

this case, the author states that not only did the illegal builder exceed the limitations in width and height, he also built on land owned by the Municipality. The writer also complained that the illegal structure would interfere with the construction of roads in accordance with Detailed Plan 3457a.²⁶²

- This author has been shown a letter addressed to the United States Consul in Jerusalem,²⁶³ from the law office of Advocate Yitzhak Mina. Mina's letter lodges a complaint on behalf of his client, a company by the name of "Azhar." It states that a person by the name of Ibrahim Izhak Abu Chder has illegally erected a three-story building on land in Beit Hanina, which is owned by the Azhar Company. The complaint asks the Municipality to demolish this illegal structure.²⁶⁴

Other aggrieved Arab residents of Jerusalem instruct their lawyers to pursue a different approach to protecting their land. Thus, on February 4, 2002, a warning to the public concerning land in Beit Hanina appeared in the newspaper *Al Quds*. The warning, signed by Advocate Hani Tannous on behalf of his client Muhamad Musah Farage, states that forged powers of attorney exist as regards land owned by Farage, which he inherited from his father. Tannous warns against purchasing his client's land without first contacting the true owner.²⁶⁵ On the same day a similar warning appeared in the same newspaper, this one placed by Riad Azami Shaker. Shaker states that he has non-revocable power of attorney for two parcels of land in Beit Hanina and warns that anyone purchasing these properties from someone else faces "legal and clan investigation."²⁶⁶

IV. Claims that Jerusalem is Being 'Judaized'

A. Demographic History and Projections

Jerusalem's rapid growth and demographic evolution can be traced back approximately 150 years. In the words of the late Professor U. O. Schmetz:

In the early part of the 19th century Palestine was a remote and rather unimportant corner of the vast but decaying Ottoman Empire. Population size was at a low ebb; destitution, ignorance, neglect, misgovernment and discrimination of religious minorities prevailed. Calamities such as droughts, consequent famines, and outbreaks of epidemics were frequent; but even in ordinary years endemic diseases were rife and insecurity widespread. ... At the time, Jerusalem was not the main city of Palestine, politically or economically. Despite its historical fame and religious significance, Jerusalem was in fact small, an island town of a backward provincial region, off major trade routes. ... [I]t was accessible only by riding or on foot and goods had to be transported by beasts of burden, since the first carriageable road, connecting Jerusalem with the port of Jaffa, was not

²⁶² Letter from Zeev Bern to Director of the Planning Inspection Department of the Jerusalem Municipality, Jan. 20, 1998. (Interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Apr. 8, 2002).

²⁶³ Letter from Advocate Yitzhak Mina to the U.S. Consul in Jerusalem, July 29, 2001.

²⁶⁴ Hagai Hoberman, *In the Heat of the Palestinian Real Estate Battle in East Jerusalem*, HA'TSOFEH, Jan. 11, 2002, pp. 9, 10.

²⁶⁵ Adv. Hani Tannous representing Muhamad Musah Farage, a land owner in Beit Hanina, Public Warning, AL QUDS, Feb. 4, 2002; Appendix 8B.

²⁶⁶ Riad Azami Shaker, a land owner in Beit Hanina, Public Warning, AL QUDS, Feb. 4, 2002; Appendix 8B.

constructed before 1869. ... [T]he city has hardly any water from natural springs or traditional wells.²⁶⁷

In 1845 the Prussian Council in Jerusalem estimated the population in the City as 7,120 Jews, 5,000 Muslims, and 3,390 Christians.²⁶⁸ In an 1854 article, Karl Marx explains that the Jewish population of Jerusalem made up the majority in the City, approximately doubling the Muslim population of the City.²⁶⁹ As early as the 1860s reports asserted that the Jews were the majority of Jerusalem's population.²⁷⁰ By the 1870s, the Jewish population passed the 10,000 mark and "probably amounted to about half of the City's total population, according to Professor Schmelz's interpretation of early census data."²⁷¹ From the 1880s onward all sources acknowledged that Jews constituted a majority in the City.²⁷² Data from the British Mandatory period, between the world wars, reflected the Jews comprising approximately 60 percent of the total population in the City, with the remainder divided almost equally between Muslims and Christians, most of whom were Arabs.²⁷³ The last British census taken before the 1948 War found the Jewish population to be approximately 100,000, with the remaining 65,000 almost equally divided between Muslims and Christians.²⁷⁴

As a result of the 1948 War, Jerusalem was bisected by an armistice line running on an irregular north-south course.²⁷⁵ Thousands of Jews and tens of thousands of Arabs abandoned homes in residential areas that, respectively, ended up in the Jordanian and Israeli zones of the City.²⁷⁶ For the ensuing 19 years, no Jews lived on the Jordanian side and Arabs constituted less than one percent of the population on the Israeli side.²⁷⁷

