building a mosque or school, or more abstractly, by providing a public service, for example building a fountain, a road, or a soup kitchen.<sup>9</sup> The family waqf served its religious function first by safeguarding the welfare of the founder's progeny, an act valued in the Qur'an and the hadith, and second by designating the ultimate beneficiaries of the usufruct to the indigent.<sup>10</sup> The second condition exists not because investing in one's family is insufficient as a religious condition, but because while the family line will eventually become extinct, the good performed by the waqf must always continue.<sup>11</sup> Amy Singer thus calls the waqf "an investment in eternity," as it connects the continuity of the family line to the more sublime continuity of the divine.<sup>12</sup>

Families have endowed their property as waqf for many reasons, and the economic and political circumstances of a particular time and place may lend themselves to certain strategies over others. However, regardless of whatever other considerations a founder made when establishing a new waqf, the decision always had an effect on kinship: in other words, the kind of family that it would help to shape. Shari'a laws of inheritance allow a wide range of descendants and agnates a claim to family property. By creating a waqf, the founder can decide in advance which kinds of relatives will inherit use-rights over a particular property, and which to cut out. In eighteenth-century Nablus and Tripoli, for example, this meant consolidating conjugal ties at the expense of wider agnatic relations.<sup>13</sup> The specific effects varied, sometimes greatly, but wherever it was used, the waqf retained its potential to influence a family structure, and it is this quality that concerns us here.

According to a survey conducted by Samer Bagaeen, in Jerusalem's Palestinian and Armenian quarters, 25.8 percent of properties are Christian waqf, 19.6 percent are Islamic waqf, and 33.3 percent are family waqf. In the Christian Quarter, 68.5 percent of properties are Christian waqf, and 12 percent are family waqf.<sup>14</sup> Crucially, and for reasons described below, in the Orthodox Christian community, there is little distinction between religious and family waqf. Church property was classified initially as family property, and the ability of the hierarchy to control its property is tied to it being structured as a family.

This structure complicates both Palestinian and Greek claims of ownership over property in important ways that this article undertakes to unpack. Thus, rather than focusing on the economic or political position of Old City residents in general, this article will look specifically at the institution of the waqf and the different kinds of "family" it helps produce.

In recent years, a number of scholars interested in waqf property have begun to study its religious and ethical character in addition to its role in economic and political structures.<sup>15</sup> In particular, Beshara Doumani has argued that creating and maintaining a family waqf is not simply a process of registering a legal or economic transaction but a “pious act of subject formation” that “embodied specific ideals about the self and the family in relation to God and the shari‘a . . . a family charter that governs not only property relations between kin, but also the moral-disciplinary order of kinship.”<sup>16</sup> In other words, a waqf is not simply a record of a family’s property relations but a way of enacting a particular view of what the family should look like. This article diverges from most of the waqf literature in that it focuses on a Christian church instead of a traditional family, but the premise is the same: to some extent, I argue, the particular way in which the waqf became institutionalized in the Orthodox Church transformed the political and kinship relations of Greek and Palestinian Christians.

In the next section, I describe the process through which church property came to be defined as family property during the Ottoman Empire. I then show how the Orthodox reform movement, beginning at the end of the Ottoman period and continuing through the British Mandate, drew both on idioms of Arab nationalism and on the more specific idiom of continuity deriving from waqf. Finally, the ethnography shows how, after 1948, Old City residents developed new forms of kinship (*qaraba*, literally “closeness”) with the Church. This sense of closeness became strong enough that some families, threatened by the Israeli settlement movement, even bequeathed property to the Church instead of extended relatives. I argue that while these were responses to political pressure, it is important to see why residents choose to support the patriarchate in particular – rather than an NGO or another church. The answer to this question, I suggest, is that the Church is defined as a family whose lineage never becomes extinct. It thus provides continuity for lay families when they cannot provide it for themselves.

## **Domesticating the Church: Converting Church Property into a Family Waqf**

The image of the solitary desert monk, the individual cut off from society, has always carried a certain allure in the public imagination. However, from the earliest days of Byzantium, monasteries have also been centers of political and economic power.<sup>17</sup> They were landowning institutions, diplomatic outposts, and the main sources of recruitment for the higher clergy. This was certainly the case in the mid-sixteenth century, when monks of the Orthodox Church complained to the Ottoman government that they would have to abandon their lands if the legal status of Christian property did not change.

This presented a problem for the Ottomans. The state received a significant amount of tax revenue from the Orthodox Church, which gave it an incentive to keep the churches economically viable. However, the existing legal framework came with

significant risks. According to Ottoman law, churches could not hold property as institutions, so they registered property in the name of an individual priest or monk.<sup>18</sup> This was a widely used strategy but a problematic one, as the land accumulated by individuals or simply registered in their name would become subject to the shari‘a laws of inheritance. This allowed descendants and agnates of the individual to make claims on it, even if it was the Church that initially bought the property.<sup>19</sup> Even if the individual monk did not have living relatives who wished to make a claim, he still needed to bequeath the property to another monk. If this person was not loyal to the patriarch, the property could still be lost. In either case, the force of the law was on the side of individuals and families, not the Church.

