

# Jerusalem Issues and the Final Status Negotiations

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## **Introduction: The Historical Heritage**

As the new millennium dawns upon Jerusalem, the land and the people of central Palestine remain as a pulse within the minds and souls of Palestinians and Arabs, Muslims and Christians wherever they may be. To her people Jerusalem represents a powerful, living lesson; a source of pride, an escape from the misfortunes of time, an embodiment of the realities of everyday life, the point of reference upon which the legitimacy of their rights is based, as well as the basis of both the Palestinian Identity and that of the larger Arab people. The following ten points briefly summarize the city's historical journey through these minds and souls.

1. In the 7<sup>th</sup> century AD, Caliph Omar Ibn Al Khattab entered Jerusalem and, surrendering to its holiness, legislated with Bishop Safronius a rule concerning the protection of the city's citizens known as the 'Pact of Omar'.
2. On October 2, 1187, while the Crusader campaigns were battling for control over the city Salah Eddin Al Ayyubi, through a display of strength and simultaneous negotiations with the Frankish Kings victoriously entered Jerusalem, returning it to Arab rule.
3. The year 1897 marked the advent of the Zionist project in Basal Switzerland; an event followed in 1904 by the creation of the first Zionist 'mission', headed by Theodor Hertzfel. Aware of the hazards of the Zionist movement and the maneuverings of its leaders, the Arabs called upon the Ottoman Empire to prevent mass Jewish immigration to Palestine and to protect the population from the Zionist proposals.
4. In October 1917, in the midst of World War I General Edmond Allenby entered Jerusalem, declaring an end to the "Crusader Wars" and the establishment of the British Mandate, centered in Jerusalem.
5. The first military governor of Jerusalem, Ronald Stors, left his mark upon the city by passing legislation that provided for the maintenance and preservation of the numerous Holy sites. He further prohibited the erection of buildings of more than three stories, thereby preserving the physical face of the city.
6. The Palestinian Nakba of 1948 and the devastating birth of the Jewish state bore no relation to United Nations Resolution 181 (Nov. 29<sup>th</sup> 1947), which called for the establishment of two states; one Jewish and one Arab, and gave Jerusalem the special status of "Corpus Seperatum" with international supervision over the city. The Arabs and the Palestinians (with the exception of Jordan) had rejected the partition plan and the internationalization of Jerusalem. The Zionists, sensing the

obvious advantage of acting unilaterally, played upon the situation by announcing their agreement to the project, achieving international recognition as a Jewish State and then promptly rejecting both the partition plan and the internationalization of Jerusalem.

7. A meeting between Abdullah Al Tal, the Jordanian military governor of Jerusalem from 1948 to 1949, and the Israeli military governor Moshe Dayan led to the "Al Tal-Dayan" understanding, which divided the city in two. East Jerusalem and West Jerusalem were to be separated by a "no man's land" under the supervision of international troops. Though neither party legally recognized the division of the city or the legitimacy of the other's control over any part of it, they lived with the 'de facto' status, waiting for a 'fair solution' to the Israeli-Palestinian conflict and particularly the issue of Jerusalem.
8. Following the war of 1967 Israel proceeded to administer rule over the occupied territories of the Gaza Strip, the West Bank and East Jerusalem, despite international demands that the attack cease and that Israel be made to comply with UN resolution 242, issued that same year. Instead of following the rule of international law, Israel began taking measures to annex and 'Judaize' the eastern portion of Jerusalem along with the rest of the occupied territories.
9. The Intifada, the Palestinian popular uprising that began in 1987, defied Israeli attempts to unify the city under their control and represented the resurgence of Palestinian political, social and cultural identity as an entity utterly separate from the Israeli administration. The Palestinians proved themselves capable of challenging the bullets and the oppressive collective punishments of detainment and closure. The stones of the Intifada redrew the green line as the border between the Palestinians and Israelis in Jerusalem as throughout the occupied territories.
10. The famous Madrid, Washington and Moscow negotiations of 1993, followed by the secret negotiations in Oslo, produced the Declaration of Principles (DoP), based on the formula of 'trading land for peace' alongside the implementation of Security Council resolution 242. Jerusalem was excluded from the transition phase negotiations and delayed as one of the many major issues to be resolved in the final status negotiations, not least because it has fallen under the jurisdiction of international law since the issuing of UN resolution 181 in 1947.

