

Jerusalem under Permanent Status:

Available Models for Civil and Security Arrangements in the Spirit of the Geneva Initiative

Introduction

Jerusalem is a focal point of friction between Israel and the Palestinian people. The differences between the two sides are based on both symbolic and practical elements. It is clear to most observers that, however, that the complexities and difficulties notwithstanding, a solution to the conflict is not impossible. Not only is a solution not impossible, but it is critical to overall relations between Palestinians and Israelis. Indeed, the kind of solutions and relations achieved between the parties in Jerusalem may very well have an important impact on the future of the region at large.

The following paper outlines some possible solutions, with special emphasis on the Geneva Initiative model. It was drafted by a team of Israeli and Palestinian experts – led, on the Palestinian side, by Dr. Nazmi Jubeh, and, on the Israeli side, especially as concerns security arrangements in Jerusalem, by Brig. Gen. (res.) Ilan Paz. The authors of this paper wish to underline that all the models discussed, including that of the Geneva Initiative, have their unique limitations and constrains. But as is the case of the Geneva Initiative model, it reflects what both side can agree upon after having formulated their minimum requirements and red lines.

The paper is divided into two main sections. In the first section, titled "Background and General Overview," the authors explain the rationale for finding a solution to the issue of Jerusalem, describe the existing starting points of both sides, and outline the various models, including a detailed description of the Geneva Initiative model, for resolving the conflict. It also outlines fields and institutional

forms of cooperation and coordination in the city under permanent status, and expounds at some length on the various issues concerning the religious and cultural aspects of the city. In the second section of the paper, titled "security Arrangements under the Geneva Accord," outlines in great detail the security aspects that have been agreed upon by the two sides as part of the Geneva Accord. Finally, the paper includes two annexes – the first ("Annex 1") describes recent Israeli policies in East Jerusalem. It contains important information describing the situation and portraying this part of the city and its problems, understanding this can be of help to find the proper administration in Jerusalem; the second ("Annex 2") brings the full and complete chapter on Jerusalem from the Geneva Accord.

*

I. Background and General Overview

1. The Rationale of Solution in Jerusalem

One can assume that there is no peace between the parties, unless there is peace in Jerusalem and on its grounds. It is impossible to envisage a solution to the conflict without addressing the issue of Jerusalem. A Peace in Jerusalem would also mean a regional peace. Sustaining regional peace through peace in Jerusalem is not the sole interest of the Arab-Muslim World, but rather, it is also the interest of the "Christian World," and therefore achieving peace in Jerusalem will sustain the regional peace.

2. Two Starting Positions

Both parties had agreed in the Oslo Accords to negotiate the future of Jerusalem in the final status negotiations. In 2000 and all other direct or indirect first or second track negotiations, which took place later, Jerusalem was a major issue. Major

achievements were reached in some of these negotiations. The clear tendencies of both parties were heading towards dividing Jerusalem.

The Israeli starting position, which is officially until now did not change, that the united Jerusalem (without definition) is the capital of Israel. It is true that in all kind of negotiations Israel accepted the principle of dividing the city (Clinton Parameters, 2001-2, Abu Mazen-Olmert understandings, the Geneva Accord). In all of these negotiations, the Israeli side (governmental and non-governmental) considered the Israeli settlements in East Jerusalem (constructed after June 1967) as part of Israeli Jerusalem and never accepted to dismantle any of the major settlement. The position concerning the small settlements located inside the Palestinian neighborhoods was smoother, but blurred.

On the other hand, the Palestinian starting position is: East Jerusalem, including the Old City is part of the occupied territories of 1967, and it will be the Capital of the Palestinian State. The Palestinians are open for special arrangement concerning the Holy Sites and securing access to the Old City. The Palestinian side showed flexibility on land swaps in Jerusalem. Some Palestinians are reading the position in the Oslo Accords to mean negotiating all of Jerusalem (East and West), and hence East Jerusalem (as such) is not mentioned.

3. The Models

Both parties are heading towards dividing Jerusalem, regardless of how. It has to be clear that any division of a city cannot be considered as a positive act, even if it will bring peace. Divided cities, regardless where and under which conditions, are suffering great deal. Jerusalem between 1948 and 1967 could be seen as a good example for such cities. It is absolutely true that the best for Jerusalem is to keep it a united city as a capital or even non-capitals of the two states.

Regardless of that, it is impossible to imagine a long lasting solution to Jerusalem without considering the following aspects:

- a. The central role the city plays in the three monotheistic religions;
- b. Jerusalem is a national symbol for both Palestinians and Israelis;
- c. Jerusalem is a very important city to the international communities;
- d. In any solution, Jerusalem should function as much as possible as a normal city;
- e. There are, besides all the holiness and national symbolism, just normal people living in it;
- f. Jerusalem is a world heritage site (World Heritage List).

Any model for solving the conflict over Jerusalem will face a series of challenges, including:

- a. Jewish settlements in East Jerusalem;
- b. The Arab neighborhoods in West Jerusalem;
- c. Muslim and Christian holy sites in West Jerusalem;
- d. Jewish holy sites in East Jerusalem;
- e. The Old City in general and the Haram al-Sharif in particular;
- f. The security arrangements;
- g. The free access to visitors (and goods) of both sides and to international visitors.

In accordance with these principles and challenges, solutions are still possible, but without minimizing the obstacles. We have to bear in mind that the general conditions and the relationships between both sides are of great importance to the model. One can imagine that during violent crises, solutions would be a reflection of the crises, where the opposite could be obtained during peaceful relations.

The solutions could be classified into three groups:

A. Divided Jerusalem as two capitals for two states

This solution requires total division between both sections of Jerusalem, which goes along the current preferable solutions, especially under the Israeli public as well as decision makers. The recent development in Israel, in aftermath of the second Intifada, is highlighting clear orientation towards absolute separation (separation wall mentality!).

The problem facing such an option is the Old City, which is very difficult to divide (Geneva Accords is a Model of dividing the Old City). Other problems will arise concerning the Jewish settlements in East Jerusalem and of course the geographic continuity of the Palestinian neighborhoods in East Jerusalem. This solution will have tremendous negative effects on the city's population functioning as "normal people, living in a normal city". It requires also detailed agreements and protocols organizing the daily life, zoning, planning, environmental, sewage, water, energy, and crossing point regulations for individuals, tourism and goods. The security arrangements will be very problematic and fragile; it will be very easy from both sides to compromise it.

B. An open city as a capital of two states

This is the most optimal solution for the city; hence, it does not have to deal with most of the standing problems in case of dividing it. This will be also a positive development for the population in Jerusalem, as well as for the international community; hence, they do not have to deal with two different jurisdictions. The Israeli settlements in East Jerusalem will not have the same impact in case of open city. The openness of the city will also influence the total relations between Palestinians and Israelis, and will be a major contribution to conciliation, which is much needed after a peace agreement. The open city will also become a great opportunity to convert "UNITED" Jerusalem into a world dialogue center among

religions, civilizations, and regional. It could be an international conflict resolution center...etc.

There would be several challenges and problems facing an open and undivided Jerusalem: border, jurisdictions, taxation, security, visa, checkpoints, national symbols...etc. The solution of an open and undivided city requires a long culture of peace between the two sides.

C. Partly divided and partly open Jerusalem as a capital of two states

This model actually divides the less problematic parts of the city into two capitals (Israeli capital and Palestinian capital), with special arrangements of cooperation and coordination of a very long list of spheres between the two parts of the city. The most complicated and sensitive parts, the “holy basin” or the “historical basin” or the “cultural heritage center” that is the Old City with or without the adjacent area of it, will be kept open. This area could be also limited to the Old (walled) city. The overall administration of the city could be divided into several spheres administrated by the private sector (Palestinian or Israeli, joint adventures or even by international companies). The security arrangements could be placed in the hands of International policing force working in full cooperation mechanisms with Israeli and Palestinian police. This force can have also a vital role in the security of the holy places.

A detailed study about dividing Jerusalem outside the city wall and trusting (delegating) the international community to administrate the Old City can be found in the Canadian Old City Initiative. Another option of dividing the Old city into two areas of jurisdiction but with open layouts can be found in Geneva Accords.

The Geneva Initiative Model¹

The Geneva Initiative divided Jerusalem into two Sovereignty cities. This division includes also the Old City. Outside the city walls, there is a visible border with border crossings to enable easy flow of goods and visitors. The borders inside the Old City are well defined but not clearly visible. The Old City will remain open for both nations as well as for visitors.

The administration is completely separated; each side will administrate unilaterally its own community. The spheres of cooperation are optional and open for both parties to decide. Delegating a third party, except security, is also open.

Hence the Old City services cannot be totally separated, several committees will be formed from both parties (municipalities) in order to coordinated these services and assure the welfare of the Old City citizens.

Cultural heritage in the Old City will be the sole responsibility of each state in its designated area; it is the duty of both sides to protect the cultural and historical character of the Old Cit in accordance to the UNESCO regulations.

There are special arrangements for areas like cemeteries, the Haram compound, the Western Wall Tunnel. These are mostly related to security. In general the security is both countries responsibility, a third party (policing) will help verifying the agreement in the Old City and its surroundings.

Geneva Accords assumes that the need for cooperation in civil affairs outside the Old City will rise a day after solution; both parties can work together to find suitable solutions.

¹ For the full text of the Geneva Accord chapter on Jerusalem, see Annex 2 in this document

Finally, this paper will go along with the principles of an absolute division or at least a clear division of jurisdictions. It could be considered as a reflection of the Geneva Accords.

