



EXPLORING THE INTRICATE ARCHITECTURAL FABRIC OF A HISTORIC ARAB MEDINA: A STUDY OF NABLUS OLD TOWN

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Abdallahman Kittana*

Birzeit University, Palestine

***Corresponding Author:**

akittana@birzeit.edu

Ameen Abu-baker

An-Najah National University, Palestine

ABSTRACT

Scholars have been fascinated with the complex and intricate urban structure within Islamic cities. Over the years, they have used various terms and designations, such as labyrinthine, maze-like, spontaneous, organic, and similar descriptors, to characterize this intricate nature. However, these terms often suggest a lack of order or systematic organization, which limits our understanding of how urban spaces were created and regulated, especially at the micro-level of city development. This essay seeks to provide a case-based insight into the processes of creating, adapting, and managing spaces in pre-modern Islamic cities by examining original archival documents from the Ottoman period. The study concludes that the dynamic character of the decision-making process, influenced by a framework for decision and counterbalancing practices and amplified by the ability to divide the entire structure or building into components that can be interchanged with neighboring elements, opened the door to a limitless range of spatial arrangements that led to the emergence of complex interconnections and apparent irregularities.

KEYWORDS:

Islamic architecture; Arab kasbah, urban rules, ottoman; Nablus

INTRODUCTION

For decades, scholars have been intrigued by the complicated and intricate nature of the urban fabric in the Islamic city, and they have adopted different approaches to comprehend its structure and physical characteristics [1]. [3] [2] [While some attributed its features to religious and societal factors [4] [5], others embarked on their analysis from its physical form [6] [7]. Within these scholarships, various terms and designations, such as labyrinthine, labyrinth-like, maze-like, unplanned, formless, irregular, spontaneous, organic, chaotic, and similar labels, have been employed to describe its complexity [8] [9]. One major limitation of such attributions is that they often imply the absence of order or systematic development. The process of place-making and the regulatory mechanisms involved remain ambiguous and susceptible to assumptions and generalizations, particularly concerning the micro-decisions of city-making.

Basim Hakim [10] explains that in the Muslim Medina -in general- building dynamics consist of two levels: citywide and neighborhood. Each of these levels has its own dynamic and procedure and consequently, directly or indirectly, impacts the urban form. The ruler or the government took decisions on the citywide level and normally concerned the birth and growth of the city, distribution of land, location and configuration of gates and walls, mosques, and major public buildings,

in addition to infrastructure developments. Such decisions normally result in discernible spatial and legal outcomes. Whereas on a neighborhood level, micro-decisions pertain to local citizens and usually materialize at the level of the interior and the immediate neighbors, characterizing for a more indirect significance on an aggregate basis [11]. Mustapha BenHamouche [12] explained that most city features in the Islamic world could be explained through the decision-making system, which, for him, is understood through three different levels of authority: the public, the private and the collective. For Akbar [13], the accumulation of micro decisions taken by private individuals is the real growth process of the city in the Islamic world. Practically, the accumulation of outputs of these decisions makes the tissue of the *Kasbah* illegible.

In this scholarly article, we contend that a more lucid comprehension of the Islamic city's attributes can be achieved by examining its place-making practices. As a result, we reevaluate the visual appearance of disorder evident within the *Kasbah* by concentrating on social details of neighborhood micro-scale development. We posit that this visual aspect should not be simplistically ascribed to an absence of organizational structure; rather, we state that it stems from a deliberate adherence to prevalent socio-spatial principles, which the essay proposes to call urban rules of the *Kasbah*.

Through unfolding and presenting the proposed urban rules, the essay offers a case-driven comprehension of the legal, technical, and social frameworks that underlie the intricate interweaving and structural entanglement of architectural formations.

The Kasbah of Nablus

Our case study is the old town of Nablus in Palestine (figure 1). The *kasbah* stands as a testament to the output of a two-millennia of successive Hellenistic, Roman, Byzantine, and Islamic urbanisms. Over the course of these successive civilizations, the city's urban landscape underwent dynamic transformations dictated by varying and evolving urban dynamics, principles, regulations, and codes. The existing *kasbah* is a gigantic mass of aggregate and accumulated architectural forms whose urban configuration has predominantly matured and assumed its ultimate structure during the Ottoman period, guided by urban regulations attributable to and regulated by Islamic *Shari'a* principles.

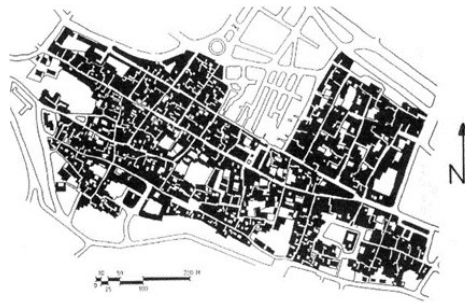


Figure 1. Map of the Kasbah of Nablus, made by the author based on the Nablus Municipality map.

According to the archival descriptions, the *kasbah* is composed of residential quarters (*harah*), with each quarter encompassing multiple streets described as *khutout* (Plural of *Khat*, which literally means line). These *khutout* include a diverse array of building compositions, encompassing residential buildings, industrial and commercial establishments, artisanal workplaces, communal baths, and places of worship, thereby catering to a multitude of functionalities and requisites. From these, *khutout* also branches multiple irregular *zusak* (cul-de-sac), leading to numerous familial clusters (*Hush*), each of which incorporates several houses (*Dar*), and each house further encompasses one or more dwelling units that were named *Bayt*. These familial clusters can be exclusively residential or represent an amalgamation of multi-purpose structures stemming from the same lineage (figure 2).