According to the respective Jordanian and Israeli censuses of 1961, in their respective zones, the City's aggregate population was comprised of 72 percent Jews, 22 percent Muslims, and 5 percent Christians.²⁷⁸ The 1967 War, followed by Israel's expansion of the municipal boundaries of the re-united City, resulted in the Jewish percentage of the City's population rising to 73.5 percent.²⁷⁹

Since 1967 various factors have contributed to the rapid growth in the Arab population in Jerusalem. These include a high fertility rate,²⁸⁰ employment opportunities exceeding those in the West Bank,²⁸¹ migration to Jerusalem by waves of Palestinians from the Hebron area,²⁸² and net out-migration of 7,000 or 8,000 secular Jews per year.²⁸³

²⁶⁷ U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, Jewish Population Studies, No. 20, p. 9 (Jerusalem) 1987.

²⁶⁸ MARTIN GILBERT, JERUSALEM ILLUSTRATED HISTORY ATLAS 41, 45 (1977).

²⁶⁹ Shlomo Avineri, *Karl Marx and Jerusalem*, JERUSALEM POST, Sept 4, 2000, at 8.

²⁷⁰ U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 17 (1987).

²⁷¹ U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 15 (1987).

²⁷² U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 17 (1987).

²⁷³ U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 28 (1987).

²⁷⁴ MICHAEL ROMANN & ALEX WEINGROD, LIVING TOGETHER SEPARATELY: ARABS AND JEWS IN CONTEMPORARY JERUSALEM 16 (1991).

²⁷⁵ U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 41 (1987).

²⁷⁶ U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 42 (1987).

²⁷⁷ MICHAEL ROMANN & ALEX WEINGROD, LIVING TOGETHER SEPARATELY: ARABS AND JEWS IN CONTEMPORARY JERUSALEM 11 (1991).

²⁷⁸ U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 62 (1987).

²⁷⁹ Had it not been for the extension of the Municipal boundaries, the Jewish majority in the re-united City would have comprised 81 percent of the total population in 1967. U.O. Schmelz, *Modern Jerusalem's Demographic Evolution*, 20 JEWISH POPULATION STUDIES 64 (1987). Even the Hamas website contains an article, which specifies that the current Jewish population is 73 percent of the City's total. Nabil Al-Sahly, *The Demographic Conflict Between the Arabs and the Jews in Jerusalem Since the Basel Conference in 1897* (visited Nov. 7, 2001) <<http://www.palestine-info.co.uk/question/demographic.htm>>.

²⁸⁰ ISRAEL KIMHI, ARAB BUILDING IN JERUSALEM 18 (CAMERA Monograph Series, 1997).

²⁸¹ MERON BENVENISTI, CITY OF STONE: THE HIDDEN HISTORY OF JERUSALEM 167 (1996). Ironically many of these opportunities were in providing construction workers and tradesmen that worked for the entrepreneurs building the new Jewish neighborhoods in Jerusalem. *Ibid.*

²⁸² See MICHAEL ROMANN & ALEX WEINGROD, LIVING TOGETHER SEPARATELY: ARABS AND JEWS IN CONTEMPORARY JERUSALEM 231 (1991); see MERON BENVENISTI, CITY OF STONE: THE HIDDEN HISTORY OF JERUSALEM 186-87, 189 (1996).

²⁸³ Interview with Sergio DellaPergola, Professor of Demography at Hebrew University, in Jerusalem (Nov. 26, 2001). Most of the Jews who leave Jerusalem move to the City's suburbs or the greater Tel Aviv area. *Ibid.*

Whereas in 1967 the population of the united City was 26 percent non-Jewish,²⁸⁴ by the year 2000 it had risen to nearly 32 percent.²⁸⁵ The leading forecast to the year 2020 suggests that the Arab population will continue to grow, not only in absolute numbers but also as a percentage of the total.²⁸⁶ The Municipality is aware of these projections as it commissioned the author, demography Professor Sergio DellaPergola, to research this question for its Strategic Master Plan for the year 2020.²⁸⁷

Much has been made of the various sources that purport to allude to a 'desired Jewish/Arab ratio' for the population of Jerusalem. For example, the Ir Shalem NGO states definitively, "[t]he planning of East Jerusalem is influenced by government policy dictating that a proportion of 78% Jews and 22% Arabs should be maintained in East Jerusalem."²⁸⁸ No source or citation is provided to support this claim. Note that in the modern era the Jewish population in eastern Jerusalem has never exceeded 50 percent.²⁸⁹ To reach the percentages posited by Ir Shalem would require unprecedented shifts in population(s) - either the out-migration of approximately 100,000 Arabs or the immigration of some 200,000 Jews. And even if that number of Jews could be enticed to move to Jerusalem, how could they be accommodated without proper living units or infrastructure?