4. Fields of Cooperation and Coordination in Future Jerusalem

In case of a total or partial division or partial division and partial share, there are several spheres that would need detailed agreements (protocols) and arrangements between the two parties:

- a. **Crossing points for goods, visitors, tourists and special events like religious ceremonies:** Regardless to the form of solution, the two parts of the city are in need to organize crossing points, this actually an interest of both cities. The crossings can be soft or hard, hard crossings will harm both parties and will make the life of citizens and tourists very difficult and will harm the development of Jerusalem.
- b. **Border regime:** smuggling, taxations...etc Jerusalem will enjoy a special regime, with many crossings, it will be attractive for exchange of goods, both legally and illegally, therefore there is a need to agree upon control system with very intensive cooperation and monitoring system in order to deal with it.
- c. **Environmental issues:** neighboring cities are facing mostly the same environmental challenges. Actually, regardless to the artificial division of Jerusalem, the city will face the same environmental issues; each part of the city cannot face these challenges alone and cannot have environmental planning unilaterally. It is in the interest of both sides of the city to have an environmental agreement and may be joint committee to establish environmental protocol. The optimal way is to establish environmental agency to deal jointly with this issue.

- d. **Energy**, today there is one supplier (Israel) of electricity for both parts of the city, but there are two administrative systems. It will be very difficult and expensive to establish two different suppliers. If we follow President Clinton parameters, then any division of electricity infrastructure will be impossible. The optimal solution is of course to organize the current system and to develop it for the benefit of the city's population. Similar or different system can be thought for other kinds of energy.
- e. **Water**. An Israeli agency currently supplies ca 80% of East Jerusalem's water needs. The other 20% are supplied by Ramallah based company. The sources of water are coming from sources located both in the West Bank and Israel. Ca. 80% of East Jerusalem and 100% of West Jerusalem water infrastructure are connected to the Israeli national water system. Any separation of the water infrastructure will need a lot of time and will cost a lot of money. A water agreement for Jerusalem is the only possible solution; it could be a transitional period until separate system could be developed.
- f. **Sewage**: A great quantity of West Jerusalem sewage flow towards East Jerusalem and then to the West Bank, very little quantity of East Jerusalem sewage flow towards West Jerusalem and then to Israel. Technically, separation is possible but very expensive and will add additional environmental problems. A sewage agreement is needed without changing the direction of the sewage, but in environmental context. The sewage, which flow towards east, is not treated, causing irreversible pollution. The agreement on sewage has to include sewage treatment and reuse of the resulted treated water.
- g. **Transportation between parts of the city**: It is very difficult to imagine that tourists moving from one part to other part of the city will need to change buses. The road network in the city is build in an integrated and complementary way, therefore a complementary transportation system can

help the economy of the city and ease the life of both citizens and visitors alike.

- h. **Security:** Several areas are in need of security regime: the security of border, crossing points, holy sites, tourism, shared spheres...etc. The security will be the test of the agreement. The agreement cannot function without security assurances for both parts of the city.
- i. **Zoning and planning along the borders:** Both sides of the border, which are very close to each other, has to be treated in a sensitive way, no party can have absolute liberty to develop his side without consulting with the other side. Both parties can agree upon land use along the border.
- j. **Cultural heritage:** Both parties have joint cultural heritage or separated cultural heritage in the territory of the other party. A cultural heritage agreement can organize the rights and the duties of each party. Cultural heritage has to be treated as a priority, hence Jerusalem as a whole is cultural heritage city; the safeguard of it cannot be reached without full cooperation of the parties.
- k. **Other spheres and sectors of mutual interest:** The two parties can identify other spheres of mutual interests like: tourism, economy, banking, solid waste, sport, culture, fire fighting, emergencies (earth quick and floods), fighting criminality, racism, etc.

The above mentioned spheres are of importance to the whole city (East and West) regardless of the shape of solution.

5. Institutional forms of Cooperation and Coordination

This paper supposes that there are two municipalities: an Israeli Municipality in West Jerusalem and a Palestinian Municipality in East Jerusalem. This opens three possibilities for cooperation,

- a. Establishing a shared umbrella municipality to deal with the spheres of mutual interests;
- b. Establishing a joint committee(s) appointed by the two municipalities / authorities;
- c. Delegating a third party (international or private sector) to implement some or all of the mentioned spheres;
- d. Two or more of the above.

This structure(s) can add other spheres of cooperation and develop the needed mechanisms to secure its implementations as well as providing the proper and sufficient funds.

6. The Old City

The Old City is composed of several elements which will influence its future as well as its administration.

- a. It is located on the border of West and East Jerusalem; therefore it is open to both parts of the city. The shared walls of the Old City are: The western wall, and parts of the northern and southern walls.
- b. It houses most of the holy sites for Jews, Christians and Muslims - The Haram al-Sharif, the Holy Sepulcher Church and The Wailing Wall. In addition, tens of other holy sites of the three religions. The headquarters of most of the religious institutions are located in the Old City.
- c. Several International intuitions are located in Old City, the international interest is very clear.
- d. The Old City is the house of ca. 35000-36000 of Palestinians and 3000-4000 Israelis living in less than one square kilometer.
- e. There are very problematic and complicated issues of properties, some of them are as a result of the Israeli control and measures, while other issues are much older.

- f. The majority of the old city's population is poor, especially the Muslims, therefore it houses many poverty problems. The living conditions of the majority are very difficult.
- g. Very problematic and mostly hostile relations between Israelis and Palestinians in general and between Israeli settlers and the Palestinians in the Muslim and Christian Quarters in particular.
- h. The Major markets of East Jerusalem are located in the Old City, and thus constituting the major source of income for the Palestinian citizens of the city.
- i. It is a major tourist destination in the country (Israel and Palestine).

It is true to assume that the core conflict over Jerusalem is concentrated in the Old City. The Old City has so many dimensions that should be carefully tackled.

General principles or parameters that can be of great help:

- a. Keeping and respecting to a great extent the status quo, this is applicable not only to the Christian Holy sites but also to Muslim and Jewish holy sites. This can be supported by a religious council representing the three religions, and conducting inter-religious dialogue.
- b. Securing, as much as possible, free access to the Old City, this is true for Palestinian, Israelis and tourists alike. Visitors of the Old City do not have to suffer from different kinds of jurisdictions or different administrative bodies.
- c. Extensive use of the available international organizations (third party): this could include security, cultural heritage and part or all of the Old City administration.
- d. Maximum delegation of private sector to provide services.
- e. Establishing a dispute resolution mechanism.
- f. The Old City should not be isolate from the rest of the city. This requires easy flow of people and goods. A complicated arrangement is likely to kill the Old City.

g. Safeguarding the city's historical and cultural character.

6.1 Administering Cultural Heritage

Cultural heritage is a very sensitive issue related to serious national and religious symbols. Keeping the cultural and historical character of the Old City in particular is the interest of both parties as well as for the international community. Previous experiences had shown that the Old City was the subject of great dispute and a space of mistrust. It is not easy to reach, in any framework of understanding about Jerusalem, an agreed upon solution for administrating cultural heritage.

International Assistance to administer the cultural heritage can be of positive reflections and may ease the issue. It is worth mentioning that the Old City is listed on the World Heritage list since 1980. Therefore, there are already general international terms of management for the Old City; the problem is who is to administer it?

Maybe the most problematic part of the Old City is al-Haram al-Sharif (The Temple Mount)/the Wailing Wall complex. The Muslim activities inside the complex in the last two decades, such as digging two major exits to the Solomon Stables (*al-Musala al-Marwani*) evoked serious Israeli reactions and became an issue of propaganda. On the other hand, the Israeli diggings around the Haram and maybe below it as well as the tunneling and other excavations evoked many reactions from the Palestinian side as well from international organizations, and they also became an issue of propaganda.

The complexity of the subject as well as the political dimensions of cultural heritage, were clear with the Mughrabi ascend (ramp): this conflict which provoked international intervention, had delivered very controversial positions and international propositions. This issue is not yet settled, and recent Israeli plans could lead to a conflict with harming results.

It may be very difficult to establish mutual trust between the two parties, at least at the beginning of a solution, therefore delegating the task to UNESCO and the World Heritage Council to administer the cultural heritage in the Old City in accordance with the best norms and practices to safeguard the cultural heritage of the Old City is the ideal transitional solution, until both parties manage to develop another alternative.

Of course this administration cannot be done without consulting and cooperating with the two parties. A Heritage council could be established under the UNESCO leadership with representatives of the two sides. This council could also get assistance from other experts, the duties of the council are:

- a. Safeguarding the cultural heritage of the Old City and may be of its buffer zone;
- b. To oversee all kind of activities which are of relevance to cultural heritage,
- c. To issue the relevant bylaws for protection, restoration and use of cultural heritage;
- d. Licensing diggings, restoration, rehabilitation...and other similar activities,
- e. To promote cultural heritage;
- f. To ensure the access to the cultural heritage sites without discrimination, but with respect of ownership rights and the needs of worship;
- g. To work on preparing management plan for the whole Old City in general and for the major cultural sites in particular;
- h. To enhance the management plans;
- i. To work on solutions for living heritage.

6.2 The Haram al-Sharif (The Holy Sanctuary)

The other problematic issue in Jerusalem is of course the Haram al-Sharif. The Palestinians (Muslims) are insisting on their absolute sovereignty over the site, which has been under their control for fourteen centuries .As such, any threat to

this right will be an obstacle for solving not just the conflict over Jerusalem, but also the Palestinian – Israeli conflict in general.