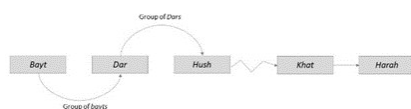


Figure 2. Diagram showing the town structure of the *kasbah* of Nablus.

This seemingly hierarchical sequence of spaces doesn't necessarily represent a real hierarchical order. Looking from the ground or through an aerial view, one observes an interweave of buildings, open spaces, streets, and gardens, formulating a sophisticated tissue where boundaries of buildings, neighborhoods or even streets merge and entangle. This interweave of buildings encompasses intricately intertwined structures, tunnel-like streets, subterranean chambers, a labyrinthian network of walkways and an extensive diversity of architectural details. Consequently, an inquiry emerges concerning the societal and legal embrace and facilitation of such a complex architectural intertwinement.



Figure 3. Aerial view of the old town of Nablus. photographer Omar Abdelhadi

METHODS

The research methodology employed in this study involves an inductive approach aimed at unraveling the intricate complexity of the subject. This approach entails collecting qualitative data from original sources documenting historical scenarios of place-making during the Ottoman period. The gathered scenarios will then be analysed thoroughly to derive general principles and guidelines.

By adopting this approach, the essay is committed to a detailed examination of the societal choices and negotiations that played a pivotal role in shaping the evolution of architectural configurations during the specified timeframe. This methodologically involves scrutinizing, contextualizing, spatializing, and inducing urban rules from archival records of the Nablus *Sharia'* Court during the Ottoman era, where the records encompass a gamut of agreements, adjudications, contracts, claims, and everyday concerns.

DISCUSSION

DECISION AND COUNTERBALANCE

The first urban rule discussed herein stipulates that every construction passes through a road map that contains a decision and counterbalance process. This road map delineates and elucidates who decides what and where in the city. Drawing from the principle of freedom to act, as articulated by Hakim [14], any party, be it individual or collective, possesses the right to act and decision-making concerning the development and use of their spaces. However, this freedom is judiciously counterbalanced by the right to

react as guided by the principle of prevention of harm and damage. However, the rights to act and react are regulated by the *Mulkeyyah* rights, a framework demarcating the entitlements held by respective parties regarding a given space.

The term "*Mulkeyyah*" etymologically denotes ownership of a certain entity. Idiomatically, it encapsulates a relational framework between an entity and an object, thereby delineating precise rights to it. Specifying the rights that a party holds defines who can practice the right to act and the right to react. *Sharia'* Law (*Fiqh*) protected three discrete rights: the right to ownership, the right to control, and the right to use. Each right is claimed by one party, albeit the possibility remains for a single party to assert more than one right [15].

Derived from this principle, it becomes apparent that owners of properties possess the unrestrained entitlement to maximize the utilization of their holdings while parties holding partial rights are obligated to negotiate with fellow rights holders. This phenomenon is consistently evident in court archives, particularly in instances documenting property transactions, wherein records unambiguously stipulate that the new owner is vested with the privilege to derive benefit from their property across all permissible (*halal*) deeds.

Given the densely woven urban fabric described above, effecting spatial modifications is unusual without impacting neighboring entities or passing pedestrians. Consequently, in all processes related to the creation and utilization of the built environment, it is imperative to avert inflicting harm and damage to others- though sometimes it is necessary to tolerate lesser damages to avoid greater ones [14]. Grounded in this principle, parties affected by decisions executed by others possess the right to react. This right counterbalances the decision-making, ensuring an equitable equilibrium between neighbours and mitigating harm and impairment to the public good or passers-by.

An illustrative instance of a consensus reached without a legal proceeding is documented in (S:05-P:121-Y: 1729). This record encapsulates an accord forged between two adjacent neighbours. The first party permitted the second one to attach their building to the former's structure, to establish a doorway from the western side, and to attach the new room and a staircase to the wall of their lower-level store. This record not only underscores the requisite for a mutual understanding when attaching structures but also underscores proprietors' unrestrained agency over their holdings (figure 4). Consequently, if consent for such attachments is conferred, no other regulation poses an impediment.

Bleibleh [16] argues that a significant proportion of these agreements were left unrecorded within the court's archives, particularly in situations where the agreements involve family members or close neighbors. Nevertheless, in some cases, disputes stemming from unrecorded arrangements arise during

judicial proceedings. An example of this appears in (S:02-P:292-Y: 1688), wherein the record registered a claim presented by one party against another. The claimant's account references a preceding unrecorded arrangement between the two parties, which one has allegedly contravened.

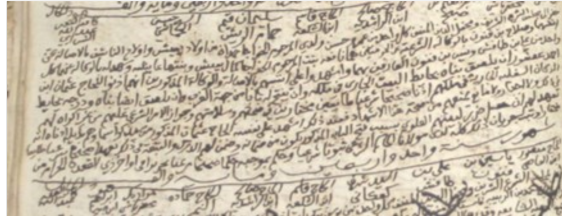


Figure 4. a record showing a permit from one party to build an extension.

The archival records reveal multiple instances wherein the right to react is practiced concerning property matters. These cases showcase varied outcomes, including resolution through consensus or rejection. Mediation and negotiation strategies frequently play a pivotal role in achieving closure.

