



Jerusalem:

Still Key to Any Future Israeli-Palestinian Agreement

ZIAD ABUZAYYAD, HILLEL SCHENKER, INGRID ROSS

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- Jerusalem remains a key factor for any future political settlement between Israel and Palestine and for the shaping of the relationship between Israel and the Arab and Muslim countries. Israeli policies in Jerusalem not only affect its Palestinian population but pose a severe threat to the possibility of resolving the Arab-Israeli conflict by political means.
- Israeli policies in Jerusalem since its annexation in 1967 have sparked much criticism throughout the world. Many UN Security Council Resolutions have deplored Israeli legislative and administrative measures and practices affecting Jerusalem and considered them null and void, called upon Israel to rescind all such measures and to refrain from unilateral actions. However, Israel has continued to create facts on the ground to change the geo/demographic nature and realities in Jerusalem and to transform it into a predominantly Jewish city.
- The official response by the Palestinian Authority (PA) and the Palestine Liberation Organization (PLO) on the political level to Israeli discriminatory policies has been fragmented, disorganized, inadequate and unable to take concrete action against the Israeli occupation. The Oslo Accords have also prohibited the PA from any activities in Jerusalem.
- The International Community and the UN agencies should play a crucial third party role in deterring unauthorized Israeli measures and in facilitating and fostering a climate of dialogue towards a peaceful resolution of the Palestinian-Israeli conflict, including the future status of Jerusalem. The humanitarian situation of Palestinians in the city must also be addressed. A key factor for peace in the region, Jerusalem must be brought back onto the political map – this is of the utmost urgency.



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Introduction

Jerusalem, one of the oldest cities in the world, is not only a Holy City and a religious center for the three monotheistic faiths, but it has also been the focus of national aspirations and represents one of the keys to any political resolution of the Palestinian-Israeli conflict, as well as a decisive factor in resolving the Arab-Israeli conflict and shaping relations between Israel and the Arab/Muslim countries. On November 29, 2012, the United Nations General Assembly overwhelmingly voted to recognize Palestine as a non-member state in the UN on the basis of the 1967 borders, with East Jerusalem as its capital. This new status now has to be translated into reality. The vote took place 65 years after the historic UN General Assembly Partition Resolution 181, calling for the establishment of “a Jewish and an Arab state”, with Jerusalem as a *corpus separatum* under an international regime. Resolution 181 served as the international legitimacy for the creation of the State of Israel.

The Israeli government decided to “punish” the Palestinians for their UN application by declaring its plans to intensify settlement activities in East Jerusalem, including a plan to develop the terrain for building new homes in the critical E-1 area between Jerusalem and the settlement of Ma’aleh Adumim, which will cut off East Jerusalem from the West Bank hinterland. This led many European countries to take the unprecedented step of recalling their ambassadors to Israel for consultations, followed by the threat of sanctions if Israel actually builds in the E-1 area. The course of politics in the near future will determine whether these threats have had any deterrence value, and if building in E-1 proceeds.

The allocation of 180 new housing units in East Jerusalem in December 2012 to families of members of the Israeli security forces, i.e. the army and police, the ongoing activities undertaken by right-wing Jewish organizations, such as the Elad settlement organization, with Israeli government and Jerusalem municipal support, aimed at the Judaization of the ancient Muslim and Christian sites in the Old City, and the illegal plan for the destruction of Palestinian houses in Silwan, are crucial factors that emphasize the urgency for the regional body politic and the international community to bring Jerusalem back among the priorities of their political agendas and to stop the process of undermining

the possibility of a political settlement to the conflict based upon the two-state option.

If the two-state option is not realized in the near future, there is great danger that the conflict will be converted from a national-political one between Palestinians and Israelis into a religious conflict between Muslims and Jews, which will be much more difficult, if not impossible to resolve. It should be understood by all that no Palestinian leader will sign any agreement with Israel to resolve the conflict and create a Palestinian state without its capital in Arab East Jerusalem, in accordance with the pre-1967 borders, with broad access to the rest of the state.

This policy paper analysis is structured in five main parts. The first part will address the current dynamics in Jerusalem with a major focus on demography, zoning, planning and building permits, house demolitions, and poverty and educational deficiencies in East Jerusalem. The second part will address the Municipality’s policies towards Jerusalem with the main focus on the discrimination in the Municipality budgetary allocations between West (Jewish) and East (Arab) Jerusalem and the use of archeology as a tool of space and population control over Jerusalem. The third part will deal with the importance of the contribution by the international community to preserving the necessity of Jerusalem as the future capital of both states. The fourth section will highlight the responses to the Israeli policies on the Palestinian side, and the fifth part will present recommendations and proposals aimed at bringing the issue of Jerusalem back on the political agenda as a top priority in order to advance a solution to the Palestinian-Israeli conflict.

1. Current dynamics on the ground in East Jerusalem

After completing the ring of settlements around Palestinian East Jerusalem, settlement activities have lately extended into an infiltration of the Palestinian neighborhoods, encircling them with Jewish population. Settler activities in the Old City have also expanded beyond the Jewish Quarter. A new wave of takeovers of Palestinian homes by false measures, forged documents or as absentee properties, turning them into Jewish property, has continued unabated. Since 2000, Israel has been actively working to increase the Jewish

population in East Jerusalem and in the Old City, thus posing a great threat to the Palestinian presence in these areas and also undermining the prospect of an Israeli-Palestinian agreement on Jerusalem.

On May 5, 2009, Jerusalem mayor Nir Barkat announced an updated Master Plan for Jerusalem for the period until 2020. The Master Plan represents a powerful tool of control of the “demographic balance” between the Palestinian and Israeli populations in Jerusalem. One of the main objectives of the Jerusalem Master Plan is to isolate Palestinian neighborhoods from each other and to increase the Israeli/Jewish population in the city through selective zoning priorities and construction plans, with the goal of ensuring Israeli sovereignty over the two parts of the city, both West and East Jerusalem, as the Capital of Israel. Urban planning has a significant impact on the social, economic and political fabric of East Jerusalem, since the Municipality and the Interior Ministry can decide where Palestinians may live or whom a Palestinian may marry. Moreover, by controlling the budget, the Municipality determines the value and quality of their living conditions.

