

Introduction

Since the signing of the Declaration of Principles (DOP) by the PLO and the Israeli government on 13 September 1993, and the establishment of the Palestinian National Authority (PNA) in the Gaza Strip and Jericho Area, the issue of Jerusalem has increasingly become the focal point of negotiations between the two. Jerusalem has become the issue *par excellence* on which the success or failure of Palestinian-Israeli peace depends. Both Israel and the PLO are making Jerusalem the yardstick by which the truthful implementation of the DOP and the Gaza-Jericho Agreement is measured. At the same time, both Israel and the PLO have totally different viewpoints and policies towards the city.

For the Palestinian side, Jerusalem is the capital of the as yet uncreated State of Palestine, which was declared by the Palestine National Council (PNC) on 15 November 1988. In that session, the PNC also accepted two United Nations resolutions as the basis for a just, permanent and comprehensive settlement. The first was General Assembly Resolution 181 (III) of 1947, better known as the partition resolution, by which Palestine was partitioned into two states, Arab and Jewish. The second resolution accepted by the PNC was Security Council Resolution 242, which *inter alia*, reiterates the inadmissibility of the acquisition of territory by force and calls for a just, comprehensive and lasting peace in the area and for the withdrawal of Israel from (the) territories occupied in the course of the 1967 June war.

The PLO - which until that PNC session rejected Resolution 242 because it calls for the withdrawal of Israel only from (the) territories occupied in 1967 - changed its position on

the resolution and accepted it as the basis for a just, comprehensive and permanent solution to the Middle East conflict. The resolution also became the basis of the American initiative proposed by President George Bush in March 1991 in the aftermath of the Gulf War. That initiative was based on the concept of land for peace and the implementation of Security Council resolutions 242 and 338. The invitation to the Madrid Peace Conference of 18 October 1991 states that both the just, lasting and comprehensive peace as well as the permanent status negotiations "will take place on the basis of Resolutions 242 and 338".

Resolution 242 was a central issue in the negotiations between the PLO and Israel. Both sides accepted in Article I of the DOP that the permanent settlement will be based on Security Council Resolutions 242 and 338. Equally important in this regard is that the DOP states in Article IV that the occupied Palestinian territories of the West Bank and the Gaza Strip constitute "a single territorial unit, whose integrity will be preserved during the interim period." The relationship between the stipulations of Resolution 242 and that of the DOP with regard to Jerusalem is therefore very clear: The resolution calls upon Israel to withdraw from the territories it occupied in the June 1967 war, including East Jerusalem, and the DOP considers the occupied territories as "a single territorial unit".

The Palestinian position on Jerusalem is also supported by the American position as expressed in the letter of assurances from the US Administration to Palestinian negotiators. The principles in US foreign policy towards the issue of Jerusalem were stated clearly:

"The US understands how much importance Palestinians attach to the question of East Jerusalem. Thus we want to assure you that nothing Palestinians do in choosing their delegation members in this phase of the process will affect their claim to East Jerusalem or be prejudicial or precedential to the outcome of the negotiations.

The US is opposed to the Israeli annexation of East Jerusalem and extension of Israeli law on it and the extension of Jerusalem's municipal boundaries. We encourage all sides to avoid unilateral acts that would exacerbate local tension or make negotiations more difficult or preempt their final outcome.

The US believes that Palestinians of East Jerusalem should be able to participate by voting in elections of an interim governing authority. The US further believes that Palestinians from East Jerusalem and Palestinians outside the Occupied Territories who meet the three criteria should be able to participate in the negotiations on final status. The US supports the right of Palestinians to bring any issue including East Jerusalem to the table.

The US believes that no party should take unilateral actions that seek to predetermine issues that can only be reached through the negotiations. In this regard the US has opposed and will continue to oppose settlement activity in territories occupied in 1967 which remain an obstacle to peace.¹"

¹ *Mideast Mirror*, October 24, 1991.