The judge assumes responsibility for case resolution upon initiating the right to react by any involved party. The judge's initial step involves an examination of the arguments presented by each party. In cases demanding a physical examination, the judge coordinates an on-site investigation that includes the participation of disputing parties, witnesses, and relevant technical experts, if necessary. Subsequently, the judge may mediate to facilitate a consensus or deliver a definitive judgment. A case of successful mediation is evident in the account of a claim in (S:05-P:052-Y: 1728), wherein a mutually agreeable settlement between adversaries was achieved through adherence to principles of neighbourly cooperation, subsequently ratified by the judge.

In instances where mediation proves unsuccessful, the judge proceeds to render a decision grounded in personal observation and in accordance with religious edicts and societal conventions. Notably, the palpable influence of religious norms becomes pronounced at this juncture. The judge frequently anchors his verdict in sacred texts or precedent *fatwa* (Religious opinion) derived from analogous cases. This process is typically documented within the record (S:05-P:017-Y: 1728). Here, a claimant raised concerns about two windows in a neighbor's dwelling overlooking his private courtyard, thus infringing upon the privacy of his female occupants. Upon meticulous on-site examination, the judge determined that these windows overlooked a thoroughfare leading to the courtyard, traditionally devoid of private usage. Furthermore, it was established that the windows predated the private ownership of the courtyard, conferring a right of precedency upon them. Consequently, the judge dismissed the plaintiff's claim based on his direct observation, established customs, and a pertinent precedent *fatwa* featured in his pronouncement.

The preceding example underscores the significance of invoking the right to react to safeguard the right to precedency of pre-existing establishments. This entails upholding precedent spaces' functional efficacy, utility, and entitlements. However, alterations to established precedents can be orchestrated through consensus achieved with the relevant stakeholders.

An illustrative instance highlighting the preservation of established arrangements is found in the record (S:02-P:002-Y: 1686). In this case, one party asserted their ownership rights over a spatial area that was historically possessed by another party. After thorough examination by the presiding judge, witnesses, and an architect, it was ascertained that the disputed area initially constituted an antiquated vault, partitioned into two distinct sections by an ancient wall. The claimant contended their ownership over both partitions of the vault, while the opposing party maintained their ownership based on the longstanding occupation of their respective section. The architect's testimony affirmed the wall's considerable age, and the presence of old doorways connecting the two sections to separate houses provided additional evidence. In accordance with the principle of preserving the right to precedency, the judge ultimately dismissed the claim, safeguarding the existing arrangement.

The right to react also involves lodging complaints about spatial usage. Illustrated in a case in (S:02-P:326-Y: 1688), this right was exercised against neighbours employing an oven in their private courtyard. The complainant contended that the oven's smoke intruded on their residence, resulting in harm and wall discolouration. Subsequently, the judge rendered a verdict that forbid the neighbours from setting fire to that oven.

On a broader scale, the exercise of the right to react constitutes a significant measure aimed at safeguarding the right to the common good, which entails the protection of individual and collective entitlements to the public realm as well as the protection of public facilities such as streets and wells. The notion of the common good encompasses a spectrum of considerations tied to everyday spaces, spanning safety, sensory experiences (olfactory and auditory), visual aesthetics, and financial implications [15][17]. An instance illustrating the activation of the right to react for the betterment of the public good is evident in (S:05-P:011-Y: 1728). In this context, an

individual complained to a *Sharia'* judge, asserting that their neighbour's derelict house posed a risk of collapse and detriment to the adjacent street. Subsequently, the judge mandated the neighbour to undertake repairs or appropriate measures to avert harm.

Consequently, even though the neighbour privately owned the property, the right to react against its potential danger was extended to the public interest. Another illustration arises from (S:02-P:094-Y: 1687), wherein a collective complaint was registered regarding the improper use of a yard in front of the main town mosque. The misuse of the yard led to disturbances like litter and noise, impeding prayers and pedestrian movement. Following a judicious assessment, the judge ordered installing doors for the yard to deter its unsuitable use.

An example of protecting public visual and olfactory quality without a complaint appears in (S:05-P:031-Y:1728). In this scenario, a contractual agreement pertained to replacing two roofs in a *waqf* building. The rationale for this substitution was rooted in the necessity to rehabilitate the roofs, as they had become repositories for debris and refuse, leading to sensory disturbances in terms of smell and sight for both neighbors and the public.

In conclusion, the decision-making paradigm within the *kasbah's* micro-scale development adhered to a nuanced interplay of decision and counterbalance. The previous examples show that those in decision-making positions diligently account for the rights of other parties, whether to uphold the prerogatives of harmonious neighbourly relations or to preclude the initiation of legal counteractions. An example of this is illustrated below, simulating the process of building a room above the street (figure 5).

This intricate process is encapsulated in a visual representation depicted in Figure 3. The depicted roadmap elucidates the involvement of various parties and multiple sequential phases in formulating a singular decision (figure 6). While a trajectory along the "green line" can denote a seamless progression, the course is susceptible to fluctuations and potential halts. Notably, it is significant that decisions possess the capacity for subsequent reversal, even after the completion of developmental endeavors. An aspect that is not illustrated in BenHamouche's [12] suggested algorithm for non-public actions.