The Israelis (Jews) are looking for Palestinian (Muslim) recognition of their historical, religious and national attachment to the same site. The different proposed solutions varied from sharing to just recognizing. The Palestinians are terrified of recognizing any Jewish attachment to the site, because they still have in mind the Israeli control over the Patriarchs Tombs in Hebron (Ibrahimi Mosque), which led to the total marginalization of the Islamic rights of the site. The Palestinian rejection is not only ideologically (religiously) motivated, but is also hinged upon the meaning of ‘attachment’ and its implications.

As it is known, this issue was one of the reasons that led to the collapse of the negotiations of Camp David II in 2000. Until now, we have to admit that there is no satisfactory solution, which can be accepted from both sides for this dilemma. All of the proposed solutions were dismissed:

- a. Underground – aboveground sovereignty;
- b. Third party control;
- c. Shared sovereignty;
- d. Diluted sovereignty;
- e. And full control (administration) with nobody’s sovereignty (postponed sovereignty).

It is worth thinking outside the box in order to find a way out of this dilemma. The recognition of attachment as well as the recognition of narratives, which means understanding it, does not have to be converted into actual rights implemented on the ground. It could be only a form of respecting the other side’s narrative (the same story!), without even accepting it. This “model” of thinking could be applied on several contested issues in the Palestinian – Israeli conflict; most important is the Haram al-Sharif.

It is very difficult to imagine a solution without assurances and a third (Muslim World!) party involvement and full cooperation with UNESCO.

The involvement of the third party or/and UNESCO can also work for the Wailing Wall.

7. Holy Places

Jerusalem in general and the Old City in particular are housing a great number of Holy Sites, which have both national and international importance. Reaching peace and stability in the Holy Sites in Jerusalem can have regional and international impact. The large number of Holy sites is not disputed, specially the Christian Holy Sites and can be solved through understandings. The Status Quo agreement can be easily recognized and implemented in coherence with the Vatican agreement with both Israel and Palestine. The same agreement can be applied for most of the Holy Sites; this is also very helpful to deal with the Haram al-Sharif.

Aside from the Haram al-Sharif/Temple Mount, there are a number of disputed holy sites, which are less sensitive, but very important and could be develop to became dangerous. An example of such sites is Mount Zion, where the three religions had claims.

This situation can be part of the negotiations. The ideal approach is to establish a council with representatives of the three religions. This council can have the following duties:

- a. To conduct religious and interfaith dialogue, this can be developed so Jerusalem can become an international center for interfaith dialogue,
- b. To assist in dispute resolution concerning holy sites, and to assist defusing conflicts, which are religiously motivated,

- c. To assist in the peace education,
- d. To offer consultation for preparing relevant school books,
- e. To mediate between the different communities,
- f. To set decorum and rules and ethics of visitation of the Holy Sites,
- g. To develop inter-religious projects

*

II. Security Arrangements under the Geneva Accord

In the municipal area of united Jerusalem, two separate cities will be created – Israeli Jerusalem and Palestinian Al-Quds. These two cities will be the recognized capitals of the two states – Israel and Palestine. The route of the border between them will be determined by the parameters of the Clinton Parameters (Jewish neighborhoods to Israel, Arab neighborhoods to Palestine). The border between the two cities will be marked, and a barrier built between them. Regular border crossing stations will be built along this barrier, and quick border crossing procedures will be coordinated between the two states.

The Old City and the holy sites surrounding it will hold a special status and separate arrangements. Sovereignty will be divided between the two states, and the area, by definition, will not require reciprocal passport stamping.

The responsibility for the implementation of the agreement will be shared by both sides and overseen by the multinational force on the ground. The religious authorities of all three faiths will also share in the responsibility in order to ensure the freedom of worship in the world's holiest city.

This document will define and detail the security arrangements and the coordination necessary for the special structure of the agreement in Jerusalem.

1. Security and Civil Arrangements

The Holy Basin aside, these will be two entirely separate cities, each one the capital of a different state. Problems arise from the fact that for the past 40 years this has been one city, with shared infrastructure that was purposefully installed as such for political reasons. This fact created many civil intricacies, at least in the early years of the agreement's implementation, but also quite a few security and criminal issues. Therefore, the following matters will be given special attention:

- A. Construction of a friendly, not intimidating security barrier (the necessity of which will be examined after several years).
- B. Construction of friendly border crossings that will allow quick passage from country to country, and the resolution of problems and issuing of permits in small circles.
- C. Tight-knit cooperation of police and judicial forces (see separate chapter on
- D. this topic).
- E. The making of a detailed plan for the separation of infrastructure and public
- F. services. The high cost of this matter and the financial sources for its budget should be given special consideration.
- G. An authorized, legal and respectable system for the cancellation of the Israeli residency of East Jerusalem Arabs. An Israeli exemption committee will be established in order to decide on the cases of Palestinian residents of East Jerusalem wishing to apply for Israeli citizenship. The decision on whether or not to grant citizenship will be solely an Israeli one, as is the case in such matters with any other sovereign state.
- H. Creation of a committee for the development of Jerusalem. The committee will contain representatives from each municipal authority, with observer status granted to the international representative overseeing the agreement.

2. The Old City

The area of the Old City and the Holy Basin is unique, problematic and volatile, and therefore necessitates special elements to safeguard the implementation of the agreement and security.

Sovereignty here will be divided between the Palestinian and Israeli states (the Western Wall and the Jewish Quarter under Israeli sovereignty, the Temple Mount and the rest of the Old City under Palestinian sovereignty). There will be an option to reach the Jewish cemetery on the Mount of Olives in a safe, obstacle-free manner. Similarly, freedom of visit and worship will be guaranteed in the areas of the City of David/ Silwan, Mt. Zion and Guy Ben Hinom.

It should be emphasized that Christian holy places will be under the sovereignty, control as well as responsibility of the Palestinian state.

A unit from the multinational force will be posted in the Old City, and will constitute a part of the multinational force entrusted with maintaining security and order in the city. The unit will submit occasional reports to the international Implementation and Verification Group. It will conduct patrols and observation in the various entrance points to the Old City and throughout it, in the Western Wall tunnels, and in various holy sites outside the Old City Walls that will be part of the agreement.

A Joint Situation Room constructed within the Old City will be staffed by the three involved parties, and will allow controlled observation of the entire Old City through camera and television systems. A quick response unit including representatives from all three parties will be attached to this room. This unit will be prompted to any event of tension between the two sides.

A Palestinian-Israeli-multinational patrol will regularly round the congruent areas between the sides. It should be noted that, under the Oslo accords, joint patrol units were established. They operated from joint bases and by a joint war room. Alongside numerous positive lessons from this part of the accords, there were a number of negative incidents (i.e., two Israeli fatalities by the Palestinian forces) which undermined the overall success of this arrangement. The need for such a joint patrol in the Old City is clear, but will require great sensitivity on all parts as well as application of lessons learned. Additionally, each side will be responsible for a police force within the area under its sovereignty.

Entrance to the Old City without border crossing procedures will be permitted for the purposes of visiting or living. Passage into the other state through these crossings will be forbidden. Most of the crossings into the Old City will be staffed by the neighboring country's police forces and multinational forces.

Entrance to the Old City with weapons will be forbidden, except by security forces operating there. No exemptions will be made to this provision.

The entire area of the Holy Basin, including the old City and adjacent holy sites, will be surrounded by a "smart" fence. No such fence will exist inside the Holy Basin, despite the territorial division between Israel and Palestine. Instead, the border will be indicated by clearly visible markings and by signs in all three languages (Arabic, Hebrew, English). The markings and signs, as well as closed-circuit television systems, will substitute for a fence.

3. The Security Barrier

The route of the security barrier will be moved from its current location to the new path between the Israeli and Palestinian cities. The barrier will be constructed as a decorative barrier with cautionary electronic sensors, rather than as a threatening cement structure.

Security barrier patrols will be conducted by each side separately, in its own area. Both forces on both sides of the barrier will maintain direct and ongoing contact without the need for an intermediary role by the multinational force. A cross-border hot pursuit will not be allowed. Instead, both forces will train for rapid and effective passing of responsibility in order to enable each force to continue the pursuit begun by the other.

Two border crossings will be constructed throughout the barrier: at the French Hill intersection and at the American Colony intersection (for pedestrians only), and additionally, four special crossings will be constructed at the entrances to the Old City.

4. Border Crossings

Three types of border crossings will be constructed between the two cities: two international crossings, four crossings into the Old City and the holy sites, and two crossings for shared roads.

The international crossings will be regular border crossings and will comply with international norms. Only visa holders will be permitted to cross (Israelis, Palestinians and tourists). These crossings will be staffed by the Israeli and Palestinian sides. They will be located at the French Hill intersection and at the American Colony intersection (for pedestrians only).

The crossings into the Old City will be unique, and will enable each side to allow people entrance into the Old City alone. Any person who enters the Old City will have to return to the state he or she entered from. Exit from the Old City into the neighboring country will be prohibited. Each country will have two crossings into the Old City, and will staff those crossings with its own forces. Multinational forces will also be present at these crossings. The Palestinian crossings will be located at Lion's Gate (pedestrians and vehicles), Flowers Gate and Damascus Gate

(pedestrians), and the Israeli crossings will be located at Dung Gate (pedestrians) and Jaffa Gate (pedestrians and vehicles).