The PLO position on Jerusalem is also supported by the United Nations. Following the occupation of the West Bank and the Gaza Strip, East Jerusalem was annexed by Israel, which embarked on a policy of Judaisation aimed at changing the demographic character of the city. All these measures were condemned by the United Nations. In resolution after resolution, the General Assembly and the Security Council of the United Nations have declared all measures taken by Israel to change the status of Jerusalem null and void. Security Council Resolutions 252 of 1968 and 271 of 1971 attest to that position. Nor did the United Nations accept the Israeli Basic Law on Jerusalem of 1980 by which Israel reaffirmed its annexation of East Jerusalem and declared it to be its capital. In Security Council Resolution 476 of 1980, the Security Council rejected the Israeli Basic Law and, in the same year, Resolution 478 called on states that have diplomatic missions in Jerusalem to move them out of the city. This is a doubly important resolution because the Security Council included West Jerusalem, occupied in 1948, within its domain of action. There were no foreign diplomatic missions accredited to Israel in East Jerusalem. The non-Arab consulates general in East Jerusalem which were there before the war of 1967 continued in their work after the war with a changed mandate, dealing with the Palestinian population with an autonomous status vis-a-vis their respective embassies and ambassadors in Tel Aviv, *the capital of Israel*. Hence, Resolution 478 (1980) questions even the Israeli position in and on West Jerusalem.

The United Nations General Assembly added in its resolution 35/169E of 15 December 1980 another element to resolution 478 (1980), by which it also rejected the Israeli Basic Law on Jerusalem and confirmed Resolution 478 (1980). The element

added was that the General Assembly not only considered the Israeli action a violation of international law but also that it did not excuse Israel from the application of the Fourth Geneva Convention on Jerusalem.

Since then, the question of the applicability of the Fourth Geneva Convention to the Palestinian territories occupied by Israel since 1967, including East Jerusalem, has become an overriding theme in United Nations resolutions. This was reaffirmed in Resolution 672 of 1990, adopted on 12 October 1990 following the acts of violence committed by Israeli forces against Palestinian worshippers in *al-Haram al-Sharif* in East Jerusalem. Resolution 681 of 20 December 1990 specifically included East Jerusalem as part of the occupied Palestinian Territories that are also covered by the Fourth Geneva Convention.

More recently, following the massacre perpetrated by a Jewish extremist at the Holy Ibrahimi Mosque in Hebron on 25 February 1994, the adoption of Resolution 904 was delayed for 22 days in an attempt by the US Administration and Israel not to mention East Jerusalem as part of the occupied Palestinian territories. Finally, the US forced a vote by paragraph on the resolution in order not to vote on the paragraph that included East Jerusalem. Nevertheless, the resolution was passed, reaffirming that East Jerusalem is part of the Occupied Palestinian Territories, with the US abstaining on that paragraph.

It is hence clear that international legitimacy favours the Palestinian side on the issue of East Jerusalem. Yet Israel continues actions on the ground in order to create new *faits accomplis* in Jerusalem in the hope that these changes will

foreclose any attempt by the Palestinian side to demand its share in Jerusalem. The main mechanism in the hands of Israel is legal actions, typically using security as a pretext. This includes confiscation of Palestinian land and establishing settlements thereon in Jerusalem.

The area of the city of Jerusalem prior to the 1967 war was 6.5 km². After nearly three decades of Israeli occupation, the city has grown to an area of 70.5 km²,² a ten-fold increase. This shows the extent and scope of confiscation of Palestinian land in East Jerusalem that is being carried out by the Israeli occupation authorities. A look at the confiscated Palestinian land in East Jerusalem and the Israeli settlements established on that land, will show that the aim of the Israelis is not only to maintain control of the city, but also to do away with the Arab Palestinian communities in the area by cutting social and economical links between them and by destroying the infrastructure of the Palestinian village.³

Israel has created a *cordon sanitaire* of Israeli settlements around East Jerusalem known as the Ma'ale Adumim bloc, comprised of Ma'ale Adumim itself, Giv'at Adumim, Mashor Adumim, Kfar Adumim, Alon, and Sha'ar Mizrahi. This is the most important and largest bloc of Israeli settlements in the West Bank (including Jerusalem) and the Gaza Strip, extending to the east in the direction of the Jordan Valley, and to the north towards Ramallah. It enables Israel to encircle Jerusalem from the east: Israel hopes to settle

² Khalil Tufakji, *How did they settle in Jerusalem? The Judaisation of Jerusalem, Facts and Figures*, Jerusalem: Arab Studies Society, 1995, unpublished paper, p. 4.

³ Tufakji, *Settlements in the West Bank: Aims and Results*. (Arabic). Jerusalem: Arab Studies Society, 1995, p.2.

around one million Israelis in the greater Jerusalem area by the year 2000.⁴

In short, Israel has used its dominating hand in order to cause a tremendous demographic change in East Jerusalem, where it has increased its population from zero Israelis before the war of 1967 to 160,000 at present. 30,000 housing units have been built for Jewish settlers in East Jerusalem in 15 settlements. In comparison, Israel has built only 555 housing units for the Palestinian Arabs in East Jerusalem over the same period. This has turned the Israeli Jewish population into the majority population in East Jerusalem for the first time in history.