However, as Eugenia Kermeli has shown, judicial authorities in Istanbul eventually came to recognize the problem and established a clever way of integrating monasteries into the legal system without breaching the restrictions against non-Muslim religious institutions. Kermeli explains that one problem with the current framework was that as an organization, each new generation of monks had to pay the *tapu* or registration fee for lands that were not actually changing hands but, because of Ottoman restrictions on churches, needed to be registered with monks who would die and have to be replaced by another.<sup>20</sup> According to the law, the fee could be waived if a family member inherited the property, but the monks were celibate and in any case must pass the land to another monk for it to remain under the control of the monastery. Furthermore, monks complained that certain of their brethren refused to keep the property among the brothers, causing political rifts between them and encouraging monks to leave the monastery.

According to Kermeli, Ebu’s-Su‘ud, the head of the Ottoman judiciary, solved this problem by changing the definition of a monastery in order that waqf could be created in its name. He could not allow it to be created as religious waqf because, by definition, a Christian institution could not be pleasing to God. This left the family waqf. Ebu’s-Su‘ud started by arguing that a monastic brotherhood could inherit property from a deceased monk only if the members of the latter’s family decided to forego their own inheritance rights. This was a nearly insurmountable problem for the monastery, as shari‘a law provides a wide range of relatives with potential claims, which made convincing them all to relinquish their rights unlikely.<sup>21</sup>

Finally, Ebu’s-Su‘ud made two key decisions to strengthen the position of the monasteries: first, he waived the *tapu* fee so that a new name on the property registration would not signify a new owner when the original registered owner died. Second, he mitigated the conflicts caused by having individually registered property by describing those who take over the property of the deceased as the rightful “offspring” of the latter, over and against the deceased’s biological kin. Thus, other individual monks became the primary legal “relatives” of the landholding monk, so that even an individual inclined to transmit monastery property to biological kin would not be able to do so.

As a result, while the monastery still could not be recognized as a landholder itself, a new collective identity was formed in its stead. As Kermeli writes:

This amounts to the treatment of monks in a monastery as a family. Like in a family trust they can make vakfs for the benefit of their poor members as well as for the indigent, travelers, the dependents of the monastery *and their offspring*, which means, in practice, the remaining monks.<sup>22</sup>

Thus, the brotherhood of monks came to be defined as a legal family. The consequences of this shift in Ottoman jurisprudence for the Church were significant, not least for our understanding of the ownership dispute between the Greek clergy and the Palestinian laity. As Konstantinos Papastathis and Ruth Kark have shown, expanding on Kermeliss work, the legal and administrative changes in the late Ottoman period – especially the 1858 Land Code – confirmed and clarified this legal status, “making the procedure of registering the land possession and usufruct much easier” and paving the way for the accumulation of Church property on a much greater scale.<sup>23</sup>

## **Nationalism, Indigeneity, and Ownership: The Orthodox Renaissance**

In the wake of these legal changes, the patriarchate quickly became one of the largest landowners in Jerusalem and, as the Palestinian national movement developed in the Ottoman and Mandate periods, Orthodox Christians demanded a greater role in the Church, especially in relation to property. In large part, they expressed their demands in the language of secular nationalism. From the beginning, the Orthodox renaissance (*al-nahda al-Urthudhukiyya*) was closely connected to Arab nationalism. In 1911, ‘Issa al-‘Issa founded the newspaper *Filastin*, which for years played a central role in the national movement. But ‘Issa founded it largely to support the Orthodox cause.<sup>24</sup> And while the paper’s scope grew into something much larger, it continued to articulate a powerful vision for Palestinian Orthodoxy throughout its tenure. For example, in 1935 it published the charter of the Arab Orthodox Youth Conference, which read:

I . . . an Arab Orthodox Christian Palestinian (or Jordanian) believe that I have a historical right to the Orthodox Patriarchate of Jerusalem, a large share of its membership, and an active contribution to its identity and being. I believe that the spiritual hierarchy of this patriarchate has usurped this right and denied it to me for 400 years. I pledge to God to boycott this hierarchy to the best of my ability until it recognizes this right.<sup>25</sup>

This charter, publicly recited at the conference in Ramla, refers to a historical narrative that explains Greek hegemony in the Patriarchate as a national betrayal. In 1534, when the patriarchate had become thoroughly Arabized, the Arab Patriarch Atallah died. He was replaced by an Arabic-speaking Greek called Germanos who undertook to rid the patriarchate of its Arab presence in favor of Greeks.<sup>26</sup>

There is some disagreement among scholars about exactly when and how this process occurred, but it is clear that by the nineteenth century, the Greek hierarchy had shifted from an inclusive definition of the Rum millet, a religious distinction that originally included all “Roman” or Eastern Orthodox Christians regardless of ethnicity, to an exclusive one that equated “Rum” with the Greek nation.<sup>27</sup> Arabs were described as Greek “arabophones” who had lost the Greek language and culture over time.<sup>28</sup> This is precisely what I was told in Jerusalem by the current hierarchy: “Our local people,” an archbishop said, “were once Greeks . . . [but] they eventually learned the Arabic language and forgot their Greek heritage.”

Palestinian reformers have been contesting this narrative for over a century and they have done so primarily through idioms of indigeneity and secular nationalism.<sup>29</sup> On the one hand, they emphasized the Palestinian character of the Church: “The Patriarchate is an Orthodox institution in Palestine,” reads a 1931 memorandum, “The Patriarch and the Fraternity are Palestinians. The Community is Palestinian and the Shrines are Palestinian.”<sup>30</sup> On the other hand, they emphasized their right, as indigenous Christians, to religious autonomy:

The aim of the Orthodox cause is the independence of the community in its communal affairs and in the supervision of its property so as to become a strong community with a clear Arab influence, and so as to be able to deliver its national message in a full and suitable manner.<sup>31</sup>

This rhetoric was employed especially when addressing a national audience, the government, or the international community.