This is the historical heritage that underscores the political dimension when Palestinians and Arabs discuss the question of Jerusalem. These events, their memories and their symbols are difficult to overcome and, therefore, discussing them within the context of such a political dimension provides a greater opportunity to comprehend the painfulness of the present situation. The aim of reaching such comprehension should not be to facilitate acceptance of or surrender to the situation, but rather to motivate the public and the decision-makers to take into consideration the importance of this historical heritage in the final status negotiations regarding Jerusalem.

### **Three Issues:**

***First: Jerusalem is a comprehensive issue that can not be divided***

Jerusalem has its own existence, due to the many major elements present in the life and culture of its people. Therefore it has many characteristics that can not be separated or ignored, including the following:

1. Jerusalem is a historical city, involving heritage, culture, constructions and monuments that require maintenance and protection. International laws and resolutions call for its preservation; for instance, UNESCO lists Jerusalem among those historical cities whose structures ought not to be altered. The history of Jerusalem has become a part of the Palestinian and Arab emotional psyche.
2. Jerusalem is a sacred city, lying at the core of religious belief and faith, home to prophets and the obligations of worship. Due to its holiness Jerusalem is charged with preserving the right and the responsibility of its people to practice their religious beliefs freely, without intervention or constraints that hinder their access to the holy places, and without having to obtain temporary permits.
3. Jerusalem is a political city, and as such is connected to the issue of Palestinian sovereignty, to the people and to their right to define themselves as part of the Palestinian body, participating in governmental, social and political security as well as diplomatic relationships. Palestinians believe that Jerusalem is the capital of their future state.
4. Jerusalem is a central city; it is the largest in Palestine and is the hub around which the most active and influential events in social and cultural Palestinian life revolve. Palestinian national, educational, cultural, informational, health, tourist, professional, commercial and diplomatic organizations are all centered in Jerusalem.
5. Jerusalem is a border city, distinct from neighboring political entities and lies on the north-south axes of the West Bank in the geographical center of Palestine. Its planned borders have varied over the years, but because of this geographical centrality the continuity of the cities and villages of Palestine cannot be maintained without Jerusalem. For example, a person living in Hebron can not reach Nablus without passing through Jerusalem, nor can a person living in Ramallah reach Bethlehem without passing through the same.

### ***The Psychological Aspect: The Fear of the Future***

Jerusalem has been subject to many political circumstances and cumulative de facto measures throughout the years of political struggle, but has never benefited from an acceptable solution agreed upon by any local, regional or international entity. Furthermore, no external party has legalized or legitimized the events and measures that have been imposed upon the city.

The UN resolution of 1947, recommending that Jerusalem be treated as a separate entity under the supervision of a special international system assigned by the UN, has yet to be implemented. The Arab Israeli war of 1948 imposed a line of military truce that divided the city into an eastern part under Arab (Jordanian) control and a western part under Israeli control, separated by a UN supervised No Man's Land. The Israeli-Jordanian truce agreement stipulates that "this agreement should not have any effect over the rights, claims or stands of either party in the final peaceful settlement of the

question of Palestine, as the rules of this agreement are governed by military concerns only". Jerusalem, with its eastern and western sections under contingent and temporary management, is waiting for a political settlement to determine its future.

In 1967 Israel occupied the eastern part of the city, announcing its annexation and the imposition of Israeli rules and regulation. This act stood in defiance of International law based on UN security council resolution 242, which declares the illegitimacy of Israel's occupation of others lands by force and calls on Israel to withdraw from the occupied territories. Throughout the years the citizens of Jerusalem have declared their rejection of this forced annexation and their resistance to the Israeli occupation.