Other methods have been used successfully by Israel in order to decide the fate of Jerusalem. The Israeli Government and the Israeli Municipality of Jerusalem have used various devious methods in order to facilitate the confiscation of Palestinian land and property in the Holy City. Under the pretext of developing Arab villages or neighbourhoods, the Israelis developed a "master plan" for the city. This was used to strangle the Arab presence in the city, limit and control Palestinian construction and housing plans, and prevent population increase among Palestinians.

This mechanism of control was used to prevent natural expansion of the area of Palestinian villages or neighbourhoods. Israel does not allow Palestinian communities to expand horizontally (beyond the borders of the village or city, town or neighbourhood) or vertically

⁴ *Ibid.*, p. 2.

(more than four stories, whereas in Israel eight stories are allowed for residential purposes). Second, these villages or neighbourhoods are liable to find themselves surrounded by Israeli settlements, further preventing expansion or communication with other Palestinian villages and neighbourhoods. This has severe economic and social effects on the Palestinian community.

Third, Israel has declared certain areas as 'green areas' for public use. This should include Palestinian neighbourhoods. However, when Israeli neighbourhoods need expansion, Palestinian green areas are put at their disposal.⁵ In addition, the Israelis have encouraged Palestinian land owners to sell their property by levying exorbitant taxes.

By all these means Israel has been able to take control of what amounts to more than 23% of the total area of Jerusalem over the last 27 years, while the Palestinian population has struggled to maintain only 4% of the area of the city.⁶

As Israeli redeployment from areas of the West Bank drew nearer, in accordance with the Oslo, Cairo and Taba agreements, the Israeli authorities developed new methods to tighten their grip on Jerusalem. These methods meant the confiscation of more Palestinian land in the West Bank and Jerusalem. Israel developed by-pass roads under the pretext of providing security for Israeli settlements and settlers. The aim of these by-pass roads is to link Israeli settlements,

⁵ Tufakji, *How did they settle in Jerusalem?*, pp. 5-6.

⁶ *Ibid.* p. 7.

making it unnecessary for settlers to use roads used by the Palestinian population.

This policy reinforced the isolation of Jerusalem from the West Bank. Israel built a major by-pass road around Jerusalem, starting in the settlement of Beit El to the north of the city, going then eastwards across many Arab Palestinian villages to the settlement of "Vered Yeriho" at the outskirts of Jericho. This by-pass road closes Jerusalem from the north. Another section of the road goes west to the Modi'in settlement established on the Palestinian village of Latrun. From there the road crosses the green line near Bet Shemesh and then heads southwards towards the Palestinian villages of Sourif and Beit Ummar in the Hebron district, returning northwards in the direction of Bethlehem and from there eastwards towards Ma'ale Adumim, and Vered Yeriho, completing the circle around Jerusalem.⁷

The dangers emanating from the Israeli policy of encircling Jerusalem are very clear. Israel aims to exclude the Palestinian people and any of their official or non-official representations from Jerusalem. Faisal Husseini, responsible for the Jerusalem file in the PNA, summarised Israeli policy as having three aims:⁸

1. *To cause Palestinian institutional identity, activity and presence in the Holy City to wither away.*

Israel forces the citizens of the city to deal only with the Israeli institutions. This makes the Palestinian

⁷ Statement made by Dr. Ibrahim al-Fanni, published in *Wafa*, 3 August 1995, p. 8-9.

⁸ This point was made in a conversation with the author. Husseini has also made his position very clear in public statements. See his statement at the meeting of the Arab Thought Forum in Jerusalem, *al-Quds*, 7 September 1995, p. 4.

population of the city accustomed to not dealing with the Palestinian institutions in the city. This in turn will obstruct and lead to the cessation of the work of these institutions and their eventual closure.

2. To isolate the city from its Palestinian milieu by detaching it from Palestinians living around the city and from the Palestinian community at large:

The military check-points which Israel has installed at the entrances of the city prevent any Palestinian from entering the city unless he or she is a holder of an Israeli identity card or a permit to enter the city. Palestinians from other parts of Palestine have no opportunity at all - except if by luck they are allowed to come to pray on a Friday or a Sunday - to make any transactions in the city. This makes Palestinians living outside the city accustomed to carrying out their business outside Jerusalem. Simultaneously, this policy also will make Jerusalemites accustomed to living without daily contact with the Palestinian community outside the city. Commerce and trade in the city has to look for new markets in Israel itself and for new customers in the city rather than the Palestinians from the surrounding neighbourhoods.