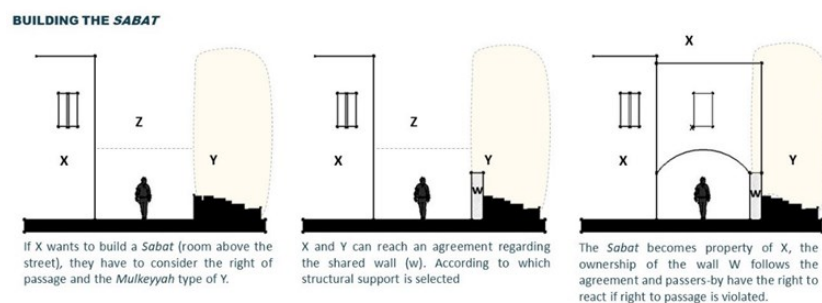


Figure 5. the process for building room above the street

DECISION ROADMAP

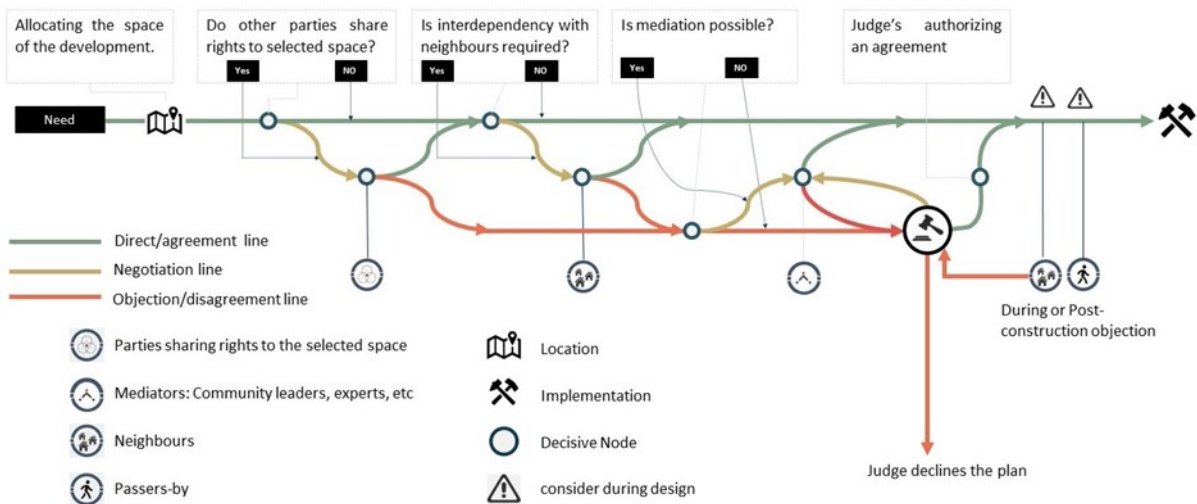


Figure 6: Illustration produced by the author describing the road map to the architectural project in the kasbah of Nablus during the Ottoman period.

"PARTS OF A WHOLE" CONCEPT

An additional significant urban rule pertains to the holistic perception of every building as an entirety formed through the amalgamation of numerous constituent components capable of being shared, interchanged, or transacted. The comprehensive "Whole" signifies the entirety of the building or architectural artifact, while the individual "Parts" encompass various facets, such as (figure 7):

- Functional spaces encompassing chambers, courtyards, gardens, lavatories, culinary spaces, and storage areas.
- Architectural or structural elements, including roofs, walls, wall segments, arches, etc.
- Shares divisions among distinct entities, each represented in the xx. x/24 carats format.

We contend that this characteristic substantially underpins the formulation of the intricate three-dimensional composition of the urban fabric. Segmenting a structure into distinct components is fundamental for fostering shared ownership and engendering structural interdependence among neighbouring entities. The historical records contained within the archive encompass numerous instances wherein "parts of a whole" were transacted through sales, rentals, or donations to neighbours, thereby fostering a tangible structural amalgamation among structures.

Transferring rights to "parts of a whole" requires mutual accord between two parties. Typically, this agreement delineates the nature of the transactional arrangement, be it a sale, lease, exchange, or gift. An illustration of conferring the right to utilize a portion of a property without reciprocation, i.e., as a gift, is evident in (S:05-P:121-Y:1729). In this instance, one party permitted the other to attach their building to the former's wall and establish an entrance through a

wall situated beneath their own building. Often, these agreements stipulate that the lessee assumes responsibility for any damage arising from the shared wall arrangement.

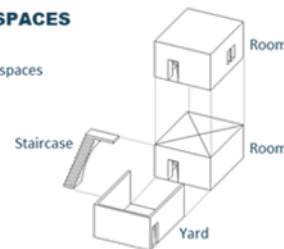
Parts of a Whole

It is possible to make transaction procedures for specific parts of a whole property. While the "Whole" is the complete structure, the "Parts" can be:



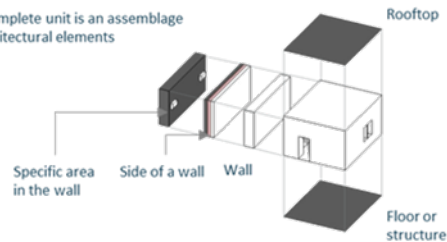
1- FUNCTIONAL SPACES

The complete unit is an assemblage of functional spaces



2- ARCHITECTURAL ELEMENTS

The complete unit is an assemblage of architectural elements



3- SHARES

The complete unit is an assemblage of shares out of 24.0/24 carats



Figure 7: Illustration produced by the author showing possible "parts" of each "whole" structure.