Putting aside the Alice in Wonderland assertion of Ir Shalem, the best indication that there may have been such a policy to preserve the Arab/Jewish ratio appears in a book by former Deputy Mayor, Meron Benvenisti. He referred to a decision by the City Council to annex land to Jerusalem so as to preserve the ratio of population that is optimal - 72 percent Jewish to 28 percent Arab.²⁹⁰ Benvenisti also states that the then-City Engineer and Chief Planner had confirmed that there was a government directive to preserve the ratio and that this would be done by manipulating the housing potential.²⁹¹

Interestingly, there is also evidence that a governmental Ministry and a quasi-governmental agency have designated a population ratio that they would like to preserve between two sectors of the Jewish population: the ultra-Orthodox and the others (secular, reform, traditional, and modern Orthodox). This evidence appears in the announcement of a program to maintain the internal Jewish demographic balance between secular and ultra-Orthodox Jews by the Absorption Ministry and the Jewish Agency. By way of background, the ultra-Orthodox community, like the Arab population of Jerusalem, is growing both in absolute numbers and as a percentage of the City's population.²⁹² If there were plans to maintain a given ratio, they would appear to have failed. Moreover, the total silence of the NGOs regarding the ultra-Orthodox/others ratio raises questions as to the motive underlying their repeated forays on the unproven 'policy' that purports to speak of a desired Jewish-Arab ratio.

Returning to the assertion that Israel has committed itself to preserving a certain Jewish/non-Jewish ratio, there is some indication, perhaps when Golda Meir was Prime

²⁸⁴ The breakdown is between Jews and non-Jews, however not all in the latter group are Muslims. For example, in the year 2000, the non-Jewish population of Jerusalem was 91 percent Muslim. Interview with Z. Uri Ullmann, Director of Division for Strategic Planning and Research of Jerusalem Municipality, in Jerusalem (Nov. 25, 2001).

²⁸⁵ ISRAEL KIMHI, *ARAB BUILDING IN JERUSALEM* 18 (CAMERA Monograph Series, 1997); see Appendix 6A.

²⁸⁶ Interview with Sergio DellaPergola, Professor of Demography at Hebrew University, in Jerusalem (Nov. 26, 2001); see Appendix 6A.

²⁸⁷ Interview with Sergio DellaPergola, Professor of Demography at Hebrew University, in Jerusalem (Nov. 26, 2001); see Appendix 6A.

²⁸⁸ IR SHALEM, *EAST JERUSALEM; THE CURRENT PLANNING SITUATION: A SURVEY OF MUNICIPAL PLANS AND PLANNING POLICY* 9 (n.d.)

²⁸⁹ Interview with Sergio DellaPergola, Professor of Demography at Hebrew University, in Jerusalem (Nov. 26, 2001).

²⁹⁰ MERON BENVENISTI, *CITY OF STONE: THE HIDDEN HISTORY OF JERUSALEM* 50 (1996). Actually the ratio in 1967 was 74.2 percent, not 72 percent. *Ibid.* p. 174.

²⁹¹ MERON BENVENISTI, *CITY OF STONE: THE HIDDEN HISTORY OF JERUSALEM* 165 (1996).

²⁹² Ori Nir says the Ultra-Orthodox population will increase from 20 percent to 40 percent in 12 years. Washington Report on Middle East Affairs Internet Website, *MEI Examines Jerusalem Problem*, WASHINGTON REPORT ON MIDDLE EAST AFFAIRS, April 1998 pp. 76, (visited July 21, 2002) www.washington-report.org/backissues/0498/9804071.html.

Minister, that a national government set this as an objective.²⁹³ Caution is justified, however, as while various current and former Municipal employees have mentioned such a 'policy,' none have come up with solid evidence in the form of an official document. Interviewed on this point, DellaPergola describes the 'ratio' was merely a "declarative message" which "was never put into practice."²⁹⁴ DellaPergola also states that he doesn't pay attention to the claims of 'Judaization,' but rather focuses on the facts. Barring the effective implementation of tangible measures to implement such a program, there is not much point in speculating whether such a policy exists, or ever existed.

Benvenisti²⁹⁵ wrote in the mid-1970s that "Arab complaints of the 'Judaization of Jerusalem.... Were taken up and accepted in wide circles all over the world. However, demographic data did not justify such complaints." Benvenisti observed that, "the massive Israeli efforts [new post-1967 neighborhoods] only ensured that the growth in the Jewish population in the City did not lag behind the Arab community." His insight, which has withstood the test of time, was that, "[a]s in so many other areas, the complaints rested not so much on real facts as on the declarations of politicians."²⁹⁶

In sum, the demographic evidence does not support the accusations and allegations that Israel is 'Judaizing' the City. Indeed, the undisputed demographic trend during the post-1967 period has favored the City's non-Jewish population.²⁹⁷ Hence, in spite of all the complaints that the City mistreats its Arab residents, thousands of new illegal Arab migrants arrive yearly from the West Bank.²⁹⁸ It might even be said that Jerusalem, under unified Israeli control since the 1967 War, and despite the abdication of any significant political role by the Arabs, has undergone a marked shift in the Jewish/Arab ratio. To the surprise, or delight, of those who have publicly campaigned against the presumed shift in favor of the City's Jewish majority, the actual divergence has been in favor of the growing Arab minority. Might it be that the pace of this transformation has not satisfied those who campaign regularly against the supposed 'Judaizing' of Jerusalem?