In the register of religion (and personal status law, over which the Church has authority), the notion of indigeneity was more complicated. There, the distinction between Hellenic and “arabophone” Greeks was (and is) used by the hierarchy to demonstrate its universality and authority. Greekness is equated with the Eastern tradition and Byzantium. The monks describe themselves as preserving the liturgy and traditions of the early Christians, passing them on unchanged. Their vocation is to protect the holy sites of Christendom for all Orthodox, and therefore they believe they must not add or remove any element of their monastic identity. They thus agree with Palestinian claims of indigeneity, only they add the term “now”: they have *become* indigenous, local, and fixed to Palestine in its “Arab-Islamic” milieu. As a result, they claim Palestinians cannot represent the interests of global Orthodoxy.

It was for this reason, I argue, that another way also emerged for Orthodox Palestinians to contest Greek authority, especially evident in relation to Church housing. Here Evelin Dierauff’s discussion of the establishment of the Mixed Council in 1911, composed of Palestinians and Greeks, is illuminating. Dierauff writes:

At the core of the intra-Orthodox conflict that overshadowed the debates between the laity and the clergy in the Mixed Council on all issues regarding Orthodox reforms, was the ambiguous definition of Orthodox institutions in the Patriarchate (schools, hospitals, holy sites, endowments, etc.) as *communal* or *universal* property.<sup>32</sup>

The Mixed Council was set up to jointly administer properties that were primarily communal or local in character – for example, schools for lay children. According to an Ottoman order, Palestinians had a claim to the management of such property, whereas if it was universal – the Holy Sepulchre Church, for example – it fell under monastic control. According to the patriarchate’s 1875 Fundamental Law, most Church property fell into the latter category. The patriarchate stipulated that the Greekness of the Orthodox tradition meant that universal property must be managed by the Greek patriarch and the Holy Synod, an executive monastic council. During the Mandate, it went even further, arguing that the communal/universal division was a part of the Status Quo, the legal framework for determining Church rights at the holy sites, which it was not.<sup>33</sup> This presented a problem for the laity.

In 1910, the Church hierarchy attempted to reduce the rents it traditionally paid to the local families of Jerusalem. In response, the city’s laity launched large scale protests. They claimed – as they still do – that the Church owes them these rents because generations earlier they had registered their homes in the name of the patriarchate as endowments to protect them from state confiscation.<sup>34</sup> This is a different kind of claim from those described above. Instead, it is rather like that of the fellahin or peasants who registered land in the name of village shaykhs and urban notables; when these notables attempted to sell the land, the fellahin often refused to leave, claiming their usufruct rights were inalienable.<sup>35</sup> So it was with Jerusalemite Christians who claimed the property of the patriarchate was not sold but merely entrusted to it.

This is different than saying “the Church is Palestinian,” because the basis for the claim is not its location or national character but its identity as a waqf – in which usufruct rights are eternal. This is important because it allows Jerusalemites to claim not only “local” institutions but also “universal” ones. Their claim is thus not based on legal ownership or the ethnic character of the institution but on continuous use: it is not the monks who have maintained the continuity of the Church, they appear to argue, but the Palestinians – those who remained in the land and preserved the Christian presence there. In this register, Palestinians do not claim to own the Church; rather, they belong to it and protect it.

E. P. Thompson once argued that eighteenth-century English bread riots were not merely the instinctive reactions of the poor to hunger and oppression.<sup>36</sup> Instead, they represented a revival of an older moral and political idiom about the rights of the poor and their relationship to the state, the land, and the landowning classes. As English political economy changed, the relevance and discursive power of that idiom returned. Similarly, both during the Mandate and today, Palestinian land claims based on historical and genealogical continuity have rarely superseded those of the national movement. However, they remained a significant subordinate discourse.

Moreover, it is in this discourse, which views Church and family property as one and the same, that the link between the political activism of this section and the monastic family of the previous one can be most clearly seen. It is not a causal relationship, at least not until more evidence can be found that Palestinian families have historically endowed their property through the Church.<sup>37</sup> It is a discursive one,

a way of viewing the Church in terms of presence, belonging, and continuity. As we will now see, this discourse has become more salient in recent years, producing expressions of ownership not only in the language of justice and rights, but also in the language of protection, transmission, and care – the language of kinship and descent.

## **The Convent Neighborhood: War and Migration to Jerusalem**

In 1948, the cities and neighborhoods of the Orthodox bourgeoisie were all but emptied of their inhabitants. Israel confiscated the property of these Palestinians and they were forced to flee, like so many others. Refugees from the coast and other parts of the country travelled to Jerusalem and many Christians ended up in the Old City. The Church offered them food and housing, often inside convents. Like residential neighborhoods, convents in the Old City typically have a small door leading from the street to a courtyard and a chapel, followed by smaller alleyways leading to more intimate courtyards surrounded by houses and former monastic cells. After the war, many of these were inhabited by unrelated families, in addition to monastics and clergy. This arrangement led Palestinian Christians to relate with the Church in new ways. Monks and nuns became a part of their daily life as friends, neighbors, and full participants in their social life.

