JERUSALEM IN HISTORY AND INTERNATIONAL DIPLOMACY

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The July 2000 Camp David Summit was clearly a diplomatic failure, that resulted largely, though not exclusively, from the insurmountable gap between Israel and the PLO over the issue of Jerusalem. The Palestinian violence imposed on Israel by the PLO, in the summit's aftermath, not only undermined the future of any meaningful peace negotiations, but also threatened the stability of the entire Middle East region. The Camp David breakdown, in short, was not cost-free.

Israel suffered from a more fundamental diplomatic failure of its own, beyond its misreading of the Palestinian position on Jerusalem. The structure of the peace process, whereby Israel has focused all its energies on an abstract, *albeit worthy, goal of peace, while the Palestinians' diplomatic energies were concentrated on a* concrete *goal of achieving a Palestinian state with a capital in Jerusalem, inevitably led the negotiations in the direction of the party with the more articulated objective — namely, the Palestinian goal of sovereignty in Jerusalem.*

Yet, a careful reading of the historical record of the Jewish presence in Jerusalem and an understanding of the international legal rights of the Jewish people to their historical capital might have led negotiators to take a stronger stand on behalf of Israel's rights in the city.

Taking a longer view, the Jewish political tradition has witnessed a tension, over much of the last century, between Jewish particularism and Jewish universalism; the issue of Jerusalem is

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where these two political instincts meet, for by protecting the particular rights of Israel and the Jewish people to Jerusalem, Israeli diplomacy will best assure the rights of all faiths to gain access to the Holy City. Only under the sovereignty of democratic Israel has Jerusalem been open to all religions.

This study was conceived with the purpose of providing both a more realistic understanding of the actual positions of the principal parties to the Jerusalem question and a deeper appreciation of the rights Israel possesses in Jerusalem for any future negotiations.

Introduction

The diplomatic failure surrounding the July 2000 Camp David Summit between Israel and the PLO emanated largely, though not exclusively, from the gap between the parties over the issue of Jerusalem. Prime Minister Ehud Barak and President Bill Clinton insisted on holding the summit because they concluded that the diplomatic gaps between the parties could be bridged. A more accurate assessment of the position of the principal parties on the Jerusalem question might have led them to understand that the holding of a summit of this sort was entirely premature.

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Yet, a careful reading of the historical record of the Jewish presence in Jerusalem and an understanding of the international legal rights of the Jewish people to their historical capital might have led negotiators to take a stronger stand on behalf of Israel's rights in the city. This study was conceived with the purpose of providing both a more realistic understanding of the actual positions of the principal parties to the Jerusalem question and a deeper appreciation of the rights Israel possesses in Jerusalem for any future negotiations.

Defining Jerusalem's Borders

Historically, each party in the Arab-Israel conflict has a different geographic concept of Jerusalem. For most Israelis, Jerusalem means the current municipal borders of the city that were established in 1967 right after the Six-Day War; these include pre-1967 Israeli West Jerusalem (covering an area of 38 square kilometers), Jordanian-controlled East Jerusalem including the Old City (together 6 square kilometers), and portions of the West Bank that were annexed to Jerusalem but were not within the municipal boundaries of Jordanian Jerusalem, where new Jerusalem neighborhoods like Ramot and Gilo were established (64 square kilometers).

Palestinian Arabs do not recognize Israel's version of Jerusalem's municipal borders. Jerusalem suburbs built over the Green Line, like Har Homa (as well as Ramot and Gilo), are from their perspective not properly part of Jerusalem, but rather are West Bank settlements. While Palestinians speak sometimes about preserving the East Jerusalem municipality as an expression of defiance of Israel's 1967 annexation, the actual pre-1967 municipal borders decreed by Jordan are also not sacred in their eyes. Israeli negotiators, under the Barak government, tried to define a concept of Palestinian Jerusalem called *al-Quds*, as distinct from Israeli Jerusalem.