B. The 'Judaizing' Canard

It is hardly necessary to go back to the reign of King David in Jerusalem, three thousand years ago, to dismiss the frequent allegations that Israel is trying to 'Judaize' Jerusalem. Indeed, as demographers have demonstrated, during the entire 100-year period that preceded the emergence of the modern State of Israel, Jews constituted the largest component of the population.²⁹⁹ Despite the unambiguous statistics, however, Arab and Islamic entities perpetuate the 'Judaizing' canard. Ignorant of Jerusalem's demographic history, indifferent as to what is at stake from an urban planning standpoint, these entities join in the boilerplate protests against 'the Judaizing of Jerusalem.' Such reflexive identification may pacify the Islamist undercurrent that, in many Middle Eastern and Asian countries, threatens the establishment.³⁰⁰ Appealing to the masses is a core component of

²⁹³ A pro-Palestinian NGO, the Alternative Information Center, published a memorandum claiming, "Israeli demographic policies of this period [1967-1991] were designed to create a Jewish majority in the areas occupied in 1967." The same memorandum states, but without a supporting footnote, that "a decision [was] made by the Israeli government in the early 1970s, according to which the percentage of Palestinians in the City should not exceed the quota of 28 percent." Lea Tsemel & Ingrid Gassner, *The Trap is Closing on Palestinian Jerusalemites*, Memorandum 1/96 of the Alternative Information Center, pp. 7, 10.

²⁹⁴ Interview with Sergio DellaPergola, Professor of Demography at Hebrew University, in Jerusalem (Nov. 26, 2001).

²⁹⁵ In this author's opinion, based on his work experience and prolific scholarship, Meron Benvenisti knows as much about Jerusalem as any living person.

²⁹⁶ MERON BENVENISTI, *JERUSALEM: THE TORN CITY* 255 (1976).

²⁹⁷ Appendices 6A and 7A.

²⁹⁸ Nissim Salomon, Deputy Director General and Head of City Administration of Jerusalem Municipality, in Jerusalem (June 3, 2002).

²⁹⁹ See Section IV. A of the text above.

³⁰⁰ See e.g. Kramer, Martin, *Fundamentalist Islam at Large: the Drive for Power*, *MIDDLE EAST QUARTERLY*, June 1996, (visited July 28, 2002) <<http://www.ict.org.il/articles/articleid=82>>.

the predictable ritual that has, for decades, debased international discourse. Jews were, and remain, a convenient scapegoat.

The 'plot to Judaize Jerusalem' renders various opponents of Israel apoplectic. Some of their major assertions, spanning a period of 25 years, are here quoted in chronological sequence. As far back as 1978 UNESCO lent its voice to what in the interim years has become a veritable chorus of condemnation of Israel for "continuing to Judaize" Jerusalem.³⁰¹ In particular, the campaign to prevent the 'Judaization of Jerusalem' became a mantra at international gatherings in the Islamic world and beyond. For example, in 1979, Algeria and South Yemen issued a joint communiqué, which urged the Arab and Islamic countries to work for an end to the "[J]udaization of [J]erusalem."³⁰²

In 1980, a Chinese editorial, commenting on the Knesset's passing the unification of Jerusalem law, attacked "the process of [J]udaization of [J]erusalem."³⁰³ During the *Intifada* which began in 1987, the Unified National Leadership of the Uprising issued a leaflet which warned against "the systematic attempts to Judaize Jerusalem."³⁰⁴ This trend continued into the 1990s, as in 1992, the Egyptian Foreign Minister called upon the Arabs to "launch a full-fledged diplomatic offensive against Israeli... [J]udaization of [Jerusalem]."³⁰⁵ Further, in 1995, Jordan welcomed the communiqué of the Jerusalem Committee of the Organization of the Islamic Conference, which called upon the United States and Russia to exercise pressure to stop the "[J]udaization of [J]erusalem."³⁰⁶ Subsequently another NGO, the Muslim World League, decried "the intentions of the Israeli government to usurp Al Quds [Jerusalem] and complete its Judaization by replacing its Arab population with Jewish settlers."³⁰⁷ Thereafter in 1995, the Kuwaiti parliament criticized Israeli efforts at "the [J]udaization" of the holy city."³⁰⁸