Two crossings will be constructed at the entrances to Jerusalem coming from shared roads: on the Eastern side of Route 443, and the western side of Route 1 between Jerusalem and Jericho. These will be staffed by both sides and the multinational force, and will constitute entrance to the city and exit to the shared roads, a supervision room for Israeli vehicles on the road, and a base for joint patrols and for bumping forces to events on the road. These crossings will serve Israelis only, and will not serve Palestinians entering Israel.

It should be noted that the barrier and its crossings will be fundamentally different in nature from the security barrier currently operating on the ground. From the moment the agreement comes into effect, the border becomes an agreed-upon demarcation line between two states, each with its own force on the other side. Furthermore, the crossings will no longer be perceived as barriers to movement but rather as gates between two sovereign states that monitor movement across both sides of the border. Full cooperation and coordination between the two sides will be necessary, especially along the borders in the Jerusalem area, where the multinational force will also be involved.

5. The Multinational Force

The multinational force in Jerusalem will be the support unit for the Implementation and Verification Group. It will serve as an independent policing force in the Old City, and as a system of communications and coordination between the sides. It will also serve as a monitoring system for the implementation of the security, political, criminal, religious and civil aspects of the agreement.

The force will be comprised of a special representative (responsible for the international presence in Jerusalem) from the donors' forum (which will fund its

activities), and of a security and preservation unit (the executive power, comprised of security and observer components).

The force's central command will be within the Old City walls.

The force will have the authority to temporarily detain law breakers, and will maintain a temporary holding room inside its command center.

The force's policemen will be equipped with non-lethal weapons and guns for self-defense. The force will be mostly on foot but will be permitted to occasionally operate vehicles if the need arises. Orders to open fire will be for the purposes of self-defense only, and will be formulated and approved by the commanding officer with consent from both sides.

The force's officers will wear identifying uniforms and will carry radios for expedited communication both sides. They will be entitled to full freedom of movement with no limitations.

The force will number 150 officers.

The force will be responsible for the Dispute Settlement Mechanism.

The force will be funded by the United Nations, the League of Arab States, members of the Implementation and Verification Group (IVG) and the parties to the agreement.

All members of the IVG and the multinational force will be granted full immunity by both sides.

The observers' unit will be an integral component of the multinational force, and will include up to 12 observers. Its task will be to verify that the agreement is upheld in terms of security, criminal procedure, civil procedure, and religious

freedom. Additionally the observers will ensure that no unapproved archeological digging takes places in various locations, and that building and site maintenance takes place when necessary.

6. The Trilateral Committee

The Trilateral Committee composed of the Special Representative and the upper-level Israeli-Palestinian steering committee will serve as the highest forum for coordination between the parties and the multinational presence in any matter concerning the agreement's implementation and its mutual review.

The Committee will adjourn at least once a month, or within 48 hours of the demand of one of the parties.

The Special Representative will sit at the head of the committee.

7. Compound Coordination Committee (CCC)

The Compound Coordination Committee (CCC) will be created by the commander or deputy commander of the security and preservation unit, and its members will include representatives from the two sides' local police forces.

The Committee will serve as the main forum for coordinating communication between the parties to the agreement in the Old City and the security and preservation unit.

The Committee will also create a sub-committee for intelligence coordination.

8. Dispute Settlement Mechanism

Generally, conflicts between the parties will be resolved through negotiation with the assistance of – to the extent necessary – international bodies who are partners in the agreement.

The upper-level steering committee will serve as the highest forum for conflict resolution between the parties. In the event that a solution is not found through negotiations or through the upper-level steering committee, each one of the sides will be permitted to appeal to an arbitrator and mediator through the Special Representative.

The Special Representative will study the issue and will recommend a person or body that will serve as the arbitrator and mediator. The sides, then, must agree to the mechanism and to the identity of the arbitrator and mediator.

Once the mechanism and people have been agreed upon – 14 days will be granted to resolve the conflict. If a solution has not been agreed upon, each side has the right to present a different arbitrator and mechanism.

9. Judicial Process

Each state will prosecute individuals suspected of criminal activity who were arrested in a lawful manner in accordance with its own laws. Each state is also permitted to demand the transfer of an individual suspected of having committed a crime in that state's territory and escaped to the neighboring state, based on an extradition treaty that will be signed between the two states. The state from which the extradition is requested will be permitted to choose between extradition to the demanding state (of course, on condition that the extradition demands meet the provisions of the treaty) and prosecution in its own court of law based on investigatory material sent to that state. The latter serves to prevent the extradition of citizens to a neighboring country where fear exists that they will not receive a fair trial.

An individual arrested for suspected criminal activity in the Old City or at sites in the Holy Basin will immediately be transferred to the state of his citizenship with the relevant investigatory material. The individual will then undergo the legal

process of his or her state. Tourists will be judged according to the laws of the state against which the crime was committed, in accordance with international standards.

The multinational force will have the authority to arrest and will have its own detention room. Any individual arrested will be transferred to his or her state within no more than 24 hours from the time of his or her arrest, accompanied by witnesses and legal documents necessary for the legal procedures in his or her state.

10. The Inter-Religious Council for Jerusalem (IRCJ)

The Inter-Religious Council for Jerusalem (IRCJ) will be created and will be comprised of 10 members from each side and an international representative from UNESCO.

The Council will advise on topics relating to conservation of holy sites – specifically, their conservation and maintenance, the preservation of their legacy, archeological activity, freedom of movement for believers and the security of visitors.

The Council will advise each side in the event that a ritual conducted by one community is interpreted by another community as harmful to the holiness of the site or to the rights of the believers. Additionally, the Council will notify the parties about religious events, holidays and celebrations scheduled to take place in the Old City which may influence other communities.

The Council will advise the various security and police forces on anything regarding their activity in the Old City or at the holy sites.

The Council's recommendations must received support from at least 80 percent of its members, including the agreement of the UNESCO representative.

Conclusion

The agreement on Jerusalem is one of the most difficult, sensitive and volatile topics in relations between Palestinians and Israelis. Beyond the difficulty of the agreement on the division of the city and the right to worship irrespective to all faiths, there is now, and will be for the foreseeable future and beyond, a need for powerful, efficient and sensitive mechanisms that will succeed in preventing a small and isolated incident from escalating into full-blown inter-religious conflict.

The implementation of an agreement must be phased out and careful, and accompanied by a system for handling exceptions in order to decrease tension between the parties.

The role of the international community in the implementation of this agreement is vital and complex. In addition to security aspects, the international community will have to deal with a variety of issues, including religious, municipal, civilian, tourism, sovereignty, in a city that requires perhaps greatest administrative sensitivity in the world.

Annex 1

This annex describes Israeli policies in East Jerusalem. It contains important information describing the situation and portraying this part of the city and its problems, understanding this can be of help to find the proper administration in Jerusalem.

Introduction

Among the visible results of the Israeli policy after the completion of the separation wall and the major settlement activities in East Jerusalem is that Arab Jerusalem will lose all possibilities for development and its residents will not have sufficient housing. This will lead to impoverishment; a decline in the standards of living; and the confinement of its population in narrow, closed and disconnected areas. Furthermore, isolating East Jerusalem from its vital economic surroundings will aggravate the social crisis and spur an increased crime rate. All this will take place alongside the escalated development of services and standards of living in West Jerusalem and the surrounding settlements. The final result of this policy will be the transformation of Arab Jerusalem into a ghetto and a slum.

The features of the Israeli undertakings in Jerusalem and its environs have now become more apparent than they have been since 1967 through a series of comprehensive plans. These plans affected an array of areas in overlapping time and geography, having at first no clear connection between them. Only in the last few years have the final touches been implemented. We can identify the actions and plans which will affect not just the political solution of the question of Jerusalem, but also the socio-economic development of East Jerusalem. These developments will lead to an isolation of East Jerusalem from the rest of the West Bank and will fragment most of its neighborhoods.

Further, the rise of Ramallah as a de facto “capital” has attracted institutions from East Jerusalem as well as investors. Many skilled laborers have migrated there from Jerusalem. The businesses followed the institutions, drawn by Ramallah’s growth as a market that promised rapid development, attractive investment laws, and an escape from the relatively high Israeli taxes imposed in Jerusalem. The closure of Jerusalem since 1993 has led also slowly to obvious development in the satellite neighborhoods outside the municipal borders, such as ‘Azzariyya, Abu Dis, ar-Ram and Bir Nabala.

The deterioration process was crowned with the break out of the second Intifada and the collapse of the tourism sector (2000-2007), which was a major income sector for East Jerusalem. It is clear also that the sudden death of Faisal al-Hussaini, the father of the city and the chairperson of the Orient House, was a further catastrophe for the city. Since his death, the city did not manage to replace him or his services. The problem of the leadership has produced a plethora of aspiring leaders but none of these leaders has managed to gain the trust of the citizens of Jerusalem.

Israel, from its side, has taken advantage of this situation, issuing orders of closure of several institutions like the Orient House, the Chamber of Commerce, the Small Projects Office, Department of Land and Mapping, the Old City Rehabilitation Committee, and other vital institutions, which were serving in different forms the Arab citizens of the city.

The closure of the Orient House and the collapse of other related and unrelated institutions led to a vacuum in the local leadership and the dismantling of the invisible Palestinian security forces, which worked under the umbrella of the Orient House (sometimes in cooperation with Israeli security establishment, while at other times with its tolerance). These forces gave Jerusalemites a sense of security and a mechanism of conflict resolution. Most of the interior Palestinians conflicts in Jerusalem were solved using these facilities. Israel managed, as a matter of fact, to destroy this mechanism, but it did not manage to replace it, which has contributed to a vacuum in leadership.