However, Israel forced the Arab citizens of the city to work according to its regulations. The Israelis took a census of the Arab inhabitants in 1967 and distributed blue Israeli ID cards, thereby imposing acceptance of Israeli laws and administration.

On the eve of the final status negotiations, the inhabitants of Jerusalem face many interwoven fears regarding the future of their civil and political life:

- 1st. Jerusalem Citizenship: Will the Palestinians be able to retain their citizenship, to reside, to work and to move about freely as do Israelis, or will they be subject to conditions that constrain this right? For example, under current regulations Jerusalemites who are absent from the city for more than one year lose their right of residency. In addition, Jerusalemites have to prove that their center of life is within the city, or face the same consequence. Will the negotiations result in a future Palestinian-Israeli law that recognizes Jerusalemites' right to national and political affiliation while maintaining justice and equality with Israelis in the city, will they be left unattended by the absence of a Palestinian agenda, or will they remain prisoners of the Israeli laws?
- 2nd. Designs and Projects of Municipal Planning: Both sides fear yielding to the other the power to organize the city and classify its neighborhoods. If two municipalities are to develop within the city, on what basis should such classifications be made, and how would each municipality regulate building, licensing and taxes, among other issues?
- 3rd. Social and Health Services: What will be the future of the services that were provided during the years of the occupation? Will there be a viable alternative, taking into consideration the current high expenses associated with health care?
- 4th. Nationality: 10,000 Palestinian Jerusalemites have obtained an Israeli passport for various reasons, among which is their fear of losing their residency right or failing to prove that their center of life is in Jerusalem, owing to the harsh Israeli rules that govern residency in the city. Other Jerusalemites cite the insecurity of the future Palestinian social and political system, taking into consideration the difficulties that the PNA faces in building a social and political system in the West Bank and Gaza Strip, as their reason for carrying an Israeli passport. This excuse is based on personal gain, as such individuals seek benefits from Israeli organizations and in exchange, concede to accept the imposed circumstances, rather than awaiting future developments. This shortsightedness can be attributed

to the absence of a collective national stand and the absence of a higher political and national authority in the city.

5th. Future Negotiation Scenarios: The Palestinian concerns about what was known as the "Abu Mazen-Beilin agreement" demonstrate the people's lack of confidence in the Palestinian negotiation curriculum. Furthermore, the absence of an opposition and the influential role that such a voice should have on the course of events justifies the public fears of what is being imposed on them as a result of these negotiations. The centralization of many PNA systems in Abu Dis and the increase in the number of committees dealing with the issue of Jerusalem without success further enhances Palestinian concerns.

### **The presence of the "Other" in the issue of Jerusalem**

The interests in and concerns about Jerusalem are not limited to the two parties involved in the struggle. Regional and international parties continuously announce their interest in and position regarding the issue of Jerusalem, and demand that their interests in the holy city be acknowledged and protected.

The Catholic Church, represented by the Pope in the Vatican, signed an agreement with the Israeli government on Dec 30<sup>th</sup> 1993 that ensures each party's recognition of the right of the other to exercise authority. The agreement obliges the two parties involved to uphold this principle of mutual respect, states that the Christian holy places should be protected and affirms that there is mutual interest in encouraging Christian pilgrimage to the Holy Land. The two parties exchanged full diplomatic relations, and the Vatican pledged not to interfere in temporary conflicts, especially those regarding land and borders.

There are many interpretations of the Israel - Vatican Agreement:

- ◀ Is it an Israeli victory and a historical agreement as Shimon Peres declared, or is the importance of this agreement limited to the Vatican's acceptance of Israel as the "de facto authority" in Jerusalem in order to protect Christian holy places and right of worship in the city? The later interpretation implies that the agreement neither minimizes Palestinians' rights nor recognizes Israeli sovereignty in Jerusalem.
- ◀ Is the issue of 'religious affiliation' a matter that can be divided among the three religious groups? Is it separate from political affiliation, or is Palestinian identity the basis for Islamic-Christian cohesion, resulting in Palestinian sovereignty without the distinction and segregation of political and religious affiliation?
- ◀ Will the position of this external party affect the climate and context of the Palestinian-Israeli negotiations over Jerusalem, and should it?