Since 1967, Palestinians have had difficulties registering or using their privately owned land in extended Jerusalem due to procedural, costly and prohibitive licensing procedures and complications, and to the Israeli Custodian of the Absentee Property Law. That law considers any Palestinians living in the West Bank, Gaza, Jordan and other Arab countries to be absentees. Their Jerusalem property is transferred to the Israeli Custodian who in effect puts many of these properties at the disposal of Jewish settlers. This practice has dramatically limited housing possibilities for Palestinians in Jerusalem. Moreover, Israelis receive preferential treatment in the allocation of public housing, especially in settlements in occupied East Jerusalem. Hence, many Palestinians, especially young professionals, have had to seek housing in the West Bank.

East Jerusalem Palestinians living in their own city are in fact stateless: they hold an Israeli residency permit known as a “Blue ID” and a Jordanian travel document, and are not citizens of either. Any absence from the city, for study, work or marriage, as well as the holding of another citizenship can lead to a withdrawal of the residency permits. Since 1967, about 15,000 Palestinians have lost their residency right, with many more at risk of losing it. In addition, procedures at the Israeli Ministry of Interior for East Jerusalemite Palestinians

contain oppressive and intimidating measures, further rendering people’s lives difficult and insecure.

1.1 The Demographic Balance in Jerusalem

Following the unilateral annexation of East Jerusalem in 1967, the territory of Jerusalem almost tripled in size from 38 km² to 108 km², including the annexing of 71 km² of occupied Palestinian land. The area of the enlarged city was increased again in May 1993 and reached 126.4 km² of land. After the Separation Wall was constructed from 2002 to the present, additional land was annexed, totaling about 375 km² of the Occupied West Bank.

The unilateral annexation of East Jerusalem and its surrounding neighborhoods to Israel automatically brought in 69,000 Palestinian residents to the enlarged city of Jerusalem and thus reduced the proportion of Jewish Israelis living it. This demographic shift in the city was seen by the Israeli authorities as a threat to the Jewish majority and as an obstacle to Israeli claims on Jerusalem as the “unified capital of Israel”. The demographic factor has become a fundamental element in Israeli policy in East Jerusalem. This has been expressed in the construction of new Jewish neighborhoods in occupied East Jerusalem and its surroundings, such as Gilo, Pisgat Ze’ev, Neve Yaakov and others. The Jerusalem Master Plan 2020 is designed with the purpose of securing a Jewish hegemony in the remaining East Jerusalem neighborhoods, fragmentation of the Arab neighborhoods, and subsequently restricting the growth of the Palestinian population.

According to official figures from the Israeli Ministry of the Interior for the end of 2012, the Palestinian population in Jerusalem is 39 percent, 44 percent of which are between 1-15 years old. According to the Jerusalem Institute for Israel Studies, at the end of 2010, the total population of Jerusalem was 789,000: 504,000 being Jewish and “other” and 285,000 being Palestinians. The Jewish population in East Jerusalem increased from 0 in May 1967 to 181,457 in 2006 (42 percent of the East Jerusalem population), when the encircling of East Jerusalem by Jewish neighborhoods was completed. Since then their increase in East Jerusalem has been proportional to their ratio in the city, which includes the addition of “newcomers” in the Palestinian neighborhoods. If this demographic trend continues, by the year 2025, the Palestinian population will constitute over

40% and even close to 50% percent of the city population, according to leading Israeli demographers Prof. Sergio De La Pergola and Prof. Arnon Sofer. However many of the Palestinian neighborhoods were left on the other side of the Separation Wall that runs through the city, thus excluding Palestinian population from the city, aiming to reduce it to only 125,000, about 15–17 percent of the entire population west of the Wall.

Measures taken by the Israeli Ministry of the Interior to revoke Jerusalem identity cards from Palestinians further affect the demography. Policies of granting building licenses to Palestinians are so restrictive that many are forced to seek housing outside the city, leading to the subsequent revocation of their identity cards. At the same time, new Orthodox and secular neighborhoods are being established to attract Jewish Israeli migration. Thus, specific enclaves in Jerusalem are being created in which distinct groups of the population can maintain their own customs and live according to their own cultural and religious lifestyle, thus supporting and encouraging a system of spatial segregation.

The Israeli urban policy in Jerusalem has resulted in the separation of Jerusalem from the West Bank, leaving many Palestinians cut off from work, housing, educational and medical facilities. More importantly, the construction of the Separation Wall separating Palestinians from Palestinians has had a considerable impact on the neighborhoods inside and outside the Wall, affecting the economic and social fabric of this area as Palestinian neighborhoods resemble scattered islands amid Jewish land. The local economy of East Jerusalem, which used to provide about 30 percent of the entire Palestinian economy, has been seriously undermined, since it is almost totally cut off from its extended hinterland in the West Bank. Most East Jerusalem Palestinians find employment in low strata jobs inside Israel, while many businesses and young professionals have moved to Ramallah and other parts of the West Bank. These circumstances have led to the harsh reality that 75 percent of the Palestinian population in Jerusalem lives below the poverty line, according to the figures of the Israeli Statistical Bureau.

1.2 Zoning and building permits

By authorizing the construction of new Jewish residential units, the Jerusalem Master Plan perpetuates the Jewish majority in Jerusalem. At the same time, the Municipality implements several discriminatory policies that prevent Palestinians from gaining access to their

land, such as controlling building permits, proof of ownership and lack of plot border registration, and by raising several professional and bureaucratic obstacles.