This principle correlates with a significant spatial practice within the *kasbah*, a practice also widespread in various cities across the Islamic world, denoting the entitlement to abut adjacent structures. This concept aligns with the belief prevalent in Muslim society, rooted in the proclamation of the Prophet that "no one should prevent his neighbour from fixing a wooden peg in his wall." *Sharia'* scholars have interpreted this as an endorsement and encouragement to allow neighbours to attach their buildings, provided it does not result in harm or damage [15]. Notably, the right to abut a neighbour's structure can sometimes be a pre-existing right integrated within future property transactions. For instance, the record (S:10-P:116-Y:1844) entails the exchange of a share in a house, encompassing all utility privileges, along with the established right to abut a neighbouring house—an entitlement affirmed previously.

RECIPROCITY

Reciprocity encompasses the mutual exchange of servitudes and structural support among neighbours. This adaptable dynamic facilitated the consolidation of structures and the intricate interweaving of properties, manifesting horizontally and vertically. Sharing and exchanging assets emerged as an inherent structural necessity, a social norm, and a religious character, and it held substantial prominence within Islamic *Sharia* Law. However, despite its ostensibly positive and auspicious nature, one must not perceive the associated processes as consistently smooth and orderly.

This practice encompassed varying exchange scales, ranging from multiple spaces to entire rooms, down to minute architectural elements. The ensuing paragraphs will furnish examples of this practice, elucidating how the concept of "parts of a whole" assists in comprehending these intricate processes.

Within extensive exchange undertakings, parties engaged in the transfer of rights encompassing multiple spaces. Such instances arose when families sought to expand in various directions, simultaneously prompting negotiations with several neighbouring entities. In three records documented in (S:17-P:119-120-Y: 1871), two siblings engaged in the acquisition of multiple spaces from disparate neighbours, encompassing rooftops, walls, courtyards, and dilapidated spaces. This strategic endeavour aimed to expand their properties by obtaining architectural elements or spaces constituting segments of other pre-existing structures. Parting the whole property into distinct parts proved indispensable in rendering these transactions both economically viable and implementable amongst neighbours. In scenarios where this division was unfeasible, the siblings were compelled to explore alternative avenues, including purchasing entire properties or relocating to other city sections.

Another example of leasing multiple spaces

within neighbouring properties is presented in the instance documented in (S:17-P:129-Y:1871). Here, a neighbour leased the rooftops of two rooms, a courtyard, and an entire wall to utilize these spaces to expand his own dwelling. Similarly, another record (S:22-P:163-4-Y: 1879) demonstrates a tenant leasing the rooftops of a neighbour's bathroom and a stable, along with an adjoining garden and a parcel of land to construct a building atop these leased spaces.

Consequent to similar transactions, the neighbours shared ownership of spaces that exhibited physical or structural interdependency with other properties. This approach not only curtailed expenses and structural requisites but also wielded a broader impact on the urban landscape, facilitating the consolidation of its architectural components and minimizing the spatial footprint essential for habitation. While this intensified density might bear potential environmental and societal repercussions, the archives also reveal awareness of these concerns and practical measures to address them.

On a smaller scale, the insufficiency of adequate space necessitated the cession or transference of rights to a singular architectural or functional space. An instance is presented in (S: 02-P: 292-Y: 1688), wherein a bilateral agreement between two parties resulted in the first party granting consent for the construction of an *iwan* within the confines of the second party's courtyard, while the latter party authorized the former to establish an *adab-khaneh* (toilet) adjacent to the wall of their residence and to create a drainage conduit traversing their domicile. This scenario exemplifies the reciprocal interchange amidst neighbours and underscores the augmentation of density and compaction consequent to constructing a chamber within a segment of the courtyard. Furthermore, it elucidates the skillful management of lavatorial utilities through a pragmatic resolution.

In a more detailed exposition, a prevalent practice involved acquiring or leasing exclusively rooftop spaces. A contractual arrangement documented in (S:05, P:036, Y: 1738) indicated the procurement of rooftop rights pertaining to two chambers within a residential dwelling, intending to build atop. Notably, the acquirers hold ownership of the contiguous northern-bound property, affording them confirmed entitlement to access the rooftop from their abode. In another instance, documented in (S:09-P:43-Y:1838), an extended tenure arrangement involved leasing rooftop kitchen spaces and a room within a residence, intending to build atop them. Given the lessee's lack of contiguous property, the contract granted them the privilege to erect a staircase at the rear of the room and the kitchen, facilitating access to the rooftop. This dynamic engenders a complex interplay of ownership rights and structural interdependence. As a strategic measure to preempt potential discord, the former contract (S:05, P:036, Y: 1738) enumerates meticulous specifications. In instances where the newly erected rooms incorporate windows, such openings are stipulated to be oriented

towards the *qibla*- the southern direction. Furthermore, the contract explicitly designates the precise location for situating the staircase leading to the new building.