Monasticism in the patriarchate is idiorhythmic, which is to say monks are not required to live and eat together and they can own property – which the Church inherits when they die.<sup>38</sup> They are provided a basic stipend but also remunerated for any specific job they perform, for example, working in the kitchen or bakery. Nuns take payment for baking *kollyva*, a cake of boiled wheat served at funerals and feasts, and Palestinian women go to their cells to purchase the cakes in person. Greek monks who own property lease it to Palestinians to open a shop or raise a family, and the parties establish regular debt relations characteristic of lay society. This is common in the Old City, but not in other parts of Jerusalem or indeed other cities. I was surprised to find out when travelling to Nazareth or Ramallah how little interaction the laity there has with the Greek Brotherhood. Even Jerusalem suburbs like Bayt Hanina can feel a world away from the lay-monastic life of the quarter.

The experience of the Haddad family illustrates this distinction particularly well. The Haddad came to Jerusalem as refugees from Haifa with no extended family in the country. They moved into an Old City convent after 1948 and despite having had little contact with Jerusalem before, become rooted in the Old City. This is both a result of their connection to the convent space and to certain monastics and clergy. According to Nicola Haddad, “the isolation and confinement [of the convent] resulted in a relationship which is stronger than any regular neighbor-neighbor relationship . . . we were always there for one another.” The family connects this solidarity to the convent chapel, in which couples of the convent sometimes marry and the younger members of the Haddad family were all baptized. “It is important to attach the children to the convent and make it their home,” Nicola’s grandfather said.<sup>39</sup> Baptism achieves this, for Nicola, because it has a sacred and a domestic character:

It goes back to the sense of family in the convent – that this church belongs to us, as if it were a family church. Like, you know, in Europe they have this church that belongs to a family only. Mar Ya‘qub is for everyone . . . but [the convent church] is for us. It is ours, as if we have some share in it, because it belongs to our house.<sup>40</sup>

The word “our” refers to the Haddad family, but also to the convent as a whole. Those who live inside have a claim on the chapel, and by “placing” children or married couples there, they create a kind of kinship that blurs the boundary between domestic and religious space.<sup>41</sup>

The same can be said of family relationships to non-kin, like the priest who performs convent baptisms who is himself either a convent resident or the chapel’s custodian. The Haddads treat these figures as neighbors, and more: one nun from a nearby convent has taken part in the affairs of the family for decades. The children speak of her as a second mother. This was common among other families as well. During my fieldwork, I accompanied residents to services at a convent chapel for Lent, watched television with nuns in a layperson’s house, and helped residents and monks to renovate a church interior. In each case, the connection was personal.

To some extent, then, the “closeness” Old City residents feel for the Church is reciprocated by monastics. Though it is rarely publicized, they too speak of admitting the laity into their monastic “family.” At a recent funeral, a senior monk eulogized a beloved Palestinian layman from the quarter as a “child of them, the [Greek] Brotherhood.” There is much more to say about the way Old City life draws monastics and lay Christians into a shared social system; it is also important not to gloss over the tensions between laity and clergy, which are not insignificant. Nevertheless, these intimate relations complicate the apparent dependence of Old City Christians on the Church. They suggest, to the contrary, that for many people, association with the Church may in fact be a positive ethic, a relationship they actively cultivate rather than one they are forced to accept.

This possibility becomes clearer when we consider the fact that, to a large extent, 1948 refugee Christians in the Old City became protected tenants. In other words, they were granted hereditary rights to the usufruct of their homes for as long as they had descendants to succeed them. These are not the same as ownership rights, but in the context of the occupation some residents prefer it that way. Nadia, another resident of the quarter, said that she “prefer[s] that the Church owns the houses . . . as long as they try to help the locals”:

If people in need do not get access then I will go to the streets [in protest], but if a Palestinian comes and says the Church does not have the right to own . . . I will stand against him, even though the Greeks are mismanaging their properties. I feel it is important for the Church to keep these homes as they are tangible evidence that Christian Arabs are here . . . and have something to relate to the land.<sup>42</sup>

To reformers, such views may sound submissive. But the point hinges on the continuity of Palestinian “access.” Protected tenancy is unique in this regard because the distinction between ownership and residency in waqf properties can dissolve over time. It is well known that after 1967, disputes between trustees and tenants could not be successfully arbitrated. Islamic court decisions could not be enforced and Palestinians mostly boycott the Israeli courts, so the disputes had to be dealt with informally or simply left to rest. According to Bagaen, this allowed some tenants to become de facto owners.<sup>43</sup>

Protected tenancy thus bestows certain rights that are difficult to deny, but Nadia’s point was broader than this: Church ownership grants Christian Arabs a relation to the land. This resonates with Nicola Haddad’s description of the inhabitants of the convent taking care of one another as family and their mutual belonging to the convent “house.” Convent-based families, in other words, maintain a continuous presence in one place because the Church maintains ownership. Like the monks who hold property, take care of it, and transmit it to the Church when they die, Old City Palestinians carry the Church’s usufruct within their families and pass it on. Following the logic of the waqf, when the family line becomes extinct, the property reverts back to the Church. But unlike the waqf of a single family, when the Church inherits the property, it then transmits the usufruct to a new family and the process begins again.

Because the convent is described as a house, and the neighbors as a kind of extended family network, the waqf has become the element that preserves continuity by incorporating individual families into a larger Orthodox one. If Doumani observed that the seventeenth-century family waqf often had the effect of consolidating the nuclear family at the expense of agnatic relations, here we see the opposite occurring. In a context where there are too few potential inheritors rather than too many, the waqf helps create them, linking unrelated families together through shared space and a shared religious tradition.