3. To isolate the city internationally:

This means making the international community accustomed to dealing with the Palestinians without Jerusalem and to dealing with Jerusalem as the Israelis dictate: a city dominated by Israel and whose fate is decided by Israel. Many countries unfortunately have started to bend to Israeli

pressure, such as by canceling visits to Orient House by foreign dignitaries visiting Jerusalem.

More recently, Israel has adopted further measures against the Palestinian presence in the city, described by an Israeli journalist as the "policy of twisting arms".⁹

This policy is manifested in the following ways:

- 1.) The Israeli decision to confiscate 530 acres of land from Palestinians in Jerusalem in May 1995, which was faced with total rejection by the PNA, the Arab Governments, the Islamic Countries, the Non-aligned Countries and the United Nations. President Yasser Arafat quickly and decisively pre-empted any Israeli execution of the confiscation orders.

Faced with the threat of suspension of the peace process with the Palestinians, the recalling of the Jordanian Ambassador in Tel Aviv for consultation, a meeting of the Jerusalem committee, a summit of the Islamic countries, and a decision by the UN, Israel found itself obliged to suspend - but not to annul - its decision to confiscate these lands.

- 2.) The attempts by Israelis to settle, with the connivance of the Israeli Government, two hills in the Bethlehem area. This met with protests by Palestinians everywhere. Clashes between settlers and Palestinians at the site forced the Israeli

⁹ Gideon Levi, "The Conflict over Emblems", *Ha-aretz*, 3 September 1995, as published in Arabic in *Wafa: Digest of the Israeli Press*, 5 September 1995, pp. 4-6, quotation is taken from p. 6.

Government to deploy its police force to control the situation and evict the settlers. The Israeli government, however, promised the settlers another piece of land nearby.

- 3.) The demand by the Israeli Jerusalem Municipality that Palestinian schools in East Jerusalem should not use the emblem of the PNA on their text-books. The Palestinian side agreed to put white labels over the emblem.

- 4.) The campaign launched in Israel against the Palestinian institutions in the Holy City. This was a clear demonstration of the Israeli aim of domination of the city and its feverish attempts to exclude the PLO/PNA from the city. Israel's policy is a gross violation of the commitments made by Shimon Peres in his letter to the late Norwegian Minister of Foreign Affairs Holst supporting the work of Palestinian institutions in the city. In contravention of these commitments, Israel escalated its campaign at all levels:

At the municipal level, Likud Mayor Ehud Olmert actively sought to hamper the activities of Palestinian institutions. He was joined by rightist politicians on the national level, such as Sharon and Netanyahu, as well as by the settler movement. There were even cases in which the government itself took official action to contribute to the campaign. For instance, Police Minister Moshe Shahal prepared a law to close down all Palestinian institutions in the city that he claimed

represented, functioned as part of, or were funded by the PNA. Shahal's policy met protests from Palestinian institutions in Jerusalem, PNA officials, and even some Israeli officials and organisations who questioned the legality and logic of such a move. In the final analysis, the list of "suspected" institutions came down to three: Orient House, the Palestinian Health Council and the Palestinian Bureau of Statistics. A *modus vivendi* was achieved with the three institutions, and the Israeli minister suspended his legal action.

- 5.) The celebrations for "Jerusalem 3000", which are an absurd example of rewriting of history. Israel decided unilaterally to celebrate the anniversary of 3000 years of the alleged establishment of the city of Jerusalem by King David. For this purpose Israel organised the celebrations under the pretext that the event is a cultural one where all religions and walks of life can coexist and participate. Yet the lie was too big to be accepted, even among the friends of Israel. Jerusalem was not established by King David. It predates King David by at least two thousand years. Jerusalem was established by the Canaanites, whose king gave Jerusalem its name. The European Union decided to boycott the festivities so as not to fall into any political trap set by the Israelis. Their presence at the Israeli festivities would have been interpreted by the Arab and Palestinian sides as siding with the Israelis on the question of Jerusalem, hence they would be accused of taking a position on the future of the city before the start of the final status negotiations

between the Israelis and Palestinians. The Christian churches in the city decided to boycott the festivities for similar reasons. The PNA, Palestinian institutions, and public and private figures spoke vehemently against these festivities and called for a boycott.