Based upon this agreement and the questions it raises, a Palestinian delegation negotiated with the Vatican and, in 1994 formulated an agreement that organizes the nature of relations between the two parties. This agreement explicitly details the political, religious and civil aspects of relations between the Vatican and the Palestinian state, as well as the position of the Catholic church regarding the question

of Jerusalem and the holy places, the final status agreement and the development of Islamic -Christian ties in Jerusalem and throughout the Holy Land.

In 1994, Jordan and Israel signed an accord in Washington that included articles of the peace agreement between the two states. This accord calls for Israeli respect and commitment to the special role Jordan played in protecting the Islamic holy places in Jerusalem. Furthermore, it promises that when the final negotiations start, Israel will give special consideration to this historic role.

Despite the contradictory Jordanian political and media statements concerning these articles, and despite the declaration that Jordan is ready to transfer its power of attorney over the holy places to the Palestinians when they are capable of handling such a responsibility, the issue has not yet been resolved. The Israeli side continues to utilize these articles when it finds them suitable to its needs, while the absence of Arab coordination only widens the gap between Jordan and Palestine.

### **First Issue: Sovereignty**

Sovereignty is one of the central issues that will decide the future of the Palestinian State and the future of Jerusalem in particular. It is useful at this point to review the various definitions of sovereignty as mentioned in theory, as well as the position of International law and experiences from reality.

The first definition of sovereignty is the divine power represented by God, and some people still believe that sovereignty in Jerusalem belongs to God. The second definition holds that sovereignty is part of the character of the king, and the source of his authority and power is his claim to represent God's will on earth. The third definition of sovereignty evolved with the transfer of power from the king to the public, and defines a system under which the people practice sovereignty through their elected government. The inseparable bond between the concept of sovereignty, its practice and the right of self-determination evolved at this stage. Self-determination is the basis of all rights and equality, and the practice of these rights includes freedom, human dignity and the right to defend oneself.

In the view of international relations, sovereignty remains the burden that governs the nature of relationships between countries. Sovereignty in international affairs means that the state is capable of providing for itself, and also that the state can limit its capabilities and responsibilities when it decides. With the founding of the League of Nations, followed by the United Nations and various international organizations, the concept of sovereignty became ingrained in international affairs and international law, which have since governed and organized relationships among sovereign countries.

In practice, attempts to establish sovereignty failed in both Danzig Germany and Trety Italy. The city of Tanja succeeded in achieving partial economic self-determination between 1923-1956, after which sovereignty returned to Morocco.

In Jerusalem, no party has ever attempted to implement the special system under international supervision "Corpus Seperatum" as per the 1947 UN resolution. Furthermore, the UN failed in 1950 to impose the external custodial council to run the city independent of the two states. Instead, the Palestinian - Israeli conflict continues.

Sovereignty may take any of the following forms:

1. Exclusive Sovereignty implies that one state enjoys absolute sovereignty by imposing its political and civil regulations over the land and the people.
2. International Sovereignty can be achieved if the state, as represented by the government, and the people together delegate sovereignty to an international committee. The international committee, represented by a 'custody council' or 'special committee', will exercise political and civil control over the land and its people.
3. Shared Sovereignty involves a situation in which two states share in the process of exercising their political and civil authority over the city by management of geographical sectors and neighborhoods divided between them, with the possibility of joint management of specific neighborhoods.
4. Functional Sovereignty is achieved when two states concede some of their claims and demands to the other without discussing the issue of sovereignty. After such unofficial distribution they agree on a package of functional and vital services for the city such as water, electricity, transportation, education, health, taxes, tourism, economy, planning and organization. They then agree to divide this package into two parts, the first of which includes central services that they jointly control and the second those services that each party implements independently.
5. Joint Sovereignty over one city is achieved when the parties involved reach an agreement that establishes a system for joint management of the city through cooperative organizations based on justice and equality.