The Arab section of the city does not have the means for the required change, due the fact that the absolute executive power is in hands of the Israeli authorities. This does not mean that there is nothing that can be done by the Palestinian community in Jerusalem.

The negative factors we have discussed above have led to an increase in poverty in Jerusalem. We do not have clear and reliable statistics about East Jerusalem (according to Israeli statistics, East Jerusalem is the poorest among “Israeli” cities); therefore I am obliged to use my empirical observations.

1. *The Legal Status of Palestinians in East Jerusalem*

When Israel occupied East Jerusalem in 1967, the residents of the city, as well as those of the rest of the West Bank, were Jordanian citizens holding Jordanian passports. Israel imposed Israeli law on the city and unilaterally annexed the territory of East Jerusalem, but it did not grant the Palestinians citizenship status: Palestinians continued to hold Temporary Jordanian passports (until now) and were issued Israeli civil identity cards. The cards enable them to have civil (not political) rights and duties, and are issued if one can prove residency within the municipal borders of the city, as those borders are defined by Israel.

Since 1967 until now, some 6600 residents of the city have lost their residency right due to such causes as traveling abroad for more than three years; or having the center of their lives outside the municipal border; or marrying a non-resident spouse. This statistic does not include the dependent children of those who lost their identity cards. Israeli law treats Palestinians in East Jerusalem as if they—the Palestinians-- entered Israel in 1967 (according to the law of entry 1952) and not that it was Israel who occupied East Jerusalem in that year. So Israel has given Palestinians a kind of residency, similar perhaps to the American Green Card *i.e.* unrestricted right of residency. So each Palestinian who does not fulfill the Israeli terms of residence endangers his residency right in Jerusalem

In spite of the fact that most of the Palestinians fulfill their duties by paying taxes and other forms of civil acts, the majority of them do not take part in the most important element of the decision making procedure, municipal elections. They abstain for political and nationalistic reasons. This form of resistance or non-participation is very important to an understanding of the Israeli demographic policies in East Jerusalem since 1967 and to an understanding of the effect of these policies on the living standards and the deterioration of life in the city.

Practically speaking, Israel treats the Palestinians in Jerusalem as aliens with a permit to remain that can be revoked if they leave the city to live elsewhere, including the rest of the occupied Palestinian territory. Indeed, residency revocation has become a regular Israeli practice. Often, many Palestinians in Jerusalem are forced to prove their residency status to Israeli authorities. Residency revocation significantly impacts Palestinians since it prevents them from staying in their homes in East Jerusalem. According to Israeli human rights organizations, more than 13,000 IDs have been revoked between 1967 until 2008, affecting well over 20% of the Palestinian families in occupied East Jerusalem.

Between 2006 and 2008 alone, 4,577 IDs were revoked- more than 50% of the total number of ID confiscations.² This is the highest number of permanent residency revocations since the “center of life” test was applied in 1995.

This policy is compounded by the fact that many Jerusalemites are inclined to live outside Jerusalem if they are married to non-Jerusalemite Palestinians due to Israel’s prohibition on Palestinian family reunification.

2. *Demographic Realities*

The Israeli Government conducted a census immediately after its occupation of East Jerusalem 1967 and registered 66000 Palestinians within the expanded borders of the city. The census excluded all “absentees” who were, for one reason or another (work, study, vacation and escaping the war), outside Jerusalem. The percentage of the Palestinians in the city was according to the Israeli estimation 25.8%. Officially Israel has sought by several means to keep the Palestinian population in East Jerusalem below 30% (some say 27%) of the total population of the "united Jerusalem"³. This policy failed when the Palestinians managed to exceed this percentage in 1999 (reaching 31.1%) and in 2002 (not less than 33%) and some 35% in 2010 according to Israeli statistics. Palestinian statistics reflect even higher percentages⁴. In spite of defeating the Israeli demographic policy, the Palestinians lost the battle for a decent quality of life. This economic and social fact creates a fragile future for East Jerusalem, regardless of the political changes that might result from a peace agreement.

The Israeli policy of "demographic monopoly" took place in the form of a demographic transfer of some of the Jewish population from West Jerusalem, along with new immigrants from abroad and from other parts of Israel, to the newly built Jewish settlements in East Jerusalem. It is not really clear whether the Jewish population in East Jerusalem has exceeded 50% of the population or if it has remained below that level. The published numbers are not accurate and are mostly, from both sides, politically motivated. At the same time, we must recognize that while East Jerusalem was very

² ACRI report, May 2010

³ On the demographic discussion, see Michael Dumper. *The Politics of Jerusalem since 1967*, New York 1997, pp. 53-72.

⁴ Both Palestinian and Israeli statistics are derived from estimations, which make all statistics somewhat unreliable.

attractive to the Jewish population for several elements, for the Palestinians it gradually became less attractive, due to several push factors.

It is very clear that the Palestinian demographic growth has exceeded that of their neighbors, in spite of the Israeli policies. The demographic trend clearly favors the Palestinian population. This has become obvious since 1996 when the growth rate increased from 2.9% to 4% in 1999, while the Israeli growth was 1.2% in 1996 and declined to 1.1 in 1999.

We cannot ignore the influence of socio-economic developments on the population growth. When the Israelis began to invest in East Jerusalem and affected the economic annexation of East Jerusalem to Israel, Palestinians in the city benefited, at least in the first stage of occupation. For example in 1967 their birth rate (Palestinian) was 43 per 1000, but by 1987 it stood at 29.8 per 1000 (very close to the rate of the Israeli population of Jerusalem), a fall of about 30%⁵. In 1987 the trend began to change, due to not just the Intifada, but also to the Israeli policy in the city.

3. Shortage of Housing

The closure of Jerusalem, the settlements activities, the Intifada, the "security" wall, the land confiscation, the lack of allocated land for housing, and the lack of proper public investment—all of these factors affected the city in a very dramatic form. Nevertheless, Palestinians have left their dwellings in the satellite neighborhoods (mainly located in the West Bank) looking for housing in East Jerusalem.

The building restrictions and lack of zoning and master planning in East Jerusalem, has caused a housing crisis that forces people to live in conditions much worse than what they are used to even before four decades.

The acute housing shortage has led to the erection of many unplanned and “unlicensed” buildings. This process is mostly seen in already less fortunate neighborhoods, where more apartments have been added to already poorly built houses (Silwan and ath-Thuri are clear examples). These neighborhoods are in a process of becoming slums (some of them already are typical slums). The most interesting example is the Shu’fat Refugee Camp. According to UNRWA, the number of the officially registered refugees in the camp does not exceed 6000, but the actual number of those now

⁵ See Maya Choshen. Jerusalem on the Map, Basic Facts and Trends (1967-1996), Jerusalem, 1998, p. 29.

living in the camp (according to the social workers, Youth Club and the stakeholders in the camp) has exceeded 17,000. This, if it is accurate, means that around 11000 inhabitants have become de facto refugees (in the socio-economic meaning), living in miserable social conditions (*The general phenomenon of the refugee camp, that when inhabitants upgrade their income, they intended to leave the camp and to find accommodation in the nearby city or village. The only cases that we possess, which are similar to Shu'fat camp, are from Lebanon. In Lebanon, many Palestinian refugees have left the refugee camp and went to Europe, the USA and the Arab Gulf States, and were replaced by poor Lebanese and Syrians.*). The same phenomenon is being witnessed in three additional communities: ath-Thuri, Silwan, Wadi_Qaddum and less obviously in Wadi al-Joz.

The implications of this development, which is still flourishing, are tremendous and cannot be discussed separately from the criminality issue; from impact of the demise of Palestinian institutions; or from Israeli settlements, closure, and occupation measures --and, as well, Palestinian mismanagement.

There is a chronic lack of housing in Palestinian areas of occupied East Jerusalem and thus a high level of overcrowding. Restrictions on building and the small amount of space allowed for Palestinian development, combined with the influx of Palestinians who return to Jerusalem in order to preserve their residency status, especially after the construction of the Wall, have caused overcrowding to become a major problem in many Palestinian areas.

In 2008, the average housing density per room was **twice as high** as among Jews, and the problem continues to be compounded. The illegal settler population of occupied East Jerusalem consisted of 190,000 settlers living in 55,000 housing units. However, the indigenous Palestinian population of ca 300,000 was forced to live in only 44,000 housing units, regardless to the size of the units. The latest 2010 studies indicate a lack of at least 50,000 housing units.

This population crowdedness, coupled with severe Israeli restrictions on Palestinian construction, forces Palestinians in Jerusalem to build houses without permits, which is “illegal building” according to the Israeli definition. Today, the overall construction average in East Jerusalem in one year reaches 1,100 housing units, including an average of 93 housing units licensed by the occupation municipality. Estimates indicate that there are some 15,000 unpermitted Palestinian housing units in Jerusalem. The

average amount of fines imposed by the occupation municipality on unlicensed construction in East Jerusalem in one year is more than US\$6.5 million.

With regard to the size of the area, the Palestinian population in occupied East Jerusalem represents 58% of the total population but lives on only 13% of the total 72 km² of the Jerusalem municipality area. Comparatively, Israeli settlers represent 42% of the total population in East Jerusalem and occupy 35% of the same area. As an evidence of the partial impact of the Israeli policies, the Israeli National Bureau of Statistics reports that 1,740 Palestinians left East Jerusalem in 2002, 1,390 in 2003, 910 in 2004, 920 in 2005 and 1,150 in 2006.