In addition to accusations in the political realm, in 1995 and 1996 the Palestinian Academic Society for the Study of International Affairs (PASSIA), a Jerusalem based think-tank, entered the fray with two lengthy papers. They embodied sophisticated attacks on Israel's policies vis-à-vis Jerusalem.³⁰⁹ The first, entitled *Jerusalem: Palestinian Dynamics of Resistance and Urban Change, 1967-94*,³¹⁰ is summarized on the PASSIA Internet website as, "examin[ing] Palestinian efforts to survive as a distinct society and their strategies of resistance to Israeli attempts to 'Judaize' the city."³¹¹ Elsewhere this author

³⁰¹ News Services and Staff Reports, *UNESCO Acts Against Israel*, WASHINGTON POST, Nov. 29, 1978. According to the report, this educational, scientific, and cultural body voted 67-24 with 24 abstentions to deny aid to Israel because of "deplorable" archaeological digs that, it was claimed, were Judaizing the City. The U.S. delegate voted against the Arab-sponsored resolution and denounced its language as "offensive." News Services and Staff Reports, *UNESCO Acts Against Israel*, WASHINGTON POST, Nov. 29, 1978. See also HARRIS SCHOENBERG, *MANDATE FOR TERROR* 16-17 (1989).

³⁰² See No byline, Dateline: Algiers, *Algeria, North Yemen Support Arab Confrontation States, Palestinian People*, XINHUA GENERAL OVERSEAS NEWS SERVICE, June 18, 1987.

³⁰³ See No byline, Dateline: Beijing, *Commentary: Israeli Expansionists' Provocative Challenge to World Opinion*, XINHUA GENERAL OVERSEAS NEWS SERVICE, Aug. 1, 1980.

³⁰⁴ ANNE LATENDRESSE, *JERUSALEM: PALESTINIAN DYNAMICS OF RESISTANCE AND URBAN CHANGE, 1967-94*, p. 13 (1995).

³⁰⁵ See No byline, Dateline: Tunis, *Egypt Urges Diplomatic Offensive Against Israeli Occupation of Arab Land*, XINHUA GENERAL OVERSEAS NEWS SERVICE, Mar. 5, 1992.

³⁰⁶ See No byline, Dateline: Amman, *Jordan Welcomes Communiqué of Jerusalem Committee*, XINHUA GENERAL OVERSEAS NEWS SERVICE, Jan. 18, 1995.

³⁰⁷ No byline, *MWL Stams Israeli Land Grab*, MONEYCLIPS, May 4, 1995.

³⁰⁸ See No byline, Dateline: Kuwait City, *Kuwait Parliament Condemns Israeli Confiscation of Arab Lands*, XINHUA GENERAL OVERSEAS NEWS SERVICE, May 20, 1995.

³⁰⁹ A third report published by PASSIA, was written by Sami Musallam, the Director of Yasser Arafat's Jericho Office. SAMI F. MUSALLAM, *A PROGRAMME FOR ACTION FOR PEACE 9* (1996). Although less strident than Hodgkins' paper (ALLISON HODGKINS, *THE JUDAIZATION OF JERUSALEM - ISRAELI POLICIES SINCE 1967* (1996)), Musallam's Report contains such hyperbole as, "Other methods have been used successfully by Israel in order to decide the fate of Jerusalem...Under the pretext of developing Arab villages or neighborhoods, the Israelis developed a 'master plan' for the city. This was used to strangle the Arab presence in the city." *Ibid.* This argument was effectively answered by Israel Kimhi, the former City Planner of Jerusalem. Kimhi wrote, "[t]he legitimate difficulties encountered by the municipality in attempting to implement a coherent plan benefiting all residents were interpreted as a politically motivated policy intended to prevent Arab construction." ISRAEL KIMHI, *ARAB BUILDING IN JERUSALEM* 31 (CAMERA Monograph Series, 1997).

³¹⁰ ANNE LATENDRESSE, *JERUSALEM: PALESTINIAN DYNAMICS OF RESISTANCE AND URBAN CHANGE, 1967-94* (1995).

³¹¹ PASSIA, *Publications on Jerusalem* no. 82, available at PASSIA Internet Website (visited Nov. 8, 2001)

refers to a "policy of Israelisation," and to the usefulness of various institutions in "protect[ing] the Palestinian residents of East Jerusalem from the municipal integrationist policy adopted by Mayor Teddy Kollek."³¹²

The orientation of the second study published by PASSIA is readily apparent from its title: *The Judaization of Jerusalem - Israeli Policies Since 1967*.³¹³ Its abstract on PASSIA's website mentions, "the destruction of Jerusalem's geographic identity through the means of land control, land confiscation, the blocking of Palestinian development and settlement construction."³¹⁴ The essence of Hodgkins' (author of the second PASSIA study) broadside is peppered with claims like, "Israel's current stranglehold over the holy city has been the result of a carefully planned and scrupulously enacted Israeli policy to secure exclusive control in Jerusalem."³¹⁵