Israel was angry that this "cultural" event was boycotted by its friends. The Israeli daily *Yediot Achronot* was clear in condemning the boycott. It praised those who attended the celebrations and threatened those who boycotted them with having "to pay the price in the days to come".¹⁰

Many Israelis did not miss the true intentions of the Israeli government. A leading Israeli columnist and peace activist, Uri Avneri, wrote frankly that,

"the event is not for reconciliation. It is an attempt at spiritual occupation, and civilisational usurpation. It is an attempt to suppress half of the people who are not part of the celebrations... These are celebrations to convince ourselves and the world that Jerusalem is Jewish only... It aims at falsifying history, stealing away the civilisations that left their imprint on Jerusalem and to destroy the peace process".¹¹

In short, had Israel succeeded in making these celebrations a success, it would have created

¹⁰*Yediot Achronot*, 5 September 1995, as translated in *Wafa, Digest of the Israeli Press*, 5 September 1995, p. 2.

¹¹Uri Avneri, "Jerusalem the 3000", reprinted as the editorial of *Wafa, the Palestine News Agency Bulletin*, see *Wafa*, 5 September 1995, p. 2-4.

another *fait accompli* in Jerusalem by which it would have unilaterally influenced the fate of the city before the start of the final status negotiations with the PLO/PNA. These celebrations constituted a further contradiction of the spirit of peace and reconciliation as well as a violation of the letter of assurances and the Oslo Agreement.

These Israeli policies have to be checked and changed if Israel wants peace with the Palestinians and the Arab world, and if Israel wants to be accepted as a state in the region and not an outside imposition. Without Jerusalem there can be no peace. Recent negotiations on Hebron amply show how difficult it is to arrive at a compromise solution to sensitive and emotion-laden issues. The negotiations on Hebron stand as an alarm to what we should expect to face when the time comes to discuss the situation in Jerusalem.

Effective immediately, the PNA and all those who want peace in the region, should bring about a freeze of any action by Israel aimed at changing the demographic, political, social, cultural and economic character of Jerusalem. Needless to say, political pressure and international lobbying should be used to achieve that end.

The PNA should start a reform programme to rectify the damage to the Palestinian society caused by Israeli policies during the long years of domination and occupation. This reform programme can be carried out in two phases: in the short term, to rectify immediate needs, and in the long term, to formulate a master plan for Jerusalem. In this regard, the creation of a Jerusalem Fund is appropriate. The aim of such a fund should be similar to that of the Holst Fund, and should

help cover the operating costs and the budget of Palestinian institutions in Jerusalem. Support for such a fund should be from the PNA, the Arab countries and the donor community at large. For that purpose, Palestinian institutions in Jerusalem should present their programmes of action for Jerusalem and the needs of the people they serve.

The PNA should be able to immediately present and represent the needs of the Jerusalemites in any negotiations with Israel, particularly the following:

1. An Israeli commitment to respect the pledges made by Peres in his letter to Holst on the freedom of operation of Palestinian institutions in Jerusalem.
2. An Israeli commitment to facilitate the work of Palestinian institutions in Jerusalem such as:
 - allowing free access to these institutions by their staff, especially if they come from other parts of Palestine.
 - guaranteeing financial resources for these institutions, for example by allowing hospitals, clinics and doctors to make use of the Palestinian social services, medical care and health insurance.
3. Reimbursing all financial expenditure made by these institutions for Palestinian needs by the PNA.
4. An Israeli commitment to transfer funds collected as taxes from Jerusalemites back to the Jerusalem

Fund or any other Palestinian financial authority responsible for Jerusalem.

5. An Israeli commitment to lift the siege imposed on Jerusalem and remove the check points at the entrances of Jerusalem. This is in the interest of peace, coexistence and building bridges between the two peoples. Free access to the city and freedom of movement in and out of the city are necessary in that process.
6. Israel needs to act decisively against the rising tide of Jewish fundamentalism and extremism in the Jerusalem area, especially in that these threaten the peace of Palestinian society, individuals and groups. Israel should be able to prevent their provocations and disturbances of the peace of the city, and to curb and defeat the blackmailing policies and practices of the extremists.

The above is a brief introduction to outline the unilateral Israeli policies affecting the fate and future of Jerusalem in spite of agreements reached with the PLO/PA. The coming chapters deal with the major topics that have characterised the conflict over Jerusalem recently, namely since the return of President Yasser Arafat to Palestine.