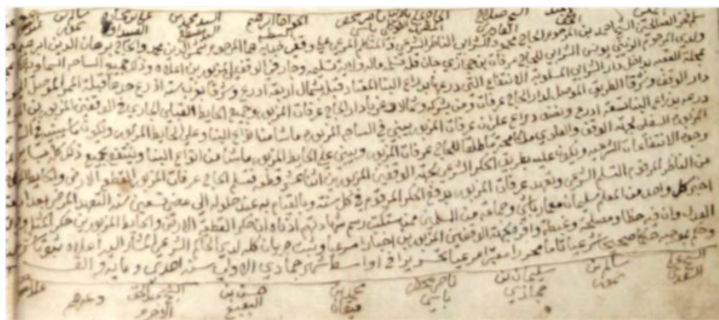
In addition to the transference or allocation of rooftop rights, the practice of sharing walls or portions thereof was widely prevalent. Within the *kasbah* of Nablus, most constructions were fashioned from stone, composing walls comprised of three strata: two stone facades and the infill. Archival documentation has unveiled that complete walls, entire sides, segments of walls, and portions of individual sides were subject to transactions between neighbouring parties. The impetus behind such sharing or exchanges predominantly revolved around structural necessities.

An illustrative case documented in (S:01-P:092-Y:1656) underscores an agreement between two parties, whereby an owner consents to partake in a shared wall arrangement with a neighbour, contingent upon the latter's commitment to fortify and elevate the wall to enhance its load-bearing capacity for both structures. Another notable instance, documented in (S:03-P:147-Y:1691), portrays a scenario wherein one party conveys the gift of a wall to another, stipulating that the latter may construct whatever is deemed advantageous, provided that their new construction is affixed to the former's wall with a specified height (14 courses), thus effectively fulfilling the need for

reinforcing the structural integrity of both houses.

A notable instance emerges in a more detailed case documented in (S:03-P:071-Y: 1690): a wall was leased to a neighbouring party. This neighbour sought to incorporate two structural corbels into the wall to facilitate the construction of a new *iwān*. Elaborating on the specifics, the record underscores a stipulation mandating that should any detriment befall the original structure, and the lessee assumes the obligation of effecting requisite repairs.

In certain instances, transactions encompass highly specific structural components, as evident in the case documented in (S:17-P:163-Y:1871), wherein half of a wall was subject to a 90-year lease agreement (figure 8). Another noteworthy case is depicted in (S:12-P:055-Y:1851), where an arch with dimensions of 0.75 meters in thickness and 2.65 meters in length, situated within a familial *waqf* (endowment) structure, underwent substitution to a neighbouring property owner. This substitution was intended to enable the neighbour, whose building was on the same side of the arch, to utilize it as a foundational element for expanding their residence. Notably, despite being a beneficiary of the *waqf*, the neighbour was constrained from utilizing the said architectural element for personal gain until ownership was established—a condition he subsequently fulfilled.



The image of this record is presented in unpublished master thesis by Thaera Bilehleh

This record shows an agreement to lease a yard and a wall that belong to *waqf* property. The leaser is the neighbour who wants to expand his building

Place Description

The yard and the wall are identified according to their owners and adjacent places. From the description a reconstruction can be made.

- Arafat bin Hijazi property
- Waqf/ Ahmad Al-Sharabi
- Pathways

The agreement

Arafat bin Hijazi wants to claim the rectangular derelict open space (the yard) through a lease contract (*tolhkeer*) in addition to the wall facing it in order to build above the yard.
The supervisor of the *waqf*, Ahmad-Sharabi confirmed the deal declaring that the leaser will have the right to build whatever he needs to build above the yard in a condition that the resulting ground floor becomes owned by Al-Sharabi *Waqf*

Spatial entanglement

- When Arafat build the expansion, this will happen:
- 1- By using the wall of the *waqf* property as a structural element, the first floor of Arafat building will span above the yard and the pathway as well.
 - 2- shared structural elements between the two properties will result in two places, in the shared wall, as well as on the ceiling of the ground floor built above the yard.
 - 3- Al-sharabi house will have its pathway covered by a property belongs to neighbours.

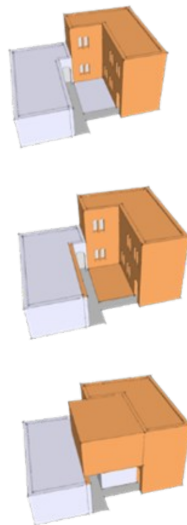


Figure 8: an example of a wall and a yard transaction, which shows the resulting overlap of properties attributed to it.

Having illustrated intricate interactions between neighboring parties involving complex transactions, it is imperative to avoid presuming that instances of reciprocation and interchanging of structural support inherently indicate the presence of robust and flourishing social associations. Such scenarios give rise to diverse challenges that warrant examination. In an archival entry documented in (S:05-P:050-Y:1738), a man lodged a complaint asserting that a neighbour had dismantled stones from their shared wall to construct a staircase adjoined to it, thereby jeopardizing its stability. Following an on-site assessment conducted with a structural specialist, the judge determined that the removal of the aforementioned stones did not pose an imminent threat to the overall integrity of the wall. Notably, it was affirmed that the neighbour's actions were executed within the confines of their private property, thereby conferring complete jurisdiction over the involved aspects upon them.

Consequently, the complaint was dismissed on these grounds. Furthermore, an analogous scenario unfolded in (S:04-P:009-Y:1722) wherein a neighbour appended an additional room to the complainant's house without obtaining requisite approval. Following thorough scrutiny and an admission of guilt on the defendant's part, a directive was issued mandating the demolition of the unauthorized extension. Another illustrative incident surfaces within the historical record denoted in (S:13-P: 121-Y: 1864), wherein a judicial decree was rendered mandating the dismantling of a newly erected wall within an individual's abode, as it demonstrated dependence on a wall situated on an adjoining neighbour's property. The presiding judge articulated that any newly erected wall intrinsically dependent upon the structural integrity of a neighbouring wall is unsustainable and thereby necessitates removal. The instances underscore how reciprocal actions and structural interdependencies were scrutinized, regulated, and adjusted within each discrete context.