This set of relationships between convent space, families, and monastics inspires some Palestinians to describe themselves as protecting their families by protecting the Church. This is especially clear in Jerusalem, where the threat posed to Palestinian property is extremely high. There, even families who do own property will give it to the Church rather than risk it falling into the wrong hands.

## **Donating Property to the Church in the Context of Occupation**

In the late 1990s, the last member of a Palestinian Orthodox family still resident in the Old City passed away. The descendants debated what to do with their large and dilapidated family house. At first, they thought they would build a museum, but soon a number of interested parties approached them seeking to buy the property. Interest became pressure from Israeli parties, which eventually overwhelmed the family. “They wanted to take [the house],” one family member said in an interview. “There was a lot of pressure on me, and when it became too much, I felt we needed to give it to the monastery.”<sup>44</sup>

This gift occurred before the scandal I described at the outset, when the settler organization Ateret Cohanim apparently bought valuable Old City property from the patriarchate for a song. But many other controversies were already underway by the 1990s and the family was almost certainly aware of the conflict that had plagued the Orthodox community for the better part of a century. Nevertheless, they gave their property to the Church. Over the past several years, I have met a number of other families that have made the same decision, even recently, when activism against the patriarchate has been strong. According to them, this happens in large part because of the enormous pressure they experience from potential buyers when there is no obvious descendant to inherit and use the property.

The influence of settlers and the government on housing is highly opaque but the leaking of confidential documents related to the Church's land deals provides some important details. In a number of the recent Church leases, settler organizations like Ateret Cohanim and private developers bid on property through intermediaries. In some cases, as with the Jaffa Gate deal, the settlers negotiated with individual Church representatives or tenants in an attempt to bypass the official decision-making mechanisms of the patriarchate.

This is what happened in 1990 when settlers took over St. John's Hospice in the Old City. Rather than attempt to purchase the property outright, Ateret Cohanim made a deal with the tenant, an Armenian layman, to take over his lease. The Church sued the tenant, arguing that he never had the right to make the deal. In the meantime, settlers occupied the hospice. Several eviction notices were ordered by District and Magistrate Court judges but each time the eviction was set to be carried out, a stay was ordered and the eviction delayed.<sup>45</sup> Eventually, the Panamanian holding company representing Ateret Cohanim managed to purchase the lease. It was later discovered that it was the Israeli Ministry of Housing and Construction that provided \$1.8 million to fund the purchase.<sup>46</sup> Part of this case is still being litigated today, but settlers continue to occupy the building.

It is rare for lay individuals to make such deals, but it does happen. As a result, many elderly Christians without direct descendants consider donating the property to the Church rather than transmitting it to distant relatives, especially those who live outside the country. Such experiences are common, and while they do not normally lead to the creation of settlements, the law is on the side of the settlers. As Bagaen notes, the law stipulates that a landlord can dispute the decision of a tenant to sell her tenancy if there is good reason, but "this cannot include refusal to rent to a Jewish settler."<sup>47</sup> In fact, in the St. John's Hospice case, Israeli officials accused the Church of anti-Semitism for its refusal to rent to settlers, and the state maintained the right of Israeli Jews to settle the city as justification for purchasing the lease with state funds.<sup>48</sup> It is in this context that Palestinian Christians decide to donate property to the Church rather than sell it themselves.

The interesting question is thus not why people give property away – the settler threat presents a clear incentive to avoid selling to individuals or investors – but why

they give to the Orthodox Church in particular, rather than an NGO, the Palestinian Orthodox Club, or a more trustworthy church? Here, security is not the only explanation. Palestinian donors do not blindly trust the patriarchate. Rather, they usually have a longstanding relationship with it, to the extent that donating their property may not feel like giving it away at all.

In the case I described at the beginning of this section, the property was initially owned by the patriarchate during the British Mandate. The usufruct was granted to the widows of two men who died defending the patriarchate in an interchurch conflict. In other words, the hierarchy was in the debt of these men and gave their family the usufruct out of gratitude for their sacrifice. Later, in the 1930s – a time when the Church was in significant debt and in need of cash – a member of the family purchased the property outright. So when decades later the family decided to give the house to the Church, they were fulfilling a longstanding reciprocal relationship in addition to protecting the house from settlers.

This case suggests that the form of property transmission produced by the patriarchate's unique structure is not so much a shift in ownership from family to monastery, but a conflation of the two, a way of preserving the "Orthodox family" over time by materially linking the limited continuity of a family lineage to the more durable lineage of the Church. This at least seems to be the view of the donating family, as well as that of the new tenants. Initially the property was left untouched and began to deteriorate, but in 2010, the patriarch turned the usufruct over to an Orthodox women's organization called *Hamilat al-Tib*, "the myrrh bearers." Led at the time by prominent Jerusalemite Nora Kort, the organization raised funds for renovations and eventually opened a museum dedicated to the Jerusalemite family (*al-usra al-Maqdisiyya*) demonstrating the historical perseverance Palestinians in the Old City. It is called *Wujoud*, meaning "existence."

The *Wujoud* Cultural Center's mission is partly to preserve the cultural heritage of Old City Palestinians going back centuries, highlighting the building's Roman, Mamluk, and Ottoman architecture. But it is also intimately tied to the experience of refugee families. When I asked about her motivation for creating the museum, Nora described the story of her family home in West Jerusalem, which was confiscated in 1948. Among the possessions her family was able to take with them was a handwritten family Bible and an iron cross, both now on display. Other families also donated furniture and possessions from their former homes and their names are recorded on the wall. The rooms, courtyards, and halls are arranged and decorated like a house and the staff cook serves traditional dishes to visitors. For Nora, *Wujoud* is a monument to the Palestinian family, marking both an ancient connection to the past and its disruption by the Nakba.