In a revealing passage Hodgkins faults Mayor Olmert for "stepping up efforts to pacify Palestinian Jerusalemites by providing improved services."³¹⁶ Imagine the censure that would have awaited the Mayor had he neglected or curtailed the Municipal services given to Arab residents. Even the Eastern Ring Road,³¹⁷ which the author grudgingly acknowledges "would have been an infrastructure asset in peace time,"³¹⁸ is vilified as part of Israel's conspiracy to, in a matter of years, "fill all the remaining green areas in Palestinian East Jerusalem with Israeli settlements and by-pass roads."³¹⁹ The obvious, indeed paramount utility of this road to Arabs, particularly those traveling from the Bethlehem area (south of Jerusalem) to the Ramallah area (to the north), is nowhere mentioned.³²⁰

In the latter part of the 1990s the frequency of 'Judaizing' accusations reached a new intensity. Thus, in September 1996, the Chairman of the Iraqi parliament's Foreign Affairs Committee "called on the Arab world to use force against Israel to stop the 'Judaization of Jerusalem.'"³²¹ A few days later the Palestinian intellectual Edward Said published an opinion piece in the English newspaper the *Observer*, which accused Israel of attempting "to 'Judaize' what was formerly Palestinian about East Jerusalem."³²² In 1997, the Lebanese Prime Minister, speaking before the Organization of the Islamic Conference, "called for a united Arab and Islamic stance to prevent the Judaization of Jerusalem."³²³ Ten months later Arafat's accusations regarding Israel's 'Judaization' of Jerusalem were

<http://www.passia.org/jerusalem/publications/pub_jerusalem_no_82.htm>.

³¹² ANNE LATENDRESSE, *JERUSALEM: PALESTINIAN DYNAMICS OF RESISTANCE AND URBAN CHANGE, 1967-94*, pp. 6, 14 (1995).

³¹³ ALLISON HODGKINS, *THE JUDAIZATION OF JERUSALEM - ISRAELI POLICIES SINCE 1967* (1996).

³¹⁴ PASSIA, *Publications on Jerusalem no. 96*, available at PASSIA Internet Website (visited Nov. 8, 2001)

<http://www.passia.org/jerusalem/publications/pub_jerusalem_no_96.htm>.

³¹⁵ ALLISON HODGKINS, *THE JUDAIZATION OF JERUSALEM - ISRAELI POLICIES SINCE 1967*, p. 1 (1996).

³¹⁶ ALLISON HODGKINS, *THE JUDAIZATION OF JERUSALEM - ISRAELI POLICIES SINCE 1967*, p. 4 (1996). During his first campaign for the post of mayor in 1993, Olmert promised to upgrade the quality of life for the City's Arab residents. No byline, *Kollek Ousted as Jerusalem's Mayor*, *FACTS ON FILE WORLD NEWS DIGEST*, Nov. 11, 1993, p. 854E2.

³¹⁷ The Eastern Ring Road is discussed in Section VI. D of the text below.

³¹⁸ The irony of this criticism is immediately apparent. It was written in 1996 when the incremental Oslo peace process was at its apogee. Either the author was opposed to the Oslo process, or she sought to postpone indefinitely a vital improvement in the transportation network that was certain to benefit Palestinians at least as much as Israelis. Most major cities in the industrial world have one or even two ring roads. Their ubiquity is simple to explain: the ring highways enable travel that is faster, safer and more efficient. There can be no doubt that Jerusalem would benefit if the large, heavily-laden trucks did not have to traverse its center on the narrow road that winds past the Cinemateque, the Sultan's Pool and the New Gate. Palestinian organizations have highlighted the negative side - principally that Israel is building it and that some Arab-owned land will be taken (with compensation offered) in the process. Although the Municipality has repeatedly stated that compensation would be paid to the landowners, they will likely refuse to take what could be construed as a "peace offering." Matthew Brubacher, *The Jerusalem Ring Road: The Good, the Bad and the Explosive*, *NEWS FROM WITHIN*, Vol. XVII, May 4, 2001, p. 11.

³¹⁹ ALLISON HODGKINS, *THE JUDAIZATION OF JERUSALEM - ISRAELI POLICIES SINCE 1967*, p. 8 (1996).

³²⁰ Currently it is impossible to travel from the southern half to the northern half of the West Bank without weaving through slow, downtown urban streets, which Israel closes to Arabs who have Palestinian Authority identity cards when security concerns take precedence. See MERON BENVENISTI, *INTIMATE ENEMIES: JEWS AND ARABS IN A SHARED LAND* 52-53 (1995).

³²¹ No byline, Dateline: Baghdad, *Iraq Urges Arabs to Use Force Against Israel*, *AGENCE FRANCE PRESSE*, Sept. 26, 1996.