After annexing East Jerusalem and enlarging the East Jerusalem part of the city to reach 71,000 km², the municipal and government authorities reclassified this area as follows: 26.5 percent confiscated land for building settlements, 12.7 percent “Green Land”, where construction is prohibited, 23.45 percent “Under Planning Land”, resulting in 62.65 percent to which the Palestinians are denied access. Out of the remaining land, close to 23 km² are built up area and only 14 km² are available for Palestinian construction under heavily restricted conditions.

Development of Palestinian neighborhoods in East Jerusalem is restricted by partisan zoning, reducing the amount of building land. The current Jerusalem Master Plan also contains a series of topographical maps that administer the use of land within the Municipality. Specifically, of the total 70 km² of Palestinian territory annexed to East Jerusalem in 1967, 35 percent was confiscated to build Israeli settlements, and of the remaining land, 30 percent is not covered by an approved planning scheme and therefore construction is not allowed in this area. The remaining 35 percent of land is defined as “Green Areas”. As a result, only 13 percent of the land in East Jerusalem is available for Palestinian construction, taking into account that a large part of this area is already built up. The majority of this 13 percent of available land is a densely populated area, seriously limiting any possible changes or further construction. There have been cases – for example, in Shuafat – where a “Green Area” was turned into a building area and transferred immediately to building the Haredi ultra-Orthodox Jewish neighborhood of Ramat Shlomo.

The second obstacle that Palestinians have to face to build in Jerusalem is the restricted number of building permits issued by the Municipality. A building permit is compulsory for any construction in Jerusalem, with an intricate application process and high fees in order to obtain a construction permit. Moreover, even before starting the application procedure to gain a building permit, the Jerusalem Municipality requires Palestinians to demonstrate proof of ownership of the land through another complex process that requires a registration, a subsequent confirmation from the Ministry of Justice in order to assess that there are no other claims on the

land, and further confirmation from the Custodian of Absentee Property and the Mapping Center and Archeology Authority. Ironically, a majority of the Palestinian families living in East Jerusalem inherited their lands from their families, and have lived on those lands for many generations, but often they are unable to prove their ownership of the land with official papers. In addition, figures from the Jerusalem Municipality show that to obtain a permit for a 200 m² house on a 500 m² lot could cost up to 109,492 NIS, without including the architect and lawyer's fees.¹ The official fees are the same in West and East Jerusalem, but the fact that almost 80 percent of the Palestinians live below the poverty line, compared to 30 percent of the Israelis, most of whom are ultra-Orthodox receiving various subsidies, clearly discriminates against the Palestinian population.

The Jerusalem Master Plan's policies of zoning and building permits is aimed at serving the interests of the Jewish population in East Jerusalem to the detriment of the Palestinian population of that area. By legal means such as zoning, planning and building permits, the Jerusalem Municipality has managed to create a discriminatory system in which Palestinians cannot develop as a community and therefore either have to leave the city or to live in "unlicensed" constructions, which they may be forced to demolish either by themselves or by the Municipality that charges them the costs of the demolition.

1.3 House demolitions and fines for illegal construction

While the policy of zoning and planning has hindered the development of the Palestinian community in East Jerusalem, since 2009 the current Israeli mayor of the city, Nir Barkat, has adopted a new strategy towards house demolition which can be described as a "business approach". In fact, Barkat's attitude towards housing policies in Jerusalem is not based on right-wing political or ideological models, but rather stems from an approach aimed at reducing the number of house

¹ These figures include the fees Palestinians are also charged, such as 5,917 NIS for connection to the water system, 1,290 NIS for a building fee, another 17,606 NIS for water main connection fees, and 14,800 NIS for road development fees.

demolitions in East Jerusalem while at the same time raising the amount of fines for illegal, unauthorized constructions.

According to data gathered from the Municipality, from 2000–2010 about 7,392 demolition orders were issued and 1,250 were de facto implemented – including self-demolitions – effectively displacing thousands of Palestinians from and within East Jerusalem. Indeed, since 2000 the number of demolition orders and their effective implementation has dropped from 842 in 2003, followed by the actual demolition of 117 housing units, to 423 demolition orders in 2010, followed by 97 de facto demolitions. Specifically, whereas the demolitions of illegal constructions decreased dramatically from 65 in 2009 to 23 in 2012 (data updated to December 31, 2012), fines for illegal construction experienced a steep increase from 18.4 million NIS in 2009 up to 33.3 million NIS in 2012.

2. Municipal Policies in East and West Jerusalem

Despite the fact that all residents in Jerusalem, both East and West, are required to pay municipal taxes, the Municipality provides an inferior level of public services to the Palestinian neighborhoods. In 2011 the Municipal Budget amounted to 4.75 billion NIS. The disparity between West Jerusalem and the Palestinian neighborhoods is significant, as the 62.3 percent of the population living in West Jerusalem receives 89.3 percent of the Municipal Budget, whereas the 37.7 percent of the population living in East Jerusalem receives 10.7 percent of the total budget. This discriminatory allocation of budgetary resources has resulted in significant disparities between West and East Jerusalem. For example, 90 percent of the sewage and electricity infrastructures are located in West Jerusalem whereas most of the Palestinian neighborhoods do not have access to government sources of water. As a consequence, they have to purchase fresh water from private companies at higher prices.

In addition to these infrastructural disparities, the Municipality's allocated budget for education, medical services and welfare is very low in East Jerusalem. Studies show that out of 70,000 students in municipal schools, 40 percent dropped out as a result of the severe shortage of classrooms and because of economic

difficulties. The Municipality invests 6,150 NIS per Israeli student in West Jerusalem whereas it provides 3,693 NIS per Palestinian student in East Jerusalem. Also, in addition to this lack of services, there is the constant threat of ID removal due to distortions in the Law of Entry to Israel. According to this law all Palestinians who were living in East Jerusalem before its occupation in June 1967 and remained there during the war, were and are still considered to be Jordanian citizens. They were granted a residence visa subject to specific circumstances mentioned in the law. One of these circumstances applies to students who travel to study abroad and stay away for more than seven years. As a result, many Palestinians who go abroad to study or to work are continuously threatened with losing their right of residency in the city. In many cases, when they return, they are defined as “security risks” and are also prevented from entering the country with a foreign passport. Another service sector that is severely affected by limited funding is the health sector leading to poor medical services for Palestinians in Jerusalem.