The need for sovereignty does not aim at controlling the life or the future of the people, but rather at providing for civil and cultural evolution of the society to ensure justice, equality and freedom of the people in a legal and cultural frame.

The exclusive sovereignty of the Jewish State over Jerusalem is not reasonable, not practical and is rejected by a majority of governments. It is not acceptable to the Palestinians, and does not aid the process of resolving the Palestinian - Israeli conflict. The Palestinians do not claim or seek exclusive sovereignty over all of Jerusalem, because such a maximalist approach does not indicate a will to find means of co-existence between the two parties. Israel's claim that Jerusalem is the eternal undivided capital of Israel not only disrespects the rights of other parties, but is a violation of UN security council resolutions and other international and regional conferences since the beginning of the Palestinian - Israeli conflict.

Internationalization of sovereignty over Jerusalem has failed. From the very beginning the two parties involved rejected the idea of internationalization, for each harbors a basic need to declare the city to be the capital of its state and its people.

Functional and joint sovereignty can be combined in the frame of shared sovereignty, where both the Israelis and the Palestinians agree to a bilateral and separate sovereignty over the city by declaring it the capital of both states. This arrangement

necessitates that both have the ability to exercise their political, legal and civil powers over part or a collection of parts and neighborhoods in the city after agreeing to two major points:

1. Citizens may amend the mistakes of previous Israeli practices.
2. The 'map of Jerusalem' must be redrawn, and the area and the border lines of the city that will become the borders between the Palestinian and Israeli states must be delineated.

## **Second Issue: Religious Belief**

Jerusalem enjoys a unique religious status that distinguishes it from any other city in the world. This religious bond created rights, interests and relationships for the followers of the three faiths in Jerusalem and elsewhere in the world.

Muslims call Jerusalem 'Bayt Al-Maqdes', which means the Holy House, and it is mentioned in both the Qur'an and the Sunnah. Al-Quds in Islam refers to everything sacred and related to God. The Qur'an acknowledges and respects Christianity and Judaism, and considers the Torah, the Bible and the Qur'an to all be the words of God.

Jerusalem is one of the major cities that helped the Arabs shape their monotheistic religious identity. It also symbolizes the connection between Islam and the Jewish and Christian religions.

As for the holy places, the Qur'an marks Al-Aqsa Mosque (Al-Haram Ash-Sharif) as the third most holy place in Islam after Mecca and Medina. Jerusalem was the first Qiblah for prayer for the first sixteen months of Islam, and the Prophet Muhammad reminded the believers of its holiness when he associated it with Mecca and Medina in his Hadith.

Jerusalem is considered to be a symbol of prophecy, beginning in the days of Abraham with the story of the sacrifice that Muslims remember each year in Al-Adha Feast. Furthermore, the nocturnal journey of prophet Muhammad (Al-Isra' w Al Mi'raj) in which he traveled from Mecca to Al-Aqsa mosque and then to the sky to receive the second pillar of Islam indicates that God can reach all people in any part of the world, but the road upon which man can reach God should pass through Jerusalem.

In the Christian Perspective, Jerusalem is the mother of all churches because it is the city where Jesus experienced most of the events of his life. The Holy Sepulchre church marks the resurrection of Jesus Christ, and Jerusalem is the capital of the Christian doctrine. The Easter week is one of Jerusalem's main yearly events, in which Christians participate in marches and walks inside the wall of the Old City. Easter week begins with Palm Sunday, and after the mass olive branches are distributed as an omen of peace. In the afternoon Christians take part in the traditional yearly procession. On Good Friday, Christians of Jerusalem as well as thousands of pilgrims from all over the world express their mourning and grief as they walk along the Via Dolorosa. On the following day a celebration called the Saturday of Holy Fire



takes place in the Church of the Holy Sepulchre, and commemorates the resurrection of Christ.

Jerusalem symbolizes the church as it symbolizes the human soul, for it is the place of worship. A holy place is the place where God is worshipped by the soul, and there is no place in Jerusalem that is not considered holy for both Muslims and Christians. There are almost 199 Islamic cultural places and approximately 950 churches, monasteries and Christian schools in the city, as well as 15 synagogues.