Palestinians and Jordanians refer to Palestinian villages, like Abu Dis, as being located within the pre-1967 Jordanian administrative county or district (*muhafeza*) of Jerusalem, that extended from just beyond its municipal borders as far as the Dead Sea. For this reason, major Palestinian leaders, like Faysal al-Husseini and Ahmed Qureia (Abu 'Ala), refuse to accept Abu Dis as an alternative capital to Jerusalem for a Palestinian state; instead, their claim is focused on the Old City.[1] Nevertheless, some of the Israeli architects of the Olso Agreements, like Yossi Beilin, hoped during the Rabin government that it might be possible to find an area, like Abu Dis, that Palestinians could accept as part of Jerusalem, which Israelis viewed as being mostly beyond Jerusalem, proper. Only a small portion of Abu Dis actually falls within Jerusalem's municipal borders.

There are much wider definitions of Jerusalem, as well. The UN Partition Resolution of November 29, 1947, UN General Assembly Resolution 181 (II), recommended the establishment of Jerusalem as an internationalized *corpus separatum* (a separate entity) whose area would extend beyond Abu Dis in the east, to Motza in the west, to Shuafat in the north, and included Bethle-

hem and Beit Sahur in the south. While the Palestinian leadership of 1947-48 rejected Resolution 181, recently the PLO has revived its interest in the 50-year-old resolution (see below).

In the last decade, Israeli city planners have recognized that a large metropolitan Jerusalem has evolved beyond the city's municipal borders. What defines this metropolitan zone is the intense economic and social interdependence of the areas around Jerusalem with the core of the city: a large portion of the residents in these areas commute to Jerusalem for work. These areas also provide land reserves for industrial or residential growth of both the Israeli and Palestinian Arab populations; indeed, following the experience of urban growth patterns worldwide, whoever has demographic preponderance in the periphery of Jerusalem can eventually take control of its core. Upon presenting his government in July 1992, Prime Minister Yitzhak Rabin called for preserving a unified Jerusalem, under Israeli sovereignty, and strengthening Israel's position in "Greater Jerusalem."

Commuter traffic patterns can also define a metropolitan zone; within 30 minutes of downtown Jerusalem are Beit Shemesh to the west, Almog junction to the east, Ofra to the north, and Tekoa to the south.[2] Both Israelis and Palestinian Arabs are dependent on Jerusalem's roadways to move between points in the metropolitan zone, and conversely, Jerusalem residents utilize the roadways of the periphery of the metropolitan zone to gain access to the city. Indeed, the Palestinians view Jerusalem as a key communications junction that connects the northern and southern halves of the West Bank.

Demography

Beyond the geographic issue, the Jerusalem question can be discussed on three different levels. There is the *political level* of who holds national sovereignty over the city, or its various parts. Related to political control is the issue of demography. During the Middle Ages, the Jewish presence in Jerusalem was repeatedly reduced or eliminated by Byzantine and Crusader rule, or as a result of military campaigns. But even before the rise of modern Zionism, a Jewish plurality was restored in Jerusalem under the Ottoman Empire in the early nineteenth century; in 1845, according to the Prussian Consul General in Jerusalem, there were 7,120 Jews out of a total population of 15,510.[3] There has been *a Jewish majority in Jerusalem since at least 1864,* when out of a total

population of 15,000 there were 8,000 Jews, 4,500 Muslims and 2,500 Christians, according to British consular sources.[4]

When Israel unified Jerusalem in 1967, 74.2 percent of the population was Jewish, while 25.8 percent was non-Jewish (mostly Palestinian Arab). The Arab population was almost entirely located in the eastern parts of the city, while no Jews lived in those areas that had been under Jordanian rule. (During the period of the British Mandate, Jews had lived in these areas, not only in most parts of the Old City but also in suburbs like Atarot [1920] and Neve Yaakov [1925]; while leading individuals, like Judah Magnes and Henrietta Szold, lived in the American Colony.)[5] Roughly speaking, from 1967 to the present, Israel maintained the overall balance between Israelis and Palestinian Arabs in the city as a whole, although by 1993 the Jewish percentage of the population had declined somewhat to 71.7 percent.[6] A further decrease to 69 percent took place between 1993 and 1999.[7] Political control was a primary factor, although not the exclusive factor, affecting the demographic balance and distribution of various populations in Jerusalem.