In conclusion, poverty and lack of education as well as the discriminatory policies adopted in East Jerusalem are not casual or incidental, but represent a systematic, institutionalized and deliberate effort that is designed by the upper echelons of the Israeli Municipality of Jerusalem and is intended to harm the Palestinian population.

2.1 David's City? Archeology as a Tool of Control

Most of the archeological activities in the Old City of Jerusalem are tied to the political conflict in Jerusalem on several levels. First of all, there is the appropriation of land to be excavated. Second, archeology focuses on the past, instrumentalizing history for one particular group. Furthermore, diggings and excavations are usually carried out with resultant damage to the local population.

Since 1967, right-wing and sometimes mainstream Jewish organizations have actively sought to promote Jewish migration to the Old City of Jerusalem. The main objective is to alter the Arab character of the Old City, fostering a critical mass that will create a new geopolitical reality dominated by Israel. This policy aims to convert the city into a Jewish city. The Israeli Antiquities Authority (IAA) controls the building activity inside the Old City as this was declared an ancient historical site after 1967. Therefore any building activity needs a legal permit issued by the IAA. In addition, Jewish organiza-

tions such as Elad or Ateret Cohanim are striving to change the Islamic character of the Old City, by purchasing any properties, including hostels, hotels, shops and restaurants along the main roads in the Arab quarters. One of the largest and most controversial excavations is located south of Al Aqsa Mosque compound/Temple Mount, in the Silwan village. The development works currently being undertaken in the area of the National Park near Silwan are aimed at bringing Israeli, Jewish and international tourists to Jerusalem. Diggings and excavations are intended to strengthen the Jewish claim to the Eastern part of the city. One major example can be seen in the underground tunnel that connects the Silwan village to the Western Wall Plaza, as it creates a continuous tourist path and a direct connection with the Old City, the City of David and the Ophel City Walls with the Judean Kingdom.

The route is meant to create an experience for visitors in a parallel, imagined Jerusalem, among the remains of two periods: the Kingdom of Judah and the Second Commonwealth. These two periods are identified, in the Israeli narrative, as the most meaningful periods for the formation of Jewish identity and the connection of the Jewish people to the land. Critics have alluded to the portrayal of Jewish history of the city as the creation of a biblical “Disneyland”.

3. The Role of the International Community

The role of the international community is crucial in shaping the outcome of the Palestinian-Israeli conflict, with Jerusalem at its core. Numerous UN Security Council Resolutions have focused on four issues: changes to the status quo, desecration of Muslim places of worship, acts of state violence against Palestinians and Israeli measures undermining the peace process in the Middle East.

First, several UN Security Council Resolutions have called upon Israel to refrain from any legislative and administrative acts aimed at changing the status and image of Jerusalem, including expropriation of land and properties thereon, and have nullified the previous actions and measures (SC resolutions 252, 267, 298 and 476). In particular, the UN Security Council has censured in the strongest terms the enactment by Israel of the “basic law” on Jerusalem, tantamount to the

annexation of East Jerusalem (SC resolution 478). Moreover, in the context of its previous relevant resolutions, the UN Security Council considered the decision by the Government of Israel on June 21, 1998, to take steps to broaden the jurisdiction and planning boundaries of Jerusalem a serious and damaging development. The UN Security Council therefore called upon the Government of Israel not to proceed with that decision and also not to take any other steps which would prejudice the outcome of the permanent status negotiations. Furthermore, the UN Security Council also admonished Israel to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (SC President Statement on behalf of the Council – 1998).

Secondly, the UN Security Council has sharply criticized acts of desecration of Muslim places of worship, especially the profanation of the Holy Al Aqsa Mosque on September 28, 2000, considering it a deliberate provocation to Palestinians (SC resolutions 271, 298, 1322),

Thirdly, the UN Security Council has condemned acts of Israeli state violence against Palestinian worshippers and Palestinians in general, especially those perpetrated by Israeli security forces (SC resolutions 672, 1322).

Finally, the UN Security Council has called for the immediate cessation and reversal of all acts which have resulted in the aggravation of the situation, and which have had negative implications for the Middle East peace process (SC resolution 1073).

However, Israel has consistently declined to act in accordance with international law. On the contrary, the construction of new settlements and of the Separation Wall creating divisions within East Jerusalem, dispossession of Palestinian homes and properties and arbitrary restrictions on access to places of worship are seen as impinging on the already dire state of civil liberties of the inhabitants of East Jerusalem.

The issue of East Jerusalem and the Old City is of the utmost importance, because current Israeli policies are aimed at altering the demography, space and infrastructure of that part of the city, with the objective of establishing a Jewish majority, thus making an Israeli-Palestinian agreement on Jerusalem more difficult, if not impossible. Therefore, the international community must take concrete action to address the issue of Jeru-

salem with the urgency it deserves. Meanwhile, Israel's urban policies in favor of settlements have increased, with Prime Minister Binyamin Netanyahu recently agreeing to further settlement expansion in the city, especially in the E1 area, posing a serious threat to the unity and contiguity of the Palestinian State. Also, while EU representatives speak of promoting human rights and democracy, their unconditional commercial and political alliances with Israel demonstrate a lack of ethical integrity, and contribute to the deepening of the conflict and reducing the possibility for peace.