4. *House Demolition*

The demolition of Palestinian homes in occupied East Jerusalem by the Israeli authorities has persisted since 1967. The main purpose of the house demolition policy is to dispossess Palestinian families from East Jerusalem and change the nature of the city. Estimates indicate that more than 3,200 houses have been demolished since 1967, including several historic and religious sites such as the historic Moroccan Quarter in the Old City. According to the Palestinian Central Bureau of Statistics, 94 Palestinian houses were demolished in 2005, 83 in 2006, 78 in 2007, 87 in 2008 and 103 in 2009. The demolition policy is intended to continue as evidenced by hundreds of pending house demolition orders and the ongoing plans for the demolition of homes in Silwan (88 units), Ras Khamis (55 units), and ath-Thuri (32 units).

These demolitions have left thousands of Palestinians without homes and have contributed to their forced eviction from occupied East Jerusalem.

5. *Impact of Israeli Closure and the Wall around Jerusalem*

On average one million tourists from around the world come to visit occupied East Jerusalem every year; yet, the only group forbidden to enter the holy city are the Palestinians living in the occupied territory. The Israeli military closure has continued to obstruct the ability of Palestinians to enter occupied East Jerusalem and has worsened since the closure was made permanent in March 1993. With the ongoing illegal construction of the Wall in and around occupied East Jerusalem, Palestinian access rights to and the ability to live in Jerusalem are continually eroded and have become increasingly difficult. Thus, the closure and the Wall have become a *de facto* (albeit illegal and

unrecognized) unilaterally imposed “border.” This Wall, most of which has been completed around occupied East Jerusalem, is being used to consolidate and expand Israel’s hold on Palestinian land in order to facilitate further settlement expansion. It also serves to physically and functionally sever the northern and southern West Bank.

One of the immediate implications of Israel’s policy was and remains the prevention of three million Palestinians from accessing their holy sites and places of prayer located in occupied East Jerusalem. Moreover, the closure and the Wall have also disconnected up to 60,000 Palestinian residents of Jerusalem from their city as they are left outside the Wall. Consequently, the closure and the Wall severely limit trade and commerce in, through and around Jerusalem, the traditional Palestinian economic center. Lastly, the Wall has severed social connections and the social fabric of life of Palestinians who live on both sides of the Wall.

6. *Israeli Settlement Planning in East Jerusalem*

Over the past 43 years of occupation, Israel has employed numerous strategies to control Palestinian lands in East Jerusalem by manipulating urban planning and restricting building permits for Palestinians. As mentioned above, in furtherance of these strategies, Israel unilaterally and illegally expanded the municipal boundaries of Arab East Jerusalem from the original 6.5 square kilometers during Jordanian rule to 72 square kilometers, reaching far deeper into the West Bank. Of this expanded area, 35% of the 72 square kilometers (25 square kilometers) has been expropriated by Israel for settlements and settlement expansion, 30% (21.7 squares kilometers) is unplanned area where no construction is allowed, 22% (16 squares kilometers) is defined by Israel as “Green areas,” where no construction is allowed, which leaves only 13% of the land (9.3 squares kilometers) for Palestinian use. The result of such illegal settlement construction has been to increase the almost negligible pre-1967 Jewish population to over 190,000 in East Jerusalem.

The Jerusalem master plan “Jerusalem 2000” outlines the Israeli policies to control land in Jerusalem for Jewish needs. The plan strives to secure an absolute Jewish majority in the city by creating a framework to proceed with the development of the city of Jerusalem as a capital for the “Jewish” state

and a seat for its government. It also hopes to achieve a long term goal which reflects the future vision for the city as conceived by the city's "fathers."⁶

6.1 *Settlement Expansion in and around East Jerusalem*

Alongside an intensification of settlement construction on the ground, Israeli planning committee authorities continue to authorize illegal existing building, and plan for thousands of additional housing units throughout the West Bank, particularly in and around occupied East Jerusalem. Extensive settlement planning is taking place around three settlements in particular: Betar and Efrata in the South, Ma'ale Adumim in the East, and Giv'at Zeev in the north. All of which are currently being linked together by the Wall and an elaborate road system. The dual purpose of these settlements and the Wall installations is to maximize Israeli contiguous territory with a minimum Palestinian population within the city's boundaries and territorially separate Jerusalem from the Palestinian West Bank.

Based on Israeli sources, today some 50,000 settlement housing units are in various stages of development in and around East Jerusalem. Some 14,000 of them are in advanced stages of approval and/or implementation, while the remainders have yet to be submitted to the respective planning committees. 1,600 units announced for the Ramat Shlomo settlement are among the ones in advanced stages of approval in addition to 450 in Neve Ya'acov, 1,500 in Pisgat Ze'ev, 1,200 in Ramot, 90 in a new settlement in the Shepherd's Hotel area in Sheikh Jarrah, 104 units in a new settlement called Ma'ale David (across from Ma'ale Zeitim), 600 in East Talpiot, 3,500 in Giv'at Hamatos, 3,000 in Gilo, and 1,500 in Har Homa. There are also plans for 11,000 units in a new settlement near 'Atarot, 300 in a new settlement in the Karm al-Mufti area, 13,000 units in a new settlement called Giv'at Ya'el, 6,000 units in the Nuaman area, 200 in a new settlement called Shimon Ha-Tzadik, 300 in Sheikh Jarrah, 21 in the Burj al-Laqlaq area (the north-east corner of the Old City), and 400 in Kidmat Zion. Currently, some 66 units are under construction in Ma'ale Zeitim, 63 in East Talpiot, about 100 in Gilo, and more than 1,000 in Har Homa.⁷

⁶ Jerusalem Master Plan, Jerusalem municipality (2004), p. 202

⁷ Peace Now, Ir Amim.

The so-called “moratorium” on settlement activities declared by the Israeli government in November 2009 explicitly excludes illegally annexed East Jerusalem, thus enabling the continuation of intensified settlement activity in East Jerusalem.

6.2 Settlements Inside Palestinian Communities in the Old City and its Environs

In order to offset the massive demographic imbalance and to justify unfounded claims for sovereignty in this area, Israeli policy makers together with settler organizations are creating an arc around the Old City of Jerusalem, stretching from Sheikh Jarrah – from the Border Police headquarters, through Shimon Ha-Tsadik, the Shepherd Hotel, the Israeli Police Headquarters (Ras al-‘Amud), the Israeli Interior Ministry centre, Beit Orot, Kidmat Zion, Ma’ale Zeitim, the Mount of Olives Police station, and Nof Zahav – to the City of David settlement in Silwan. The arc also includes the Burj al-Laqlaq and the Omar Ibn Khattab, proposed settlements in the Old City.

The "King's Garden" is one of the most controversial settlement plans in East Jerusalem. This plan was introduced by Israeli Jerusalem Municipality Mayor Nir Barkat earlier this year, and approved on June 21 by the Jerusalem Local Planning and Building Committee. The plan envisages the demolition of many Palestinian homes in the al-Bustan neighborhood of Silwan to make way for an Israeli national park and various commercial structures. According to the approved plan, at least 22 Palestinian houses are slated for demolition during the first phase, which would result in the forced displacement of around 500 Palestinians.

In addition, settlement construction is continuing in several locations in and around the Old City in East Jerusalem:

- A cornerstone was laid to mark the start of the second phase of construction in the **Nof Zion** (also known as “Nof Zahav”) settlement, which is located on 44 dunums of land belonging to the Palestinian village of Jabal al-Mukabber south of East Jerusalem. The settlement’s master plan calls for a total of 395 housing units, 91 of which are already built, as well as a synagogue, kindergarten, shopping center, hotel, park and country club, all to be completed in four phases.
- Two plans for new hotels appeared on the agenda of the District Planning Committee for re-approval: TPS 4711 –a plan to build about 1,000 hotel rooms on 70 dunums of land held by the Israel Lands Authority (ILA). Located in Jabal al-Mukabber neighborhood to the west of the

UNTSO Headquarters (Government House). This plan was re-approved by the district committee on 22 June 2010. TPS 9835 was approved by the local Planning committee to come up for discussion with the District Planning Committee. It is located next to, and includes, the plot of land housing the Border Patrol station in Jabal al-Mukabber, above the current Nof Zion housing project. This plan replaces the Nof Zion hotel project TPS 4559, approved in 1999 (for 150 hotel rooms, commercial space, synagogue, etc). The plan calls for scaling back the original hotel plan to 84 hotel rooms; and adding 140 housing units.