Israelis are now the majority in those parts of Jerusalem that were annexed after 1967, although the Palestinians can offset this by using their demographic strength in the periphery of Jerusalem, especially in Ramallah and Bethlehem. For example, a large component of the Palestinian Jerusalem population was made up of residents of Hebron, who sought better employment opportunities. Moreover, the rate of building growth in Jerusalem neighborhoods populated by Palestinian Arabs (146 percent for the 1967-1995 period) has actually been greater than the rate of construction in Jewish neighborhoods (113.5 percent for the same period).[8] Thus, political control has implications for demographic control, though under Israeli rule, the Palestinian Arab population has by no means suffered a demographic decline relative to the Jewish population.

The Jerusalem question can also be discussed on a *religious level* that relates to the administration, control, or protection of the holy sites of Judaism, Islam, and Christianity. Finally, there is the municipal level of local government in Jerusalem, which is not a focal point of this study. These distinctions are important. Often, a solution to the municipal issues is expected to address the struggle for national sovereignty. Alternatively, a solution to the issue of sovereignty may not answer the question of the holy places. Finally, concessions made on one level can turn into broader concessions on another level; it is easy to imagine the Palestinians taking an Israeli concession on the municipal level

and converting it into a concession on the national sovereignty level.

In any event, outlining the positions of the parties with reference to each level of the Jerusalem question is important. The following study will first look at the religious perspectives of each of the major faiths toward Jerusalem. Second, the focus will shift to the national political positions of each of the key parties to the Jerusalem question. Finally, the study will analyze how these positions affected the first detailed negotiations over Jerusalem at the July 2000 Camp David Summit and subsequent post-summit diplomacy.

The Religious Dimension: Jerusalem from the Standpoint of Judaism, Islam, and Christianity

On the face of it, there should be no reason why holy places that are situated under a state's national sovereignty should require a special international regime of any sort. Important sites to Eastern Orthodox Christianity in Istanbul are not under international protection, despite brief calls after the First World War to remove the city from Ottoman Turkish sovereignty.[9] Islamic institutions in India came under assault by Hindu zealots in 1992, yet there are no concerted efforts to provide them with special international guarantees, even after a mosque in Ayodha, India, was destroyed. There is no international demand that the shrines of Shi'ite Islam that are located in Sunni-ruled Iraq come under international protection either. For a short period in the 1930s there was a fear in the Islamic world of Saudi rule in Mecca and Medina, in light of Saudi adherence to the puritanical sect of the al-Muwahhidun; thus suggestions arose for the internationalization of the Hijaz.[10]

Therefore, the demand for a special international status for the holy places in Jerusalem is not a product of international convention or customary law. Rather, it is due to the unique situation of Jerusalem as a city that is holy to several major faiths, and results from the cumulative impact of centuries of struggle, beginning with the Crusades and leading up to the rise of the Jewish state. Still, Israelis have wondered why calls for internationalization of Jerusalem have been strongest when Jewish sovereignty over the holy sites is involved. Thus, Prime Minister Golda Meir asked in the Knesset on October 26, 1971: "Why is it permissible for Christian holy places to be under the regime of a Muslim state, but it is considered to be a defect for those places to be un-

der the regime of a Jewish state?"[11] The demand for removing the holy sites of Islam and Christianity from Israel's sovereignty is part of the political struggle being waged against the Jewish state, since such demands have not been made with respect to other similar cases. In this context it is important to recall that Jerusalem had a historical legacy that created a direct connection between political control and religious access.