4. A Palestinian Response to Israeli Policies?

The Palestinian response to Israeli policies and practices has been fragmented and unorganized. Among the reasons for this are the disintegration of communal cohesiveness and cooperation among the Palestinian residents of East Jerusalem; the inability to create neighborhood committees; the confusion as to the role of the PA/PLO to confront Israeli practices, partially due to the terms of the Oslo Agreement; and above all the closure of the PLO associated offices in Jerusalem by the Israeli security apparatus and the Israeli threat against the activities of public figures and leadership. Some claim that one of the main reasons for the lack of constructive discussion and action concerning the future of Jerusalem is the result of the absence of a Palestinian partner and divisions among the PLO forces. The Israeli closure of Palestinian institutions in Jerusalem led to the collapse of the PLO infrastructure in the city. This created a power vacuum, which was exacerbated by the lack of funding and the accelerated Judaization of the city.

One response to the Israeli policies in Jerusalem came from the Islamists whose opposition to those policies was expressed via community-based organizations (CBOs). Mosques became a substitute for the collapsed PLO institutions. Another important response came from a wide range of civil society NGO organizations and networks, both Palestinian, Israeli, joint and international, whose activities are focused on supporting Palestinian steadfastness, monitoring violations of human, socio-economic and political rights with some work towards a resolution of the conflict and seeking a realistic and fair solution for the future of Jerusalem. However, many Palestinian NGOs have been forced to

move out of Jerusalem due to high operational costs, Israeli political pressure and the difficulty of communicating with the West Bank, creating more obstacles to an effective implementation of their activities and to fighting for and preserving the rights of Palestinians in the city.

5. Future Scenarios

There are two possible scenarios for the foreseeable future. The first scenario would be the conclusion of a political agreement that would put an end to the conflict. In this case, East and West Jerusalem would either be separated with minimum cooperation, or Jerusalem could become an open city with two municipal governments, Israeli and Palestinian, with an overall steering Council or Committee and a joint administration, mainly for municipal services. The second scenario would entail no political solution and the continuation of the current trend of more settlers coming into East Jerusalem and more attempts to reduce the proportion of the Palestinians to 28–32 percent. In this case, the question would be whether and how the Palestinian residents would finally be able to confront the Israeli practices.

From the Palestinian perspective, the only acceptable solution to the future of Jerusalem is based upon East Jerusalem as the capital of the State of Palestine and West Jerusalem as the capital of the State of Israel, with a Palestinian state based upon the West Bank, Gaza and East Jerusalem, alongside the State of Israel according to the 1967 borders, with the possibility of mutually agreed land swaps. A special international regime could be established for the area of the Old City, with the participation of Israelis and Palestinians, representatives of the Jewish, Moslem and Christian monotheistic faiths, the Moslem and Arab World and other elements of the international community.

As of today, the overwhelming majority of Palestinians have chosen not to participate in municipal elections, declaring that it would be interpreted as an acceptance of the unilateral Israeli annexation of East Jerusalem. To advance the Palestinian position in the political sphere, some, particularly Israelis, have suggested that Palestinian participation in the up-coming municipal elections in Jerusalem in October 2013 could be encouraged, as an action that holds potential for influence.

Were Palestinians to participate in municipal elections and elect leaders who were sympathetic to their concerns they would have a much greater chance of eliciting change from the system. However until now, an overwhelming majority of the East Jerusalem Palestinians and the Palestinian leadership have opposed this idea. Some agree that this could be true in theory, but cannot be accepted politically. Another option for political participation would be to hold separate elections for an Arab/Palestinian municipality in East Jerusalem. Many Palestinians would welcome such an act.

Conclusion

The issue of Jerusalem is at the core of any serious attempt to deal with the Israeli-Palestinian conflict and to foster peace and stability in the entire Middle East. Since the Israeli unilateral annexation of East Jerusalem in 1967, Israel has been striving to alter the demographic balance in the Old City and in East Jerusalem as well as the actual socio-political geographic nature of the city's neighborhoods, in order to ensure a Jewish majority in the city. This demographic shift in Jerusalem is intended to establish Jerusalem as the "complete and unified capital of Israel".

The Jerusalem Master Plan 2020, the continuation of earlier plans, is the official tool which has been formulated to achieve this goal through various measures: First of all, one of the main tools for establishing a Jewish hegemony in East Jerusalem is the appropriation of Palestinian land through zoning and lack of building permits issued to the Palestinians. Second, although the number of home demolitions has decreased in the past few years, fines for illegal constructions have dramatically increased. Third, the Municipality's budgetary allocations between West and East Jerusalem concerning medical services, education and infrastructure investment, reflect a clear discriminatory policy towards the Arab neighborhoods. In addition, the Municipality of Jerusalem has affiliated itself with private organizations such as Elad that promote archeological work with the purpose of changing the Islamic character of the city and attracting Jewish tourists.

The role of the international community as a third party is considered crucial to facilitating and fostering a climate of mutual dialogue and peace. The Palestinian response to the aggressive Israeli policies in Jerusalem

has been fragmented and unorganized. This should change. Israeli civil society and members of the body-politic concerned with the future of the city and a resolution of the conflict should place the future of Jerusalem high on their agenda. In this regard the latest report of the EU Heads of Mission 2012 with a focus on settlements and Jerusalem is highly welcomed.

UN General Assembly Resolution 181 back in 1947 devoted a separate section to the importance of an agreed solution to the status of Jerusalem when it proposed the *Corpus Separatum* international city concept. 65 years later, the recent recognition of Palestine as a non-member state at the UN on November 29, 2012, should provide a further incentive to reconsider the political importance of Jerusalem as a key factor in the solution of the Israeli-Palestinian conflict.

Recommendations

The exodus of young, secular, liberal Israelis from West Jerusalem has contributed to radicalization as well as to the general ignorance about the situation on the ground. The average Israeli has very little knowledge of the reality of Jerusalem as it is emerging, especially in East Jerusalem which is unilaterally officially united but in reality physically divided. Presenting Israelis with the facts, dilemmas and potential solutions is a first step to raise awareness of the complex situation.