Many Israelis consider Jerusalem to be the symbol of their transformation from existence as a people to the formation of a state after King David occupied the city. Jews started to practice their prayers in the temple that was founded by King Solomon on Mount Moria, which according to Jewish tradition is the place where God commanded Abraham to sacrifice his son (Ishmael according to Islamic interpretation and Isaac according to Jewish interpretation).

There is also a bond between Jerusalem and Mount Zion in the religious consciousness of all Sabat Jews, for the prophets warned that God would stop protecting the city and its people if they proved to be unfaithful. Following Babylon's attack on city the temple was destroyed and the Jews were scattered, though they continued to long for the rebuilding of the temple and the return of Jewish control over the city.

There are three schools of thought regarding the 'reconstruction of the temple' in Jerusalem

1. The first school holds that Solomon built the temple on what it is now known as Al-Haram Ash-Sharif, where Al-Aqsa Mosque and the Dome of the Rock now stand. Jews refer to this area the 'Temple Mount'. The followers of this school believe that the third temple will descend from heaven, and that no power or force on earth will be able to demolish it. Therefore they do not attempt to enter or change this area, and they do not interfere in the way Muslims practice their religious duties.
2. The second school believes that man should re-build the temple in Temple Mount (Al-Haram Ash-Sharif), but respects the presence of others there. They do not wish to return to the holy site unless the 'other' agrees to share the place, as was the case in the past. The leaders of this school encourage religious dialogue, especially between Jews and Muslims, in order to reach an understanding on sharing the location. The immediate Muslim, Arab, and Palestinian response has been that sole Muslim custody of Al-Haram Ash-Sharif is a red line that cannot be crossed. There can be no dialogue or negotiation in matters concerning religious belief and the holy places associated with such belief, and that there is no way to trust or accept the Jewish proposal. The basis for this forceful rejection is the bitter experience of the March 1994 Al-Ibrahimi Mosque massacre in Hebron. When Jewish extremist Baruch Goldstein entered the Mosque and massacred dozens of Muslims bent in prayer, the authorities 'resolved' the matter by awarding the Jews half of the mosque.
3. The leaders of the third school try every year on August 9<sup>th</sup> (the date of the temple's destruction) to break into Al-Haram Ash-Sharif, and do not disguise their

intention to seize control over the site by blood and fire. The Muslim Palestinians are always ready to defend their holy places.

The issue of protecting the holy places and maintaining the status quo while preserving the rights and interests of religious peoples to exercise their freedom of belief is the initial step towards cultural dialogue. Hopefully, such dialogue would formulate a program to protect the various interests and introduce a climate of justice, peaceful coexistence and stability.

### **Third Issue: International Law and the Positions of Various Nations and International Organizations.**

No legitimate indication in International law allows the Jewish State to impose its power over Jerusalem. Jerusalem is one city, encompassing the east, the west and the old city. Israel imposed its military control over the western part during the war of 1948, but no government or official entity granted acceptance of Israel's sovereignty.

The Israeli-Jordanian truce agreement clearly states that it should have no effect on the claims and demands of each party in the final settlement of the Palestinian case, since this agreement is only governed by military concerns. This was based on the Lahai agreement of 1907, which forbade the confiscation of public property in the occupied territories (Article 55) and states that it should be treated as private property (Article 56). It was also based on the fourth Geneva agreement of 1949 that prohibited an occupying force from transferring any part of its people to the occupied land.

The eastern part of Jerusalem was occupied by Israeli forces in 1967 and as such is part of the occupied West Bank, subject to the aforementioned rule regarding lands occupied by force. The International position achieved consensus in demanding that Israel withdraw from the occupied lands (Security Council resolution 242 of 1967), and that it cease all measures and practices of altering the landmarks of the city (resolution 252 of 1968). They further urged the Jewish State to respect the Geneva agreement concerning the duties of a military occupying force (Security Council resolution 271 of 1969).