Access to Jewish Holy Places

Prior to the emergence of the State of Israel, political control was used mostly against Jewish religious access. Under the *status quo*, established by the Ottoman Empire in the nineteenth century, Jews were allowed to pray at the Western Wall, but were prohibited from bringing Torah scrolls, chairs, or screens for separating the sexes, all of which are commonly used in synagogues worldwide. Muslim-Jewish tensions over Jewish attempts to break out of these religious restrictions were one of the catalysts of the 1929 Arab riots in British Mandatory Palestine.

The 1930 Shaw Commission, which was established by the British government after these disturbances, upheld this restrictive *status quo* against Jewish religious worship at the Western Wall, on the basis of the precedents that were fixed during Ottoman rule; it based its restrictive approach on Arab claims that the Western Wall was an integral part of the Temple Mount (al-Haram al-Sharif) and that it was Muslim-owned.[12] Thus, Jewish religious freedom at the holy sites of Jerusalem did not appreciably improve under the British Empire, in comparison with what existed under the Ottoman Empire. From 1922 to 1939, the British generally pared back their commitments to the Jewish national home through such commissions and by means of successive White Papers, due to their wider imperial interests.[13]

But it was during the period from 1948 to 1967 that Jordanian political control led to the complete denial of Jewish religious access to the holy places of Judaism. After the fall of the Jewish Quarter of Jerusalem in 1948, its Jewish inhabitants were expelled; fifty-eight of its synagogues were either destroyed or desecrated by being used as stables by the Palestinian Arabs. The great domed Hurva Synagogue and Porat Yosef Yeshivah were among those that were blasted into rubble. Hundreds of tombstones from the old Jewish cemeteries on the Mount of Olives were pulled out and used for paving roads or even for latrines. Indeed, neither Jewish nor Muslim Israelis were permitted to visit

their holy places. Jews who were citizens of other countries were also denied the right to visit the Western Wall.

Jordan and Israel disagreed over the scope of Article 8 of their General Armistice Agreement of April 3, 1949; Israel believed that a special committee was to be formed to implement Israeli access to the holy places, while the Jordanians held that the scope of the committee included further negotiation over access to Nazareth and other sites in Israel.[14] Regardless of these formal diplomatic differences, freedom of religion in Jerusalem was denied under Jordanian political control and Israel regarded this situation as a violation of the Armistice Agreement.

Jordanian political control limited Christian religious access, too. Israeli Christians were allowed to visit East Jerusalem only on Christmas.[15] Jordanian law restricted land purchases by Christian institutions and intervened in the autonomy of their educational establishments; the Christian population of Jordanian Jerusalem fell from 25,000 in 1949 to 11,000 in 1967. During this entire period the UN did not pass any resolutions concerning minority religious rights in Jordanian Jerusalem. Indeed, Jordan's harsh stand on Jewish religious access was taken when the Hashemite Kingdom was relatively weak and still under British political guidance.

The Religious-Political Center of the Jewish People

The Jerusalem question not only requires that the ways in which political control have affected religious access be distinguished; it requires delineating how each faith views Jerusalem in religious terms. For Judaism, Jerusalem is a combined religious-political center of the Jewish people. No wonder it became part of the very definition of Zionism; the Second Book of Samuel (Chapter 5, Verse 7) relates how King David made the "fortress of Zion" his capital in approximately 1000 BCE. Jerusalem served as a point of unity for the tribes of Israel, since it was not situated in the territory of a single tribe but rather was located on the border between the territory of Benjamin (representing the sons of Rachel) and the territory of Judah (representing the sons of Leah).

Jerusalem became the center of Jewish religious and national aspirations with the establishment by King Solomon of the *Beit Ha-Mikdash*, or the Temple, on Mt. Moriah. The Temple had a section known as the Holy of Holies, where the Ark of the Covenant, containing the Ten Commandments and the Torah, was housed.[16] While it stood, Jews were required to make a pilgrimage

to Jerusalem three times a year for the *hag* (Hebrew for pilgrimage festival, similar to *hajj* in Arabic). The First Temple was destroyed along with the rest of Jerusalem in 586 BCE by the Babylonians.