³²² Edward Said, *Fury of the Dispossessed*, *OBSERVER* (London), Sept. 29, 1996, p. 23.

³²³ No byline, Source: Radio Lebanon, *Lebanese PM Urges Halt to Normalization With Israel*, *BBC SUMMARY OF WORLD BROADCASTS*, Part 3 Asia-Pacific, Pakistan, Organization of the Islamic Conference Summit in Islamabad, speeches, FE/D2876/53, Mar. 25, 1997.

covered in the *Los Angeles Times*.³²⁴ In April 1998, the Lebanese Foreign Minister told the media that he had briefed Pope John Paul on "the ongoing Judaization of Jerusalem."³²⁵ In June 1998, the Arab League heard pleas from Yasser Arafat to take concrete measures to prevent the "Judaization of Jerusalem."³²⁶ The following day Arafat met with the Turkish Prime Minister and, according to the Voice of Palestine radio report, Arafat reviewed "the Judaization of Jerusalem."³²⁷ Arafat, in his July 29, 1998, speech to the Organization of the Islamic Conference's Jerusalem Committee, stated, "We shall...save holy Jerusalem from the Judaizing monster."³²⁸ Arafat's July 30, 1998, meeting with the Foreign Minister of Iran served as yet another forum to attack "the expansionist policies of the Zionist regime aimed at the Judaization of *Bayt al-Maqdis* [the Temple Mount] by imposing extensive changes in the demographic situation of the City."³²⁹ Simultaneously, the Organization of the Islamic Conference, which represents 55 countries, urged the United Nations Security Council to "dissuade" Israel from what it called a plan to 'Judaize' Jerusalem.³³⁰ In the meantime, the Hamas Internet website features an article entitled, "The Judaization of Jerusalem Includes the Construction of *Al-Haykal* [Third Temple]."³³¹ On November 7, 1998, the Secretary General of the Islamic Jihad terrorist organization told an interviewer, who inquired about their role in a bomb blast in Jerusalem, that the "operation" was part of the "continuing *jihad* against the Israeli occupation and Zionist aggression...and Judaization of the land..."³³² While the posture of Hamas and Islamic Jihad is not surprising, even Jordan, a country at peace with Israel, has joined in the canard. Thus, on September 10, 2001, the Secretary General of Jordan's Royal Committee for Jerusalem Affairs condemned the "Judaization of Jerusalem."³³³

C. The Implausibility of the 'Judaization' Claim

The frequent assertion that Israel uses the planning law and, in particular, the refusal to grant construction permits and the demolition of illegal structures to discourage Arabs from living in the City makes no sense. Even if, for the sake of argument, one assumes such a demographic policy existed after 1967, the Municipality could have turned to much simpler and less politically costly measures to achieve that end. For example, the Municipality could have left, as is, the rudimentary water system (the majority of households lacked running water) it inherited from Jordan, characterized by antiquated cisterns and public faucets. These conditions were hardly adequate for modern living, let alone mixing cement to build tens of thousands of new living units.³³⁴ Indeed, water was (and is) in short supply in the entire region, including in Israel. Neither the Municipality nor the State was under any legal obligation to connect the Arab residents to the Israeli national water grid. The Municipality could have simply left the status quo - with the result of severely discouraging construction and economic activity in general in the Arab sector.

³²⁴ Robin Wright, *Arafat Rejects Proposal for Limited Withdrawal*, LA TIMES, Jan. 24, 1998, p. A10.

³²⁵ No byline, Source: Radio Lebanon, *Foreign Minister Comments on Talks in Europe*, BBC SUMMARY OF WORLD BROADCASTS, Part 4, The Middle East, Jordan, ME/D3202/MED, Apr. 16, 1998. No mention was made as to whether the Pope was persuaded by this charade.

³²⁶ Hans Dahne, *Arabs Helpless to Prevent Expansion of Jerusalem*, DEUTSCHE PRESSE-AGENTUR, June 25, 1998; see MERON BENVENISTI, CONFLICTS AND CONTRADICTIONS 97 (1986).

³²⁷ No byline, Source: Voice of Palestine, *Arafat Holds Talks with Turkish Prime Minister in Ankara*, BBC SUMMARY OF WORLD BROADCASTS, Aug. 1, 1998.

³²⁸ Press Release of Likoed Nederland, *Arafat Again Urges 'Jihad' Against Israel*, Aug. 16, 1998.

³²⁹ No byline, *Foreign Minister, Arafat Discuss Israeli Policies*, BBC SUMMARY OF WORLD BROADCASTS, July 31, 1998.

³³⁰ International News Section, *OIC Warns UN of "Disaster" Unless it Toughens up Against Israel*, DEUTSCHE PRESSE-AGENTUR, July 30, 1998.