THE RIGHTS TO UTILITY AND BENEFIT (IRTIFAQ AND MANFA'AH)

Considering the intricate dynamics involving social actors, reciprocal interactions, and intertwinement of physical constituents, it becomes imperative to inquire into the utilization of inhabited structures concerning water, sewage, passage, and additional services. The elucidation of this matter hinges upon a comprehensive grasp of the notion of utility rights. Utility rights may be delineated as the "an exclusive utility benefit of property over another (adjacent) property/space in which different parties own the two properties, while the utility rights belong to the first property even if its owner changes unless it was relinquished through conventional transaction" [7]. In contrast, benefit rights pertain to the privileges offered to occupants of a given property in relation to an adjoining property, subject to modifications contingent upon agreements forged

amongst neighbouring parties. The utility rights that are most prevalent and scrutinized include:

1. Right to passage
2. Right to receive water
3. Right to drainage
4. Right to elevate (lower property should carry the upper one).

The "right to elevate" is notably the most straightforward to establish, primarily applicable to instances involving upper-level properties which retain the "right to elevate" above lower-level counterparts. However, the entitlements associated with the "right to passage", "right to receiving water," and "right to drainage" manifest in varied configurations. The prevailing and favoured arrangement frequently involves direct connectivity to adjoining pathways or alleys, ideally encompassing the designated area known as the "*fina*" integral to the house. Nevertheless, scenarios arise wherein certain units lose their immediate access to thoroughfares, particularly evident in cases involving dividing a structure into multiple residences through inheritance. In such instances, occupants might be designated to share communal utility spaces, as exemplified in the situation documented within (S:16-P:368-Y:1728). Alternatively, inhabitants may negotiate with neighbouring counterparts to collectively manage these utility entitlements, as witnessed in the scenario (S:11-P:034-Y:1847). The latter case presents a leasing agreement pertaining to a 0.5-meter strip on the floor traversing the expanse of the domicile, explicitly designated to facilitate the installation of a drainage conduit to the advantage of neighbouring properties.

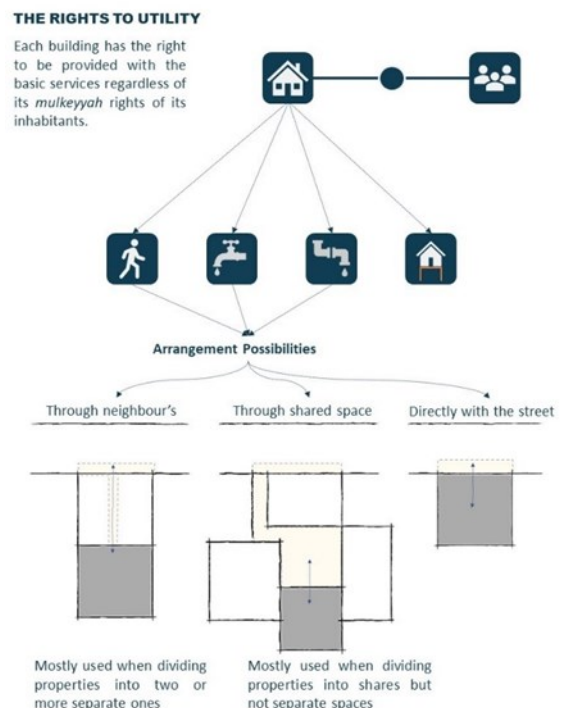


Figure 9: Possibilities for arranging utility rights for each dwelling.

Given that these rights are inherently linked to the property, they typically form an integral part of various transactional procedures unless explicitly specified otherwise in the corresponding documentation. Generally, these rights are explicitly referenced in records through the phrase "with all its *marafeq*," denoting the comprehensive inclusion of utility entitlements. An illustrative instance elucidating this principle is found within the context of (S:11-P:50-Y:1847), wherein a rooftop lease encompassing multiple chambers explicitly indicated the incorporation of all associated utility rights inherent to the edifice (figure 9). Similarly, another notable exemplar surfaces within the context of (S:09-P:341-Y:1837), whereby a specific apportionment of land underwent transference to a new proprietor, concurrently incorporating the analogous allocation of rights pertaining to a water channel that serves the mentioned parcel.

Nevertheless, it is important to note that certain contractual arrangements deviate from the standard practice of including all or specific utility rights. In certain instances, contracts modify one or more of these rights, as demonstrated by the scenario documented within (S:09-P:334-Y:1837). In this case, leasing three rooftops was established under the condition that access to said rooftops would be reconfigured to traverse through the tenant's adjoining dwelling. A similar case is exemplified in (S:10-P:044-Y:1841), wherein an alteration was effectuated concerning one room on the second floor of a house. This alteration mandated the relocation of the room's entrance to a different orientation (Eastward, in this specific instance), thereby dissociating it from its previous connectivity to the original building.