The Security Council resolution 478 of August 20<sup>th</sup> 1980 further rejected Israel's imposition of its basic rules on East Jerusalem and reiterated its continuous requests to the occupying state to respect and abide by the Geneva agreements.

The international position rejected and continues to reject Israeli sovereignty over any part of Jerusalem, but all the relevant resolutions continue to be suspended without execution. This does not, however, imply that they no longer exist or that they should not be referred to as the legal basis upon which the Palestinians have continuously recorded that Jerusalem is the capital of the Palestinian State.

One of the most significant European positions is the 1980 Venice declaration of the European Union, which announced the rejection of any initiative by one party to change the landmarks of Jerusalem. This declaration further states that any agreement concerning the city should include the freedom of access to the holy places, taking into consideration the special status of Jerusalem to all parties involved.

Arab states announced their support of the International consensus in a letter sent by Egyptian president Anwar Sadat to the American president Jimmy Carter in 1978 during the Camp David negotiations. The letter stated:

"Arab Jerusalem is an indivisible part of the West Bank, and the legal and historical Arab rights in the city should be respected and returned. Arab Jerusalem and the Palestinian citizens of Jerusalem should be under Arab sovereignty. The Palestinian citizens of Jerusalem should practice their national and legitimate rights as part of the Palestinian people in the West Bank. All Security Council resolutions related to the subject should be enforced, particularly resolutions 242 and 267. All decisions and measurements made by Israel to change the status of the city are considered invalid and illegitimate".

The Arab summit in Fez of 1982 produced the Amir (King) Fahed document, which demanded that Israel withdraw from the land that it occupied in 1967, including Arab Jerusalem. It also stated that the Palestinian State should be declared with Jerusalem as its capital, and the freedom of access to the holy places should be maintained for all religious groups.

Furthermore, the western part of the city that was taken over by Israel in 1948 is still subject to international law and UN resolutions 181 and 194, which describe the Arab right of return and the right to compensation for property seized.

After the mutual recognition between Israel and the PLO in 1993 and the endorsement of the DoP to end the struggle and agree to a frame of negotiations, Jerusalem was postponed for discussion in the final status negotiations. Many international, Arab and European parties have declared that the future of Jerusalem shall be decided by an agreement between the two parties. The frame of transitional-stage negotiations should not limit the issue of Jerusalem, for it was made with the understanding that Jerusalem is one of the basic issues that should be left to the final status negotiations. Jerusalem is still subject to International Law, and has been since 1947.

#### **Fourth Issue: Geography and Demography**

The total area of Jerusalem in 1947 was 59.5 km<sup>2</sup>. The area of the western part of the city was 53 km<sup>2</sup>, while the eastern part comprised 6.5 km<sup>2</sup>, including the 1 km<sup>2</sup> of the Old City. The borders of the city were marked by Abu Dis from the east, Ein Karem from the west, Shu'fat from the north and Bethlehem from the south.

All the lands of the villages surrounding the municipal boundaries were part of the social and economical atmosphere of the city, but not part of the geographical borders. The western peripheries of Jerusalem included Deir Yasin, Lifta, Ein Karem, Malha, Romema, Sheikh Bader, and Khallet Al Tarha, while the eastern part included the villages of Izariyyeh, Abu Dis, Shu'fat and Beit Hanina.

As a consequence of the first Arab Israeli war and the Nakba of 1948, the cease-fire borderlines divided the city into two parts, separated by a No Man's Land under the supervision of the United Nations and the Emergency International Troops. The Arab (Jordanian) leadership agreed that once every two weeks a convoy would be permitted

to pass through the eastern part of the city to supply the Hebrew University with its basic needs of equipment and Management personnel.

After 1967 the Israeli forces occupied the West Bank and Gaza Strip, and the Israeli government announced the confiscation of those lands. They further announced the annexation of lands adjacent to the boundaries of Jerusalem, unilaterally expanded the municipal borders and imposed Israeli law throughout the area.