³³¹ The "Al-Haykal" is the Third Temple, which Jewish sources indicate will be built following the coming of the Messiah. Ja'far Hadi Hassan, *Judaization of Jerusalem Includes the Construction of Al-Haykal*, Hamas Internet website, visited Sept. 5, 2001, <<http://www.palestine-info.com/jerusalem/judaization.htm>>.

³³² Source: MBC TV, London, Nov. 7, 1998, *Israeli and Palestinian Affairs: Aftermath of Jerusalem Bomb*, BBC SUMMARY OF WORLD BROADCASTS, ME/D3380/MED, Nov. 10, 1998.

³³³ See No byline, Dateline: Amman, *Jordan Condemns Israeli Isolation of Jerusalem*, XINHUA GENERAL OVERSEAS NEWS SERVICE, Sept. 10, 2001.

³³⁴ In fact, new Arab construction is outpacing Jewish construction. See Section IV. A of the text above.

Instead, acting on its own volition, the Municipality moved to integrate the water system by connecting, directly or indirectly, virtually every legal structure to piped-in water.³³⁵

A further example that discredits the supposed 'Judaization' plan was former Mayor Kollek's policy of attempting to integrate the City's Arab residents into municipal life. The Arab residents of Jerusalem were issued residency status which entitled them to participate in Municipal elections and benefit from various services including health insurance, social assistance, education services, national insurance, etc.³³⁶ Arab Jerusalemites are issued blue identity cards like those held by Israeli citizens, which entitle them to travel freely in and out of Jerusalem and all over Israel, even when there is a security alert and Palestinians residing in the West Bank and Gaza are refused entry.³³⁷ Had Israel not provided 'permanent residency' status to the City's Arabs who had declined Israeli citizenship, this would have preempted one of the major magnets that attracted, and continues to attract, Arabs to reside in Jerusalem.

Thus, despite the hue and cry, Jerusalem is not being 'Judaized' - not by construction and not by population.

V. Planning and its Discontents

A. Justifications for Non-compliance with Urban Planning Law

The Palestinian leadership offers various justifications and apologetics for their non-compliance with the urban planning mechanism as it applies to the Arab neighborhoods.³³⁸ According to Issaha Kassilieh, a former Assistant to Faisal Hussein, the reason Arabs build illegally is "natural expansion."³³⁹ He insists:

The post-1967 Jewish settlements [new Jewish neighborhoods] around Jerusalem are at the expense of the Palestinian population. We feel suffocated by the expansion of the settlements around Jerusalem, the confiscation of land, creating green areas. Little space was kept for the Palestinian population to expand. Many times it was impossible to get a permit to build a house and usually it takes three to four years.³⁴⁰ We have cases of people who waited for the past 10 years. And it is costly. [That is why] so many built without permits. The discriminatory policy of the Municipality contributed to the kind of chaotic situation we have in

³³⁵ See interview with Shalom Goldstein, Advisor to Mayor of Jerusalem Municipality for East Jerusalem Affairs, in Jerusalem (Apr. 8, 2002).

³³⁶ ANNE LATENDRESSE, JERUSALEM: PALESTINIAN DYNAMICS OF RESISTANCE AND URBAN CHANGE, 1967-94, pp. 4, 5-6 (1995).

³³⁷ MERON BENVENISTI, INTIMATE ENEMIES: JEWS AND ARABS IN A SHARED LAND 53-54 (1995).

³³⁸ Kassilieh is currently conducting research for a project called "Planning Jerusalem in Peace." Kassilieh hopes that the findings will assist the Palestinians to reorganize east Jerusalem "when it is freed after many years of Israeli control and restrictions." Kassilieh believes that re-zoning and re-planning should bring Jerusalem into harmony with other parts of Palestine. His plans for east Jerusalem relate to it as a part of the West Bank. Kassilieh's intent is for this project to be implemented in the areas in which the Palestinians population can expand. Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002). According to Nusseibeh this project should be done with the participation of the Municipality. Interview with Dr Sari Nusseibeh, President of Al Quds University and Palestinian Authority Political Commissioner for Jerusalem Affairs, in Jerusalem (Jan. 30, 2002). However, Kassilieh has political objections to cooperating with the Municipality, although he stated that, "on technical matters it may be possible to work together." Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002).

³³⁹ Interview with Issaha Kassilieh, Senior Official of the Orient House and former Assistant to the late Faisal Hussein, in Jerusalem (Jan. 30, 2002). Piecemeal additions to legal structures in Arab neighborhoods, while technically requiring a building permit, are highly unlikely to provoke a demolition. Interview of Uri Lupolianski, Senior Deputy Mayor and Acting Mayor of Jerusalem Municipality, in Jerusalem (Jan. 31, 2002).

³⁴⁰ This clearly erroneous claim should be compared with the data contained below in Section VI. B of the text below.