After some time, a member of the original donor family came for a visit. She wrote in the guestbook, "It's been thirty years since I've been here. I grew up every summer in this house of my grandmother . . . I am touched by how beautiful this place is . . . the history of this home lives on."<sup>49</sup>

## The Loss of Usufruct and the Discourse of Protection

Earlier I described how, after 1948, the Church granted Palestinian families hereditary usufruct rights to houses in the Old City. Today, however, the hierarchy is reluctant to grant new residents the same rights. This seems partly an effort to keep power in the hands of Greeks, and partly to ward off the settler threat.

This state of affairs has hit the Old City community especially hard. Refugee families that moved into Church houses in 1948 often did not have relatives in the city and the conditions of the occupation caused many of them to emigrate. This means that some families gave up their protected tenancies for lack of descendants while others struggled to find housing at a reasonable rate. Such concerns have encouraged the Christian community to organize in a number of different ways. One, of course, has been the movement to reform the patriarchate. But there are also others, like Seeds of Life.

Seeds of Life is divisive because it moves public discourse away from the occupation in favor of a more conservative religious agenda. Orthodox activists often criticized Seeds to me for accepting funds from the Jerusalem Municipality – which many Palestinians boycott – as well as from controversial evangelical organizations. They criticize its politics: the language at the center’s opening, of “strik[ing]” down protestors of the patriarchate “with an iron fist”; or at other public events, the strong focus on Da‘ish (Islamic State) and the persecution of Christians, rather than all Palestinians, or all Syrians. Many Old City Christians disagree with this language. Nevertheless, the organization’s central claim, that it is protecting the Church, resonates with many residents, including those who do not share its politics. Most people know Seeds of Life as the organization that decorates the streets at Christmas time. They also claim to perform mundane acts of maintenance in the Christian Quarter: fixing streetlights and broken road tiles, improving garbage collection, resolving local disputes. Both types of action, the public politicized events and the local maintenance work, are framed as “protection” or, in the words of their charter, the “desire [for] our continuity and survival [*istimraruna wa baqa’una*].”<sup>50</sup> To their minds, they exist to maintain the continuity of the Christian Quarter.

At the start of this article, I recounted an event in which Seeds of Life members, most of whom are not Orthodox, described themselves as “guardians” of “their” Orthodox faith. They positioned themselves as children adopted into the patriarchate family and claimed a duty to protect it. Most Old City Christians support reforming the Church, but they, too, speak of protecting it. Nicola Haddad, for example, supports reform but not the leadership of the reformers: “Usama [an Orthodox reform leader] is not involved in the daily life of the Church”:

I would respect him more if he would come and be one of the *wukala* [church trustees] and start cleaning the church and preparing coffee, you know? It would make a difference.<sup>51</sup>

This is a common sentiment among those for whom claiming ownership of the Church

requires being part of it, of a tradition embodied by Orthodox space and the people living in it. “The Christians in the Old City took for themselves to be the protector (*hami*) of the Church,” Nicola said. “[They] need to protect [it], to gather the Church together.”<sup>52</sup> The leadership, he said, do not feel the same way.

This is not the combative rhetoric of defense against threats employed by Seeds of Life; nevertheless, like Seeds, Nicola describes a concern for continuity, keeping people together, and persevering through time. He connects this to simple acts of maintenance and care, such as serving coffee and cleaning the church. And rightly or not, Seeds of Life has a reputation for doing just that.

Many Orthodox Palestinians today articulate their claim to the Church in national terms. But in the Old City, families living in Church houses also describe a continuity that both institutions share – just as their forebears did in 1910. Seeds of Life represents the latest iteration of this discourse. It has politicized that discourse in a way many Jerusalemites do not accept; nevertheless, the center’s existence is a powerful testament to the fact that Church property is not only a financial or political asset but also, in an important sense, the form of the Orthodox family. The assorted Christians who make up Seeds of Life can consider themselves a part of this family because they share its buildings, spaces, and stones, its neighbors and relatives, and they contribute to its continuity.

This brings us back to the premise of the article and the question of how exactly Church property influences the relationship between the Greek hierarchy and the Palestinian laity. If we accept the closeness that Old City residents feel to the Church – be it through the convent space, their neighbors, or actual monks and nuns – one might still characterize their relationship to the hierarchy in terms of dependence. I merely wish to argue that the economic position of Old City Palestinians is mediated through their experience as refugees and as participants in the Orthodox family waqf. This means that expressions of ownership are often embedded in a religious and ethical discourse afforded by the waqf, one that defines property as a family heritage, something one holds rather than owns. This discourse, I argue, exerts a powerful and often unrecognized influence on Palestinian Christian politics.

In this article, I have described Orthodox activists past and present, Old City families, and Old City organizations. These individuals, families, and organizations represent a variety of political positions vis-à-vis the patriarchate, some of which are strongly opposed to one another. Nevertheless, they share something fundamental in their common claim to an Orthodox tradition that sees in Church property both a material asset and a medium through which the Christian community is protected and perpetuated over time.

*Clayton Goodgame is a postdoctoral fellow in anthropology at the London School of Economics, where he examines property relations, kinship, and religious politics in the Orthodox Patriarchate of Jerusalem. He would like to thank Beshara Doumani and Paul Kohlbry for inviting him to the workshop from which this article emerged and for their feedback on an early draft, Rashid Khalidi for his insightful comments*

as discussant, and JQ editor Alex Winder along with the two anonymous reviewers for their very helpful comments and suggestions.