Ancient Judaism did not have a nationally exclusivist conception of Jerusalem or of the sacrifices to be conducted in the Temple. Biblical law permitted the acceptance of sacrifices from non-Jews, which was a common practice during the period of the First Temple, and especially in the Second Temple period. The Hebrew prophets, such as Isaiah and Jeremiah, envisioned the Temple, in the "end of days," to be a place of prayer for Israel and all the nations.

After the return of Jewish exiles to Jerusalem in 538 BCE from Babylon, and the establishment of the Second Jewish Commonwealth, the Second Temple was constructed in 515 BCE. Even after the Temple's destruction by Roman armies in 70 CE, Jerusalem remained the direction of Jewish prayer. And the calendar of Jewish fast days, until modern times, followed the stages of the siege and destruction of Jerusalem by the Roman Empire, culminating in the fast on the ninth day of the Hebrew month of Av.

According to Jewish tradition, the sanctity of the Temple Mount area remains intact despite the Temple's destruction. Indeed, Rabbi A.I. Kook, the first Ashkenazi chief rabbi of the pre-state Yishuv, confirmed that the eternal sanctity of the Temple Mount continues to exist. Subsequent chief rabbis of Israel, such as I.Y. Unterman and Y. Nissim, in fact continued, after 1967, to warn Jews not to enter any part of the Temple Mount.[17] Entry into the area where the Holy of Holies was located is absolutely forbidden by Jewish law today. A minority view put forward by former IDF Chief Rabbi Shlomo Goren identified areas on the Temple Mount that were clearly outside the zones that were prohibited for Jews under Jewish religious law.

Jerusalem remained over the centuries one of the central focal points of Jewish religious and national consciousness. Reference to Jerusalem's restoration appears in the core prayer of the Jewish religion, the *Shmona Esrai*, recited three times daily. Moreover, the declaration "Next Year in Jerusalem" completes the most widely celebrated holidays in the Jewish religion among the Orthodox, Conservative, and Reform movements: the Passover Seder and the *Ne'ilah* prayer of Yom Kippur. The purification of the Temple in Jerusalem is the central theme in the holiday of Hanukkah. Finally, the famous phrase of Psalm 137, "if I forget thee, oh Jerusalem, let my right hand wither," is recited by a father at the

circumcision of his son and by a bridegroom at the end of the wedding service.

The greatest point of sanctity in Jerusalem may be the Temple Mount, but the Jewish attachment to Jerusalem is to the city as a whole — and not just to its holy places. While Jewish political fortunes since the time of the first Jewish commonwealth have fluctuated, Jews always regarded Jerusalem as their capital. Each attempt to restore Jewish sovereignty, whether under the Bar-Kochba revolt of 135 CE or after the Persian conquest of Byzantine Judea in 614 CE, included an effort to reestablish Jerusalem as a national-religious capital.[18] After the Arab conquest of Jerusalem in 638 CE, the main Jewish center of Talmudic learning moved back to Jerusalem from Tiberias; since Roman and Byzantine authorities had banned Jewish residence in Jerusalem, the Galilee previously served as a temporary Jewish spiritual center.[19]

In subsequent centuries, major figures in the Jewish world sought to visit or settle in Jerusalem despite the risks that this entailed, from Maimonides (Rambam) to the Baal Shem Tov (the founder of Hasidism).[20] Three hundred rabbis from France and southern England came to reside in Jerusalem between 1209 and 1211 once it became permissible to do so after the fall of the Crusader Kingdom in 1187 and the end of the subsequent Mongol invasions.[21] Nachmanides (Ramban) left Spain to live in Jerusalem in 1267, where he established a synagogue that still stands, though he ultimately settled in Acre. The great commentator of the Mishnah, Harav Obadiah Bartinurah, left his native Italy and arrived in Jerusalem in 1488, where he established a yeshivah. He built up the Jewish communal institutions of Jerusalem so that they could absorb the massive influx of Spanish Jews fleeing the Inquisition after 1492; Bartinurah was buried at the foot of the Mount of Olives facing the City of David (Silwan). From the sixteenth to nineteenth centuries Jewish scholars arrived from Morocco, Yemen, and Poland, as well as students of the Gaon from Vilna. In short, Jerusalem remained a universal site of pilgrimage for the entire Jewish world.