In contrast, the rights to benefit, or "*Manfa'ah*," exhibit a lower frequency of appearance, likely attributed to their prevalence in informal agreements between neighbours that often remain undocumented. However, instances of their documentation do exist, such as the case recorded within (S:02-P:058-Y: 1686), wherein proprietors of a shop bestowed upon their neighbour the privilege to benefit from the rooftop of the aforementioned shop. Additionally, the neighbour was authorized to erect a screening wall around this area to ensure privacy. This rare scenario underscores the limited documentation of rights to benefit, which primarily materializes within neighbourly dynamics and informal arrangements.

THE RIGHT TO PRIVACY

The underlying principle of partitioning the whole into parts amplifies the potential for intricacy as interventions extend beyond property confines, engendering a three-dimensional intertwining. Within this intricate interweaving, safeguarding each property's privacy is upheld by the concept of "*sitarah*," a term denoting a curtain, which, in practical terms, encompasses diverse strategies aimed at impeding visual corridors into the private domain. The right to institute "*sitarah*" assumes paramount

significance as a determinant in choices pertaining to entrances, windows, terraces, building orientation, and the elevation of structures relative to neighbouring properties. The impact of privacy considerations resonates across a spectrum of architectural configurations. For instance, windows facing the street at ground level within residential units are notably scarce unless they are dedicated to non-private functions like storage, stables, or family guestrooms (*Diwan*).

Furthermore, considering neighbours' privacy is an imperative guiding principle to be adhered to throughout the construction process. A transgression against this right promptly triggers the right to react. An illustrative example can be observed within the context of (S:02-P:135-Y:1687), wherein the archival record underscores that an adjoining property owner was compelled to close a door and a window due to the confirmed intrusion into a private domain of his neighbours.

Similarly, in the case documented within (S:02-P:333-Y:1687), the record records an instance where the judge, accompanied by an architect, conducted an on-site assessment of a residence. This visit aimed at formulating a comprehensive appraisal and estimation concerning the requisite interventions for construction or restoration. Among the various directives issued, the judge mandated the manipulation of the building's layout and orientation to obstruct visual corridors originating from a specific direction effectively. These cases epitomize the inherent significance of respecting neighbours' privacy, as it is a vital determinant that substantively informs and shapes the construction proceedings.

In general, the implementation of "*sitarah*" in the *Kasbah* entails three fundamental approaches:

1. **Building Layout:** Generally, the architectural arrangements of residences follow an inward-facing orientation towards central spaces. Windows within rooms are predominantly open towards these internal zones. Moreover, house entry is typically facilitated through twisting pathways and staircases, effectively obstructing direct lines of sight.

2. **Design Considerations:** The dimensions, positions, and orientations of various architectural elements—such as doors, windows, balconies, and walls—are meticulously contemplated to avoid generating visual corridors that compromise privacy.

3. **Obstruction Elements:** Supplementary architectural features are judiciously employed to block potential sightlines. Examples of such elements encompass walls, "*kizan*" (screened walls) typically safeguarding rooftops or terraces, and "*Mashrabeyyah*," an intricate lattice screen employed to veil windows and balconies. Additionally, greenery and other natural elements serve as effective visual barriers.

CONCLUSION

As highlighted by Falahat [1], reliance solely on two-dimensional maps to interpret and comprehend

the kasbah's intricacies can be misleading. The previous discussion underscores that a comprehensive understanding of the intricate interweaving and structural entanglement of the architectural fabric in the kasbah can be achieved through unfolding the underlying legal, technical, and social dynamics of place-making, as a deficiency in such comprehension results in an incomplete grasp of urban evolution.

By adopting the proposed urban rules, the intricate interconnections of structural configurations can be methodically unveiled. The fluid nature of the decision-making process, shaped by the paradigm of "decision and counterbalance" and intensified by the possibility of dividing the whole structure into parts, bestows an array of boundless intervention options upon ordinary individuals. This empowering dynamic operates devoid of rigid metrics, generic standards, or regulations, thereby paving the way for an infinite array of spatial configurations to materialize in accordance with the populace's requirements and agreements negotiated among neighbours. While reciprocal practices elucidate the social processes, understanding how the management of rights pertaining to utility and privacy is navigated sheds light on the practicality of integrating this complexity within a structured framework.

Consequently, the intricate interweaving and apparent irregularity within the urban fabric of the *Kasbah* emerge organically over time through the cumulative impact of numerous micro-level decisions. These decisions are frequently motivated by mundane everyday requirements rather than deliberate intent to create complexity. It becomes evident that this array of micro-level choices inherently shapes the distinct form of each city. This resultant interlacement and the subsequent "crowdedness" materialize as tangible manifestations of the latent urban norms elucidated previously.

The research concludes that the urban landscape's physical attributes of the city in the Islamic World, encompassing labyrinthine characteristics, irregularities, and intertwinements, are rooted in deeply embedded socio-spatial norms, religious endorsements, and hierarchically controlled rules.

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NOTES

- In the text, reference to records from *Sharia'* Court Archive will be imbedded in the form: (S:xx-P:xxx-Y:xxxx) where S:xx refers to number of the Sijil (record). P:xxx refers to the number of the Page in that sijil. And Y:xxxx refers to the year in which that record was documented at the court.
- More about the Mulkeyyah and its associated rights is available at: Akbar, J. A., 1992. *E'maret Al-Ard fel Islam (Building the Earth in Islam*
- E.g., the book *Kitabul-Hitan (the walls)* which was edited and modified four times since its first edition in the eleventh century.
- A room with three walls while the fourth is open to the courtyard.