## Endnotes

- 1 Theoretically, the patriarchate's monastic brotherhood is open to Palestinians as well as Greeks and there are currently at least two Palestinian monks. However, for over a century the policy of the hierarchy has been to exclude Palestinians from positions of authority and to maintain what it sees as the Church's Greek character. See Derek Hopwood, *The Russian Presence in Syria and Palestine, 1843–1914: Church and Politics in the Near East* (Oxford: Brill, 1969); Konstantinos Papastathis, "Arabic vs. Greek: The Linguistic Aspect of the Jerusalem Orthodox Church Controversy in Late Ottoman Times and the British Mandate," in *Arabic and Its Alternatives: Religious Minorities and Their Languages in the Emerging Nation States of the Middle East (1920–1950)*, ed. Heleen Murre-van den Berg, Karène Sanchez Summerer, and Tijmen Baarda (Leiden: Brill, 2020), 269–70.
- 2 With the exception of public figures, all names are pseudonyms.
- 3 "Al-Kalima al-thaniyya li-l-tajammu' al-shababi al-Urthudhuksi al-Urshalimi fi hadrat ghibtat al-batriyark al-Urshalimi kirius Theophilus al-thalith" [The second speech by a group of Jerusalemite Orthodox youth in the presence of His Beatitude Patriarch Theophilus III], Jerusalem Patriarchate Newgate, 13 January 2018, online at [ar.jerusalem-patriarchate.info/2018/01/13/35456](http://ar.jerusalem-patriarchate.info/2018/01/13/35456) (accessed 10 February 2022), emphasis added.
- 4 Fieldnotes, 2 April 2018, Jerusalem.
- 5 Author interview, 20 July 2017, Jerusalem.
- 6 Salim Tamari, "Issa al Issa's Unorthodox Orthodoxy: Banned in Jerusalem, Permitted in Jaffa," *Jerusalem Quarterly* 59 (2014): 24.
- 7 Tamari, "Issa al Issa," 23.
- 8 Peter Hennigan, *The Birth of a Legal Institution: The Formation of the Waqf in Third-Century A.H. Hanafi Legal Discourse* (Leiden: Brill, 2004); Haitam Suleiman and Robert Home, "'God Is an Absentee, Too': The Treatment of Waqf (Islamic Trust) Land in Israel/Palestine," *Journal of Legal Pluralism* 59 (2009): 49–65.
- 9 Hennigan, *Birth of a Legal Institution*.
- 10 J. N. D. Anderson, "The Religious Element in Waqf Endowments," *Journal of the Royal Central Asian Society* 38, no. 4 (1951): 292–99; Nada Moutaz, "Is the Family Waqf a Religious Institution? Charity, Religion, and Economy in French Mandate Lebanon," *Islamic Law and Society* 25 (2018): 65.
- 11 Hennigan, *Birth of a Legal Institution*, 81.
- 12 Amy Singer, *Constructing Ottoman Beneficence: An Imperial Soup Kitchen in Jerusalem*. (Albany: State University of New York Press, 2002).
- 13 Beshara Doumani, *Family Life in the Ottoman Mediterranean: A Social History* (Cambridge: Cambridge University Press, 2017).
- 14 Samer Bagaeen, "Evaluating the Effects of Ownership and Use on the Condition of Property in the Old City of Jerusalem," *Housing Studies* 21, no. 1 (2006): 135–50. See also Salim Tamari, "Waqf Endowments in the Old City of Jerusalem: Changing Status and Archival Sources," in *Ordinary Jerusalem, 1840–1940: Opening New Archives, Revisiting a Global City*, ed. Angelos Dalachianis and Vincent Lemire (Leiden: Brill, 2018), 490–509.
- 15 Richard Van Leeuwen, *Notables and Clergy in Mount Lebanon: The Khazin Sheikhs and the Maronite Church* (Leiden: Brill, 1994); Doumani, *Family Life*; Moutaz, "Family Waqf," 37–77.
- 16 Doumani, *Family Life*, xv.
- 17 Claudia Rapp, *Holy Bishops in Late Antiquity. The Nature of Christian Leadership in an Age of Transition* (Berkeley: University of California Press, 2005); Peter Charanis, "The Monastic Properties and the State in the Byzantine Empire," *Dumbarton Oaks Papers* 4 (1948): 53–118; Tom Papademetriou, *Render unto the Sultan: Power, Authority, and the Greek Orthodox Church in the Early Ottoman Centuries* (Oxford: Oxford University Press, 2015).
- 18 Konstantinos Papastathis, "Diplomacy, Communal Politics, and Religious Property Management: The Case of the Greek