- Construction is almost complete on an additional 66 housing units in the Ma'aleh Ha-Zeytim settlement in East Jerusalem's Ras al-'Amud neighborhood.
- A plan for the construction of a new settlement, Ma'aleh David, in the Ras al-'Amud neighborhood in East Jerusalem was filed for approval with the local planning committee at the Israeli Jerusalem Municipality. The plan, promoted by the settler organization El'ad, calls for the construction of 104 housing units in four and five story buildings, along with a swimming pool, library, synagogue and parking spaces. The settlement is to be built on the land of a former Israeli police headquarters station, which was moved to the E-1 area in May 2008. The settlement is to be connected to the Ma'aleh Zeitim settlement across the road by a foot-bridge.
- Another settlement is planned near the Jaffa Gate in Omar Ibn Khattab Square where 'Ateret Cohanim, a settler organization, alleges that it purchased (illegally??) two hotels from the Greek Orthodox Church and is currently trying to take them over. Israel is attempting to consolidate its control over the square extending from the Citadel through the Armenian Quarter to the Jewish Quarter.
- "Flower Gate" project is a proposal for 21 housing units for settlers and a synagogue on 4 dunums near Burj al-Laqlaq in the northeast corner of the Old City. The Local Planning Committee approved the project but it is still pending with the Regional Planning Committee of the Israeli Ministry of Interior. To date, ten structures have been demolished and six houses received demolition orders in the area.
- Since November of 2008, Israeli authorities have forcibly expelled four Palestinian families from their home in East Jerusalem, in which they had lived since the 1950s after becoming refugees in 1948. The houses, located in the neighborhood of Sheikh Jarrah, are the first of 28 Palestinian houses designated for eviction to make way for a new settlement known as "Shimon Ha-Tsadiq". A plan for the settlement, consisting of 200 housing units on 18 dunums, has already been submitted to the Jerusalem Local Planning and Building Commission. While Israelis

continue to be permitted to repossess allegedly former Jewish property in East Jerusalem, Palestinians are denied the right to repossess the property they lost after the 1948 war, which is located in West Jerusalem⁸. More recently, some of the Palestinian families in Sheikh Jarrah managed to obtain authentic documents dating back to the Ottoman times debunking the settlers' claim of ownership, and proving that the property belongs to the Palestinian families. Despite that, the Israeli authorities and courts rejected the Palestinians' claims for ownership and thus the threat of evacuation continues to threaten Palestinian families.

- If completed, the new settlement would create geographic contiguity between the Border Police headquarters and the Old City, further severing Palestinian East Jerusalem from the rest of the West Bank.
- In October 2005 a new plan was submitted to the Jerusalem municipality to obtain permission to build a new Jewish settlement consisting of 90 housing units to include six buildings of 8 floors each, as well as a synagogue, a kindergarten and a park for children in the Palestinian neighborhood of Sheikh Jarrah in East Jerusalem. The settlement is slated to be built on the location of the Shepherd Hotel.⁹ If constructed, the Shepherd Hotel will mark a major new Israeli settlement in the heart of a Palestinian neighborhood. The settlement will act as a bridge between the Shimon Ha-Tsadik settlement, the Israeli Police headquarters located nearby and the French Hill settlement.

⁸ In order to prevent Palestinians from gaining the same rights to properties in West Jerusalem, the Israeli government created the Law and Administration Ordinance (5727-1967) to be only applicable to properties in areas conquered during the 1967 war and thus inapplicable for claims in the western areas of Jerusalem. See Uzi Benziman, "Israeli Policy in East Jerusalem After Reunification," ed. Joel L. Kraemer, *Jerusalem: Problems and Prospects*, 1980; see also Sabri Jiryis, "Israeli Law as Regards Jerusalem," ed. Hans Kochler, *The Legal Aspects of the Palestine Problem*, 1981.

⁹ The Shepherd Hotel was built in the 1930's by Hajj Amin Al-Husseini, the Grand Mufti of Jerusalem, to be his family home outside the Old City's Muslim Quarter. Upon his exile by the British, the property fell under their control, where it functioned as a military outpost. During the Jordanian rule, the Mufti's proxy took control of the property and assumed its management whereby he rented it to hoteliers. Thus the home became known as *Shepherd's Hotel*. In 1967, the Hotel, along with the rest of Sheikh Jarrah neighborhood, fell under Israeli occupation. However, the Husseini family continued its control and management of the Hotel until 1985, when possession was, unbeknown to the family, illegally transferred to the Israeli Police Borders. During the same year, it seems that title to the property was transferred to the Israeli Development Authority before it was finally listed on 5 November 1985 in the name of "C &M Properties", a US registered company established by Irving Moskowitz, the well-known American business mogul who has been active in advancing and funding settlements in occupied East Jerusalem.. This information became to known to the Husseini following a letter of inquiry sent by them through their legal counsel to the Israeli Custodian of Absentee Property in 2006.

- In July 2009, the Local Planning Committee of the Jerusalem Municipality issued permits allowing for the destruction of the existing buildings to facilitate the construction of two residential buildings to include 30 housing units and associated amenities.¹⁰ On the last week of June 2010, soil samples were taken from the site in preparation for start of construction. .
- Construction of a new commercial center is to begin in **Silwan**. **El'ad**, a settler organization group, plans to turn the so-called Giv'ati parking, 5 dunums of park located 100 meters south of the Haram al-Sharif compound, into a commercial center that will include underground parking for 400 cars. This center will be connected to the Wailing Wall by tunnels underneath the Old City walls next to the Mughrabi Gate.
- Excavation work is continuing on three tunnels adjacent to the Al-Aqsa Mosque compound (Haram al-Sharif) in the Old City of Jerusalem and the neighborhood of Silwan:
- Underneath the newly established Ohel Yitzhak synagogue, a 100-meter tunnel was completed in the Hammam el-'Ein area of the Muslim Quarter of the Old City towards the western Wall of the Haram compound.
- In addition, excavations have been carried out in the existing Wailing Wall tunnel next to the western wall of the Haram compound which, according to eye witness reports, has resulted in structural damage to several adjacent properties, including the al-Jawaliya School, al-Manjakiya School, Ribat al-Kurd, al-'Othmaniya School and al- Tankaziya School.
- A new 600-meter tunnel is being excavated under 'Ain Silwan Mosque and private Palestinian houses in the Silwan area by the El'ad Foundation, under the supervision of the Israeli Antiquities Authority. The tunnel is to connect Israeli settlers in Silwan with the Haram compound. At present, some 200 meters of the tunnel have been completed, with an additional 400 meters remaining.

Israeli settlements inside Palestinian communities in the Old City and its environs inhabited by radical Jewish settler groups are not only illegal under international law but are extremely provocative. Coerced property takeovers by these settler groups, daily harassment of Palestinians by settlers, and the constant presence of private security forces contribute to a militarization of the conflict and create a Hebron-like scenario where a few Israeli settlers control the movement and development of the majority Palestinian population.

¹⁰ The permits were issued in "C &M Properties" name,

6.3 Settlements Roads and Infrastructure

Large-scale settlement infrastructure projects are also continuing, most notably in and around East Jerusalem. The most prominent of these include:

- Work is continuing on the northern section of the Jerusalem Ring Road (Rd. #20) connecting Pisgat Ze'ev to the western part of Jerusalem via Rd. #404, cutting through Beit Hanina and Hizma before connecting to the eastern ring road via the newly built settler bypass road around 'Anata and az-Z'aim. Most sections of the massive settler road are now complete, with the exception of an 11.5 km-long stretch of the eastern ring road (running southward from az-Z'aim to Sur Bahir, and then westward along the southern edge of Har Homa and Giv'at Ha-Matos settlements).
- Work is ongoing on the first phase of the Jerusalem Light Rail, which is aimed at linking the settlements of Pisgat Ze'ev, Neve Ya'kov and French Hill with West Jerusalem. Construction on the project, which began in 2003, is currently concentrated in the Shu'fat and Sheikh Jarrah areas and the light rail will be tested in the spring of 2010. This work is currently complete.
- Road and infrastructure preparation works also continue in the E-1 expansion area between East Jerusalem and Ma'ale Adumim settlement, particularly in relation to the newly constructed police headquarters in the eastern part of E-1, which was officially inaugurated in May 2008. The new police station, the second to be built inside the E-1 area, replaced the one located in Ras al-'Amud neighborhood, which in turn was handed over to settler groups for their use.

7. *Jerusalem Institutions*

Since the parties renewed their respective commitments under phase one of the Road Map at the Annapolis Conference on 27 November 2007, Israel has failed to implement any of its Road Map obligations including the reopening of the 10 Palestinian institutions in occupied East Jerusalem. In February 2010, Israel's Minister of Internal Security Yitzhak Aharonovich renewed the closure of all 10 Palestinian institutions that were closed in August 2001, including Orient House. Since the closure of these institutions there have been no institutions to provide services to Palestinians in Jerusalem.

Annex II: Jerusalem in Geneva Accord

Article 6 - Jerusalem

1. Religious and Cultural Significance:

- (a) The Parties recognize the universal historic, religious, spiritual, and cultural significance of Jerusalem and its holiness enshrined in Judaism, Christianity, and Islam. In recognition of this status, the Parties reaffirm their commitment to safeguard the character, holiness, and freedom of worship in the city and to respect the existing division of administrative functions and traditional practices between different denominations.
- (b) The Parties shall establish an inter-faith body consisting of representatives of the three monotheistic faiths, to act as a consultative body to the Parties on matters related to the city's religious significance and to promote inter-religious understanding and dialogue. The composition, procedures, and modalities for this body are set forth in Annex X.

2. Capital of Two States

The Parties shall have their mutually recognized capitals in the areas of Jerusalem under their respective sovereignty.

3. Sovereignty

Sovereignty in Jerusalem shall be in accordance with attached Map 2. This shall not prejudice nor be prejudiced by the arrangements set forth below.

4. Border Regime

The border regime shall be designed according to the provisions of Article 11, and taking into account the specific needs of Jerusalem (e.g., movement of tourists and intensity of border crossing use including provisions for Jerusalemites) and the provisions of this Article.