Palestinians should have a unified agenda with regard to Israeli policies towards Jerusalem, and they should play an active role when it comes to shaping the future of the city. Adequate housing, educational facilities, infrastructure and other urban issues should become meaningful aspects of the political discourse about the situation of the Palestinians living in East Jerusalem and the future of the city. The right to equitable services when making paying municipal fees should be promoted, and legal rights should be understood.

The lack of human rights for Palestinians in East Jerusalem should be confronted by monitoring all activities aimed at changing the status quo in Jerusalem, by fostering knowledge of urban rights among Palestinians, by struggling against home demolitions, budget disparities and other forms of discrimination that violate Palestinian human and civic rights, and by raising Israeli

and international awareness about the humanitarian situation in the city.

The declaration of the Old City of Jerusalem as a World Heritage Site has a potential that should be further investigated. This could be a counterpoint to the Israeli attempt to create a "Jewish Disneyland". UNESCO should also actively support Palestinian education rights and the preservation of cultural heritage rights in the context of the city's history. The WHO and other international institutions could also play an active role in helping to ensure an equitable future for all the residents of the city.

The EU should increase its role as a third party mediator concerning the future of Jerusalem. The EU could begin by officially adopting its own Heads of Mission report and recommendations on Jerusalem, available yearly since 2005. The latest Heads of Mission report, published at the end of February 2013 and covering the previous year, explicitly encourages European divestment from the Jewish settlements and sharply criticizes Israeli construction activity in the E1 area. Moreover, the EU should ensure implementation of its own policies, especially the Declaration of 2009. It should advocate the demolition of the Separation Wall in Jerusalem and ensure compensation will be paid to citizens who have suffered from its consequences. Joint Israeli-Palestinian civil society activities in connection with the future of Jerusalem, for the sake of both peoples, should be encouraged.

An interfaith Muslim, Jewish, Christian approach to the future of Jerusalem should not replace the fact that the issue of Jerusalem is primarily a function of the national Israeli-Palestinian conflict. The future of Jerusalem will have to be resolved in the context of an overall resolution of the Israeli-Palestinian conflict.

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The Status of Jerusalem – Positions of Major Stakeholders

1. The State of Israel

Statement:

First Step (Just after Israel won the war in 1967, on June 27): The Eshkol government, with the backing of the Knesset, extended Israeli law, jurisdiction, and administration to the eastern part of Jerusalem on June 27, 1967. While Israeli sovereignty applied to the Temple Mount, nonetheless, Israel agreed that the *administration* of the compound would continue to be maintained by the Jordanian *waqf*, under the Jordanian Ministry of Religious Endowments.

Second Step (Knesset's Basic Law on Jerusalem, July 29, 1980): "Jerusalem, complete and united, is the **capital of Israel.**"²

2. The Palestinian National Authority

Statement: As part of the territory occupied in 1967, East Jerusalem is subject to United Nations Security Council 242. It is part of the territory over which the Palestinian state shall exercise sovereignty upon its establishment. The state of Palestine shall declare (East) Jerusalem as its capital. As stated in the Declaration of Principles on Interim Self-Government Arrangements, Jerusalem (and not merely East Jerusalem) is the subject of permanent status negotiations. All of Jerusalem should be an open city. Within Jerusalem, irrespective of the resolution of the question of sovereignty, there

² Gold, Dore. Jerusalem in International Diplomacy. Jerusalem Center for Public Affairs, 2013. <http://www.jcpa.org/jcprg10.htm> (Retrieved on 14 Feb 2013).

Knesset. Basic Law: Jerusalem, Capital of Israel. Sefer Ha-Chukkim No. 980, p. 186, 1980. http://www.knesset.gov.il/laws/special/eng/basic10_eng.htm (Retrieved on 14 Feb 2013)

should be no physical partition that would prevent the free circulation of persons within it.³

3. The United Nations

Statement: Its position on the question of Jerusalem is based upon [General Assembly Resolution 181](#) (November 29, 1947), which provides for the full territorial internationalization of Jerusalem: "The City of Jerusalem shall be established as a *corpus separatum*⁴ under a special international regime and shall be administered by the United Nations."

The United Nations does not recognize Israel's proclamation of Jerusalem as the capital of Israel.

The General Assembly adopted a resolution which states that "any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and calls upon Israel to cease all such illegal and unilateral measures."

A total of six UN Security Council resolutions on Israel have denounced or declared invalid Israel's annexation of the city, including UNSC Resolution 478 which affirmed that the enactment of the 1980 Basic Jerusalem Law declaring unified Jerusalem as

³ Palestinian Negotiations Department. The Palestinian Official Position. http://web.archive.org/web/20060212195415/http://www.minfo.gov.ps/permenant/English/Jerusalem/Pal_Official.htm (Retrieved on 14 Feb 2013).

⁴ "*Corpus separatum*" is Latin for "separate body." The term refers to a city or region which is given a special legal and political status different from its environment, but which falls short of being an independent city state. A significant historical example is that of the *corpus separatum* (Fiume), which for several centuries determined the status of Fiume/Rijeka within the Hapsburg Empire. At present, the term is mainly used with regard to Jerusalem.

Israel's "eternal and indivisible" capital was a violation of international law.⁵

4. The European Union

Statement: The European Union **currently adopts the *corpus separatum* plan for Jerusalem as outlined in United Nations Resolution 181.** However, in the interest of achieving a peaceful solution to the Arab-Israeli conflict, it believes a fair solution should be found regarding the issue of Jerusalem in the context of the two-state solution set out in the Road Map. Taking into account the political and religious concerns of all parties involved, it envisions the city serving as a capital for two states, namely Israel and Palestine.⁶

5. The United States

Statement: The United States view as desirable the establishment of an international regime for the city. Its final status must be resolved through negotiations and **it does not recognize Jerusalem as Israel's capital.** US policy on Jerusalem refers specifically to the geo-

⁵ United Nations. The Status of Jerusalem. New York, 1981. <http://unispal.un.org/UNISPAL.NSF/0/651C804E6815FB28852575DF004B7C4C> (Retrieved on 14 Feb 2013).