- Orthodox Patriarchate of Jerusalem in the Early Mandate Period,” in Dalachanis and Lemire, eds., *Ordinary Jerusalem*.
- 19 As Papastathis and Kark point out, this unique arrangement does not refer to *mulk* or freehold property of the dying monk, only *miri* or state lands. Konstantinos Papastathis and Ruth Kark, “The Politics of Church Land Administration: The Orthodox Patriarchate of Jerusalem in Late Ottoman and Mandatory Palestine, 1875–1948,” *Byzantine and Modern Greek Studies* 40, no. 2 (2016): 269–71.
  - 20 Eugenia Kermeli, “Ebu’s Su’ud’s Definition of Church Vakfs: Theory and Practice in Ottoman Law,” in *Islamic Law: Theory and Practice*, ed. Robert Gleave and Eugenia Kermeli (London: I. B. Tauris, 1997).
  - 21 Kermeli, “Ebu’s Su’ud’s Definition,” 148–49.
  - 22 Kermeli, “Ebu’s Su’ud’s Definition,” 151, emphasis added.
  - 23 Papastathis and Kark, “Politics of Church Land,” 268–71.
  - 24 Noha Tadros Khalaf, *Les Mémoires de ‘Issa al-‘Issa: Journaliste et intellectuel palestinien (1878–1950)* (Paris: Éditions Karthala, 2009), 134.
  - 25 “Mu’tamar al-shabab al-‘Arab al-Urthudhuksi” [Arab Orthodox Youth Conference], *Filastin*, 19 November 1935, 4. See also Nada Marmura, “The Orthodox Community in the Holy Land and the Jerusalem Patriarchate” (PhD diss., American University of Beirut, 1967), 157.
  - 26 Shehadeh Khuri and Niqla Khuri, *Khulasat tarikh kanisat Urashalim al-Urthudhuksiyya* [History of the Orthodox Church of Jerusalem] (Jerusalem: Bayt al-maqdis, 1925); Alif Sabbagh, “al-Qadiyya al-Urthudhuksiyya al-wataniyya” [The Orthodox national cause], *Majallat qadaya Isra’iliyya* 61 (2016): 61–76.
  - 27 See Steven Runciman, *The Great Church in Captivity: A Study of the Patriarchate of Constantinople from the Eve of the Turkish Conquest to the Greek War of Independence* (Cambridge: Cambridge University Press, 1968), 360–407; Konstantinos Papastathis, “Secularizing the Sacred: The Orthodox Church of Jerusalem as a Representative of Greek Nationalism in the Holy Land,” *Modern Greek Studies Yearbook* 30–31 (2014–15): 43–44.
  - 28 Papastathis, “Secularizing the Sacred”, 37–54.
  - 29 Salim Tamari, *The Great War and the Remaking of Palestine* (Berkeley: University of California Press, 2017), 165.
  - 30 Tamari, *Great War*, 89.
  - 31 Laura Robson, *Colonialism and Christianity in Mandate Palestine* (Austin: University of Texas Press, 2011), 75.
  - 32 Evelin Dierauff, *Translating Late Ottoman Modernity in Palestine: Debates on Ethno-Confessional Relations and Identity in the Arab Palestinian Newspaper Filastin (1911–1914)* (Gottingen: Vandenhoeck and Ruprecht, 2020), 208.
  - 33 See Anton Bertram and Harry Luke, *Report of the Commission Appointed by the Government of Palestine to Inquire into the Affairs of the Orthodox Patriarchate of Jerusalem* (Oxford: Oxford University Press, 1921), 243–49; Konstantinos Papastathis, “Religious Politics and Sacred Space: The Orthodox Strategy on the Holy Places Question in Palestine, 1917–1922,” *Journal of Eastern Christian Studies* 65, no. 1–2 (2013): 67–96.
  - 34 Dierauff, *Translating Late Ottoman Modernity*, 229.
  - 35 Rashid Khalidi, *Palestinian Identity: The Construction of Modern National Consciousness* (New York: Columbia University Press, 1997), 95, 102.
  - 36 E. P. Thompson, “The Moral Economy of the English Crowd in the Eighteenth Century,” *Past and Present* 50 (1971): 76–136.
  - 37 See Papastathis and Kark, “Politics of Church Land,” 271–73.
  - 38 Today, some monasteries within the patriarchate are cenobitic but for the most part the monks can choose to live and eat alone and they are still allowed to own property. See also Papastathis and Kark, “Politics of Church Land,” 270.
  - 39 Fieldnotes, 15 January 2017, Jerusalem.
  - 40 Author interview, 12 May 2020, London.
  - 41 See Merav Mack, Angelos Dalachanis, and Vincent Lemire, “Matrimony and Baptism: Changing Landscapes in Greek (Rum) Orthodox Jerusalem (1900–1940),” *British Journal of Middle Eastern Studies* 3 (2017): 443–63.
  - 42 Author interview, 5 May 2020, London.
  - 43 Suleiman and Home, “God Is an Absentee”; Bagaen, “Evaluating the Effects.”
  - 44 *Wujoud Museum*, dir. Faihaa Qawasmī, Agenzia Italiana per la Cooperazione allo Sviluppo (Jerusalem: Consulate General of Italy, 2014), DVD.

- 45 Orly Levy and Erik Cohen, "The Occupation by Jews of St. John's Hospice in the Old City of Jerusalem: An Analysis of an Iconic Event," *Urban Anthropology and Studies of Cultural Systems and World Economic Development* 26, no. 2 (1997): 201–38.
- 46 Levy and Cohen, "Occupation"; Michael Dumper, *The Politics of Sacred Space: The Old City of Jerusalem in the Middle East Conflict* (London: Lynne Rienner, 2002).
- 47 Bagaen, "Evaluating the Effects," 146.
- 48 Levy and Cohen, "Occupation."
- 49 Fieldnotes, 2 November 2018, London.
- 50 *Markaz buthur al-hayat al-afdal* [Seeds of a Better Life Center], Seeds of a Better Life (ND: unpublished), accessed 2 February 2018.
- 51 Author interview, 12 May 2020, London.
- 52 Author interview, 12 May 2020, London.