5. Al-Haram al-Sharif/Temple Mount (Compound)

- (a) International Group

- i. An International Group, composed of the IVG and other parties to be agreed upon by the Parties, including members of the Organization of the Islamic Conference (OIC), shall hereby be established to monitor, verify, and assist in the implementation of this clause.
 - ii. For this purpose, the International Group shall establish a Multinational Presence on the Compound, the composition, structure, mandate and functions of which are set forth in Annex X.
 - iii. The Multinational Presence shall have specialized detachments dealing with security and conservation. The Multinational Presence shall make periodic conservation and security reports to the International Group. These reports shall be made public.
 - iv. The Multinational Presence shall strive to immediately resolve any problems arising and may refer any unresolved disputes to the International Group that will function in accordance with Article 16.
 - v. The Parties may at any time request clarifications or submit complaints to the International Group which shall be promptly investigated and acted upon.
 - vi. The International Group shall draw up rules and regulations to maintain security on and conservation of the Compound. These shall include lists of the weapons and equipment permitted on the site.
- (b) Regulations Regarding the Compound
- i. In view of the sanctity of the Compound, and in light of the unique religious and cultural significance of the site to the Jewish people, there shall be no digging, excavation, or construction on the Compound, unless approved by the two Parties. Procedures for regular maintenance and emergency repairs on the Compound shall be established by the IG after consultation with the Parties.
 - ii. The state of Palestine shall be responsible for maintaining the security of the Compound and for ensuring that it will not be used for any hostile acts against Israelis or Israeli areas. The only arms permitted on the Compound shall be those carried by the Palestinian security personnel and the security detachment of the Multinational Presence.
 - iii. In light of the universal significance of the Compound, and subject to security considerations and to the need not to disrupt religious worship or decorum on the site as determined by the Waqf, visitors shall be allowed access to the site. This shall be without any discrimination and generally be in accordance with past practice.
- (c) Transfer of Authority

- i. At the end of the withdrawal period stipulated in Article 5/7, the state of Palestine shall assert sovereignty over the Compound.
- ii. The International Group and its subsidiary organs shall continue to exist and fulfill all the functions stipulated in this Article unless otherwise agreed by the two Parties.

6. The Wailing Wall

The Wailing Wall shall be under Israeli sovereignty.

7. The Old City

(a) Significance of the Old City

- i. The Parties view the Old City as one whole enjoying a unique character. The Parties agree that the preservation of this unique character together with safeguarding and promoting the welfare of the inhabitants should guide the administration of the Old City.
- ii. The Parties shall act in accordance with the UNESCO World Cultural Heritage List regulations, in which the Old City is a registered site.

(b) IVG Role in the Old City

i. Cultural Heritage

1. The IVG shall monitor and verify the preservation of cultural heritage in the Old City in accordance with the UNESCO World Cultural Heritage List rules. For this purpose, the IVG shall have free and unimpeded access to sites, documents, and information related to the performance of this function.
2. The IVG shall work in close coordination with the Old City Committee of the Jerusalem Coordination and Development Committee (JCDC), including in devising a restoration and preservation plan for the Old City.

ii. Policing

1. The IVG shall establish an Old City Policing Unit (PU) to liaise with, coordinate between, and assist the Palestinian and Israeli police forces in the Old City, to defuse localized tensions and help resolve disputes, and to perform policing duties in locations specified in and according to operational procedures detailed in Annex X.
2. The PU shall periodically report to the IVG.
3. Either Party may submit complaints in relation to this clause to the IVG, which shall promptly act upon them in accordance with Article 16.

(c) Free Movement within the Old City

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.

(d) Entry into and Exit from the Old City

- i. Entry and exit points into and from the Old City will be staffed by the authorities of the state under whose sovereignty the point falls, with the presence of PU members, unless otherwise specified.
- ii. With a view to facilitating movement into the Old City, each Party shall take such measures at the entry points in its territory as to ensure the preservation of security in the Old City. The PU shall monitor the operation of the entry points.
- iii. Citizens of either Party may not exit the Old City into the territory of the other Party unless they are in possession of the relevant documentation that entitles them to. Tourists may only exit the Old City into the territory of the Party which they possess valid authorization to enter.

(e) Suspension, Termination, and Expansion

- i. Either Party may suspend the arrangements set forth in Article 6.7.iii in cases of emergency for one week. The extension of such suspension for longer than a week shall be pursuant to consultation with the other Party and the IVG at the Trilateral Committee established in Article 3/3.
- ii. This clause shall not apply to the arrangements set forth in Article 6/7/vi.
- iii. Three years after the transfer of authority over the Old City, the Parties shall review these arrangements. These arrangements may only be terminated by agreement of the Parties.
- iv. The Parties shall examine the possibility of expanding these arrangements beyond the Old City and may agree to such an expansion.

(f) Special Arrangements

- i. Along the way outlined in Map X (from the Jaffa Gate to the Zion Gate) there will be permanent and guaranteed arrangements for Israelis regarding access, freedom of movement, and security, as set forth in Annex X.
 1. The IVG shall be responsible for the implementation of these arrangements.
- ii. Without prejudice to Palestinian sovereignty, Israeli administration of the Citadel will be as outlined in Annex X.

(g) Color-Coding of the Old City

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

(h) Policing

- i. An agreed number of Israeli police shall constitute the Israeli Old City police detachment and shall exercise responsibility for maintaining order and day-to-day policing functions in the area under Israeli sovereignty.
- ii. An agreed number of Palestinian police shall constitute the Palestinian Old City police detachment and shall exercise responsibility for maintaining order and day-to-day policing functions in the area under Palestinian sovereignty.
- iii. All members of the respective Israeli and Palestinian Old City police detachments shall undergo special training, including joint training exercises, to be administered by the PU.
- iv. A special Joint Situation Room, under the direction of the PU and incorporating members of the Israeli and Palestinian Old City police detachments, shall facilitate liaison on all relevant matters of policing and security in the Old City.

(i) Arms

No person shall be allowed to carry or possess arms in the Old City, with the exception of the Police Forces provided for in this agreement. In addition, each Party may grant special written permission to carry or possess arms in areas under its sovereignty.

(j) Intelligence and Security

- i. The Parties shall establish intensive intelligence cooperation regarding the Old City, including the immediate sharing of threat information.
- ii. A trilateral committee composed of the two Parties and representatives of the United States shall be established to facilitate this cooperation.

8. Mount of Olives Cemetery

- (a) The area outlined in Map X (the Jewish Cemetery on the Mount of Olives) shall be under Israeli administration; Israeli law shall apply to persons using and procedures appertaining to this area in accordance with Annex X.
 - i. There shall be a designated road to provide free, unlimited, and unimpeded access to the Cemetery.
 - ii. The IVG shall monitor the implementation of this clause.
 - iii. This arrangement may only be terminated by the agreement of both Parties.

9. Special Cemetery Arrangements

Arrangements shall be established in the two cemeteries designated in Map X (Mount Zion Cemetery and the German Colony Cemetery), to facilitate and ensure the continuation of the current burial and visitation practices, including the facilitation of access.

10. The Western Wall Tunnel

- (a) The Western Wall Tunnel designated in Map X shall be under Israeli administration, including:
 - i. Unrestricted Israeli access and right to worship and conduct religious practices.
 - ii. Responsibility for the preservation and maintenance of the site in accordance with this Agreement and without damaging structures above, under IVG supervision.
 - iii. Israeli policing.
 - iv. IVG monitoring
 - v. The Northern Exit of the Tunnel shall only be used for exit and may only be closed in case of emergency as stipulated in Article 6/7.
- (b) This arrangement may only be terminated by the agreement of both Parties.

11. Municipal Coordination

- (a) The two Jerusalem municipalities shall form a Jerusalem Co-ordination and Development Committee ("JCDC") to oversee the cooperation and coordination between the Palestinian Jerusalem municipality and the Israeli Jerusalem municipality. The JCDC and its sub-committees shall be composed of an equal number of representatives from Palestine and Israel. Each side will appoint members of the JCDC and its subcommittees in accordance with its own modalities.
- (b) The JCDC shall ensure that the coordination of infrastructure and services best serves the residents of Jerusalem, and shall promote the economic development of the city to the benefit of all. The JCDC will act to encourage cross-community dialogue and reconciliation.
- (c) The JCDC shall have the following subcommittees:
 - i. A Planning and Zoning Committee: to ensure agreed planning and zoning regulations in areas designated in Annex X.
 - ii. A Hydro Infrastructure Committee: to handle matters relating to drinking water delivery,

drainage, and wastewater collection and treatment.

- iii. A Transport Committee: to coordinate relevant connectedness and compatibility of the two road systems and other issues pertaining to transport.
- iv. An Environmental Committee: to deal with environmental issues affecting the quality of life in the city, including solid waste management.
- iv. An Economic and Development Committee: to formulate plans for economic development in areas of joint interest, including in the areas of transportation, seam line commercial cooperation, and tourism.
- v. A Police and Emergency Services Committee: to coordinate measures for the maintenance of public order and crime prevention and the provision of emergency services;
- vii. An Old City Committee: to plan and closely coordinate the joint provision of the relevant municipal services, and other functions stipulated in Article 6/7.
- viii. Other Committees as agreed in the JCDC.

12. Israeli Residency of Palestinian Jerusalemites

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.

13. Transfer of authority

The Parties will apply in certain socio-economic spheres interim measures to ensure the agreed, expeditious, and orderly transfer of powers and obligations from Israel to Palestine. This shall be done in a manner that preserves the accumulated socio-economic rights of the residents of East Jerusalem.