⁶ EU re-ignites Jerusalem sovereignty row. Published on 11 March 1999. http://news.bbc.co.uk/2/hi/middle_east/295001.stm (Retrieved on 14 Feb 2013).

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graphic boundaries of the "City of Jerusalem" based on the UN's *corpus separatum* proposal.⁷

6. Saudi Arabia

Statement: The country is in favor of the establishment of a Palestinian state with Jerusalem as its capital. Moreover, Saudi Arabia considers that whatever applies to the Palestinian Authority should apply to Jerusalem, in terms of security, borders and withdrawal of Israeli troops.⁸

7. Jordan

Statement: Jordan's position is that the land of Jerusalem occupied in 1967 is Arab land subject to the terms of reference of the Madrid process, based on the land-for-peace formula. In this respect, Jordan's authorities believe that the takeover and annexation of East Jerusalem violates international law. From the outset, Israel's occupation of the West Bank in the aftermath of the 1967 war was, and continues to be, illegal according to international law, in particular UNSC Resolutions 242 and 338. East Jerusalem is part of the West Bank and, therefore, Resolutions 242 and 338 are applicable to this area. Jordan's role therefore is one of support for and assistance to the Palestinians to establish their own state, with its capital in Jerusalem.

On November 10, 2009, during an interview by *Al-Hayat*, His Majesty King Abdullah II reiterated that Jordan "will continue to do everything we can to protect Jerusalem. We constantly raise this issue in all our

⁷ United Nations. General Assembly – Fifth Emergency Special Session, Agenda Item 5, 4 July 1967. <http://unispal.un.org/UNISPAL.NSF/0/510EF41FAC855100052566CD00750CA4> (Retrieved on 14 Feb 2013).

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⁸ Saudi Arabia's Policy to Middle East Process. Samirad. <http://www.saudinf.com/main/x003.htm> (Retrieved on 14 Feb 2013).

political meetings in major world capitals and international organizations. **We warn of the dangers of Israeli measures in Jerusalem and demand that the international community pressure Israel to halt them.** We also do practical, on-the-ground work to empower Jerusalemites and help them stay in their city and protect the Christian and Muslim sites that Jordan is responsible for.”

The Washington Declaration, signed by His Majesty King Hussein and Israeli Prime Minister Yitzhak Rabin at the White House on July 25, 1994, safeguards Islamic control over the Muslim holy sites of Jerusalem, as Israel “respects the present role of the Hashemite Kingdom of Jordan in the Muslim Holy Shrines in Jerusalem. **When negotiations on the permanent status will take place, Israel will give high priority to the Jordanian historic role in these shrines.**”⁹

8. Morocco/Islamic Conference’s Al-Quds Committee

Statement: Like his father King Hassan, Mohamed VI now serves as chairman of the Islamic Conference’s Jerusalem Committee and continues to state his position that Jerusalem be shared by Muslims, Christians and Jews, with East Jerusalem becoming the capital of a sovereign Palestinian state.¹⁰

9. The Holy See/The Vatican

Statement: Though not official, the Vatican has remained since the 1947 UN partition plan in favor of the

⁹ Embassy of Jordan (Washington D.C.). Jordan’s Position on Jerusalem. <http://www.jordanembassyus.org/new/aboutjordan/fp5.shtml> (Retrieved on 14 Feb 2013).

The Library. The Washington Declaration. <http://www.kinghussein.gov.jo/w-declaration.html> (Retrieved on 14 Feb 2013).

¹⁰ Speech of King Mohammed VI to the 12th Session of the OIC Summit, 6 February 2013, <http://www.map.ma/en/discours-messages-sm-le-roi/full-text-royal-speech-12th-session-oic-summit> (Retrieved on 28 Feb 2013).

internationalization of Jerusalem (see *corpus separatum*).¹¹

10. The League of Arab States/The Arab Peace Initiative

Statement: “The acceptance of the establishment of a sovereign independent Palestinian state on the Palestinian territories occupied since June 4, 1967 in the West Bank and Gaza Strip, with **East Jerusalem as its capital.**”¹²

11. The Clinton Parameters

Statement: »The general principle is that **Arab areas are Palestinian and Jewish ones are Israeli.** This would **apply to the Old City as well.** Regarding the Haram/Temple Mount, I believe that the gaps are not related to practical administration but to the symbolic issues of sovereignty and to finding a way to accord respect to the religious beliefs of both sides. I add to these two additional formulations guaranteeing **Palestinian effective control over the Haram while respecting the conviction of the Jewish people.**

Regarding either one of these two formulations will be international monitoring to provide mutual confidence.

Palestinian sovereignty over the Haram, and Israeli sovereignty over a) the Western Wall and the space sacred to Judaism of which it is a part; b) the Western

¹¹ Basic Agreement between the Holy See and the Palestine Liberation Organization. 15 February 2000. http://www.vatican.va/roman_curia/secretariat_state/2000/documents/rc_seg-st_20000215_santa-sede-olp_en.html (Retrieved on 28 Feb 2013).

¹² The Arab Peace Initiative 2002. Adopted by the 14th Arab Summit in Beirut, March 2002. http://www.lasportal.org/wps/wcm/connect/36b9af804510fde0854ecd6a5847d031/%D9%85%D8%A8%D8%A7%D8%AF%D8%B1%D8%A9%2B%D8%A7%D9%84%D8%B3%D9%84%D8%A7%D9%85%2B%D8%A7%D9%84%D8%B9%D8%B1%D8%A8%D9%8A%D8%A9%2B2002.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=36b9af804510fde0854ecd6a5847d031 (Retrieved on 28 February 2013).