The Israeli government made the following six seizures of land:

June 1967 - 120 dunums within the walls of the Old City (the Jewish Quarter);  
January 1968 - 4000 dunums in Sheikh Jarrah, Shu'fat, Lifta and Isawiyyeh;  
January 1970 - 14000 dunums in Malha, Sour Baher, Beit Jala, Lifta and Shu'fat;  
1980 - 4500 dunums in Beit Hanina and Hizma;  
1991 - 2000 dunums in Im Toubha, Sour Baher, Beit Safafa, Bethlehem and Beit Jala;  
1996 - 6000 dunums in South Jerusalem, Abu Ghnein, Bethlehem and Beit Jala.

The total amount comes to 30,000 dunums, representing 34.5% of greater East Jerusalem.

Despite the fact that the area of the eastern part of the city was expanded to include 71 km<sup>2</sup>, the Israelis further limited Arab options on their own land by designating it in the following way:

34% Confiscated land  
40% Green Areas  
7% Unused land  
6% Infrastructure and streets  
3% Frozen lands

90% of the total lands of East Jerusalem are restricted under Israeli law, and only 10% remain for Arab use (9,400 dunums).

With regard to demography, the 1967 population of Jerusalem included 195,000 inhabitants in the western and 75,000 in the eastern parts of the divided city. Ever since, the Israeli government has aimed at maintaining this ratio of 72% Jews to 28% Palestinians. The Jewish population grew to 330,000 in the western part of the city with an additional 160,000 settlers in 28 settlements in the eastern part, bringing the total to 490,000 Jews. At the same time, 210,000 Palestinians live in the eastern part of the city with an additional 50,000 Jerusalemites residing outside the current municipal borders, yielding a total of 260,000 Palestinian Jerusalemites. Therefore the ratio of Israelis to Palestinians has decreased to 67% and 33% respectively.

Furthermore, 80,000 Palestinians were forced to leave west Jerusalem in 1948. The property distribution included 40% individual Palestinian property, 34% Islamic Waqf property, Christian churches and government buildings, and 26% Jewish property. Israeli policy has since 1948 prohibited any Palestinian from residing in West Jerusalem.

**Conclusion:**

Palestinian negotiators consider the presence of Arab Palestinian public opinion concerning Palestinian rights and facts in Jerusalem to be one of their tools for invalidating Israeli claims. The Palestinian case should not be restrained by the negotiation agreement decided in Oslo, because the agreement in the DoP applies to the issues of the transitional stage and should not affect the issues of the final solution. If the Oslo agreements refer to UN resolutions 242 and 338 of 1967, the issue of Jerusalem refers to the International law and the UN resolution 181 of 1947. The main line of negotiations should not differentiate between political and religious affiliations, and the border determination must be executed according to the borders of 1947, prior to Israel's unilateral and illegitimate expansion.

The fate of Jerusalem's citizens should not be determined by the laws of the occupying power, but by a rule that assures the basic rights of citizens. These rights include equality and justice, as well as the right to express national identity and to be governed by the leadership of their choice. The gates of Jerusalem should be open to all pilgrims, the holy places should not be subject to Israeli measurements and the status quo should be maintained for the preservation of the city's cultural and architectural heritage. The landmarks of the city should not be changed, and the Israeli practices and Judaization measures should all be ceased and corrected.

The Jerusalemite community needs a high-profile national figure to build up their collective stand as part of the Palestinian homeland, its people and its future. The social interests and services should be formulated by an Arab municipality capable of facing the Israeli geographic scenarios justified by pragmatism and objectivity. The presence of Palestinians in the city justifies continued Arab and Islamic support and responsibility towards the issue of Jerusalem. This reality should motivate Arab decision-makers to cease all forms of normalization relationships with Israel as long as the issue of Jerusalem remains closed in the current Israeli mentality.

Working towards the present and the future of the city requires faithfulness and commitment to Jerusalem as the symbol of our national identity, the title of our political existence, the center of our Islamic and Christian doctrines and the capital of our Palestinian State.