Wall and the Holy of Holies of which it is a part. There will be a fine commitment by both not to excavate beneath the Haram or behind the Wall.

Palestinian sovereignty over the Haram and Israeli sovereignty over the Western Wall and shared functional sovereignty over the issue of excavation under the Haram and behind the Wall such that mutual consent would be requested before any excavation can take place.”¹³

12. The Geneva Initiative

Statement: “The parties shall have their mutually recognized capitals in the areas of Jerusalem under their respective sovereignty.

The Jewish neighborhoods of Jerusalem will be under Israeli sovereignty, and the Arab neighborhoods of Jerusalem will be under Palestinian sovereignty.

The parties will commit to safeguarding the character, holiness, and freedom of worship in the city.

The parties view the Old City as one whole enjoying a unique character. Movement within the Old City shall be free and unimpeded subject to the provisions of this article and rules and regulations pertaining to the various holy sites. There shall be no digging, excavation, or construction on al-Haram al-Sharif/the Temple Mount, unless approved by the two parties.

A visible color-coding scheme shall be used in the Old City to denote the sovereign areas of the respective Parties.

Palestinian Jerusalemites who currently are permanent residents of Israel shall lose this status upon the transfer of authority to Palestine of those areas in which they reside.”¹⁴

¹³ Clinton Speech on Mid East Peace Parameters. Israel Policy Forum, 7 January 2001, New York. <http://www.usembassy-israel.org.il/publish/peace/archives/2001/january/me0108b.html> (Retrieved on 28 February 2013).

¹⁴ The Geneva Initiative. Yes to an Agreement. Summary. [http://www.geneva-](http://www.geneva-accord.org/mainmenu/summary_)

Participants in PIJ-FES Brainstorming Session on Jerusalem

Participants in the Palestine-Israel Journal (PIJ) Friedrich-Ebert-Stiftung (FES) Roundtable, “Placing Jerusalem on the Political Map”, December 3, 2012. The roundtable was held according to the Chatham House Rules.

Facilitator and Moderator:

Ingrid Ross, Director of the Friedrich-Ebert-Stiftung (FES) Office in the Palestinian Territories.

Israelis:

Dr. Meir Margalit, Member of Jerusalem Municipal Council (Meretz) – Since last year in charge of the East Jerusalem Portfolio.

Prof. Menachem Klein, Professor of Political Science at Bar-Ilan University and adviser to PM Barak at Camp David 2000 on Jerusalem and to Ir Amim: For an Equitable and Stable Jerusalem with an Agreed Political Future.

Hagit Ofran, Coordinator Peace Now Settlement Watch Project.

Amb. Ilan Baruch, Former Israeli Ambassador to South Africa.

Hillel Schenker, Co-Editor of the *Palestine-Israel Journal*.

Palestinians:

Amb. Hind Khoury, Former Minister of Jerusalem Affairs, Former Amb. to France.

Prof. Munther al-Dajjani, Prof. of Political Science & Director of the Issam Sartawi Centre for the Advancement of Peace, Al Quds University.

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Dr Omar Yousef, Associate Prof. of Space, Architecture and Planning at Al- Quds University and coordinator of the MA program on Jerusalem Studies.

Saman Khoury, Secretary General of the Palestinian Peace NGO Forum.

Dr. Adnan Abdel Razzek, Scholar of Jerusalem affairs, a lecturer at Al-Quds University and a former political affairs officer at the United Nations (consulted after the session).

Ziad Abu Zayyad, Co-Editor of the *Palestine-Israel Journal*, Attorney at Law, former Palestinian Authority Minister for Jerusalem Affairs, Former legislator.

This Paper was compiled and edited by Ziad Abu Zayyad, Hillel Schenker, Co-Editors of Palestine Israel Journal, and Ingrid Ross, Director of FES in the Palestinian Territories.

**About the Editors:**

Ingrid Ross is Director of the Friedrich-Ebert-Stiftung's East-Jerusalem Office responsible for the Palestinian Territories since June 2012. Prior to this posting she was responsible for FES projects in Lebanon, Syria, Iraq and Iran at FES Headquarters in Berlin.

Ziad AbuZayyad is the co-editor and publisher of the *Palestine-Israel Journal of Politics, Economics and Culture*. He is a former member of the Palestinian Legislative Council, former Minister of State for Jerusalem Affairs in the Palestinian Authority and former Deputy Chairman of the Political Committee of the Euro-Med Parliament. He co-authored *The West Bank Handbook: A Political Lexicon* (1986) and *Islamophobia and Anti-Semitism* (2006).

Hillel Schenker is the co-editor of the *Palestine-Israel Journal of Politics, Economics and Culture*. He was as an editor of *New Outlook* (1977-1990), a co-founder of Peace Now (1978) and has written for *The Guardian*, *Haaretz*, *The Nation*, *Los Angeles Times*, *The Jerusalem Post* and the Israeli Hebrew language press. Since 2005, he has been the Israeli representative on the International Advisory Board of Global Majority for Nonviolent Conflict Resolution at the Monterey Institute for International Studies in California.

Ziad AbuZayyad and Hillel Schenker received a joint Outstanding Contribution to Peace Award at the 2012 International Media Awards ceremony in London for their work at the *Palestine-Israel Journal*.

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Friedrich-Ebert-Stiftung | Referat Naher/Mittlerer Osten und Nordafrika
Hiroshimastraße 28 | 10785 Berlin

Tel.: +49-30 269357420 | Fax: +49 30 269359233
<http://www.fes.de/nahost>

Friedrich-Ebert-Stiftung | Palestine
P.O. Box 25126 | Sheikh Jarrah – Jerusalem 91251
ITel.: 00972-2-5328398 | Fax: 00972-2-5819665
<http://www.fespal.org>

Contact:
info@fespal.org
nahost@fes.de