Jerusalem's Role in Islam

Jerusalem plays a different role in Islam. It appears in the reference to the "Further Mosque," *al-Masjid al-Aqsa*, in the Koran (Sura 17), where Muhammad makes his night journey (*al-Isra'*) from Mecca while mounted on a winged horse-like beast (*al-Buraq*). Even if this is not an explicit reference, common

interpretation by most Muslims is that the "further mosque" is located in Jerusalem. According to Islamic tradition, Muhammad ascended to Heaven from Jerusalem (*al-Mi'raj*) and received the commandment that Muslims pray five times a day. The event is celebrated by Muslims on the 27th of the Islamic month of Rajab. While Jerusalem has only a very limited role in the life and prophetic revelations of Muhammad, still Muslims view Jerusalem as having special importance because it is associated with other divine messengers from the pre-Islamic period who appear in the Koran, such as David, Solomon, and Jesus.

The establishment of Jerusalem as the third most important place of Muslim pilgrimage comes from the Hadith, according to Orthodox Sunni tradition. It was for a short period the direction of prayer, *qiblah*, in the early Islamic community, later to be replaced by Mecca. Islamic tradition attaches importance to the entire area of the Temple Mount, al-Haram al-Sharif, and not just to the area of the Islamic shrines alone. But the harsh restrictions of Islamic law that apply to an area designated as *haram*, such as the area of the Islamic Holy Land in the Hijaz, do not apply to the Jerusalem case; for example, non-Muslims are restricted from visiting Mecca, but non-Muslims may visit the Dome of the Rock and the Al-Aqsa Mosque in Jerusalem.

The area of the Western Wall was made into an Islamic religious trust, *waqf*, in the twelfth century, at the time of Salah ad-Din, for the benefit of Muslims of Moroccan origin, known as the Mughrabis. Indeed, the area of the Wall has significance to Muslims. By tradition, it is the area where Muhammad stabled his winged horse-like beast, *al-Buraq,* before he rose to heaven. Thus, the area of the Western Wall is known as *al-Buraq al-Sharif*; campaigns for its defense against what Palestinian Muslims perceived as Jewish encroachments were part of the Arab-Jewish struggle in the 1920s. It should be noted, however, that the identification of the Western Wall as the exact location where *al-Buraq*, by Islamic tradition, was tied, was a relatively recent development; until the eleventh century, for example, Muslim scholars pointed to the southern or eastern walls of the Temple Mount as the most likely location.[22]

While pilgrimage or *hajj* is one of the main pillars of Islam, the commandment to make pilgrimage only applies to Mecca, not to Jerusalem. The Islamic term for coming to Jerusalem for religious purposes is *ziyara*, a term applied by Shi'ites for visits to their holy sites in Iraq. Muslim daily prayers contain no reference to Jerusalem; nor is Jerusalem mentioned in prayers on special holidays.

The emphasis placed on Jerusalem's centrality to Islam has tended to emanate from Muslims who were situated geographically close to the city. Thus the Umayyad caliphate, based in Damascus, had a special interest in Jerusalem, due to its competition with Mecca. Mu'awiyah had himself declared the first caliph in Jerusalem, in the year 660.[23] The Umayyads went so far as to establish Jerusalem as the site of Muslim pilgrimage, when 'Abd Allah ibn az-Zubayr was elected caliph in defiance of their wishes and seized Mecca in 683. In fact, it was the Umayyad caliph, 'Abd al-Malik ibn Marwan, who built the Dome of the Rock with its great golden dome in 691, and decreed that it become an alternative to the Ka'bah in Mecca. 'Abd al-Malik's decree was annulled within a year after the reconquest of Mecca.

But beyond the core area of Syria-Palestine, there are indications that Jerusalem was not always at the heart of Islamic consciousness. This was especially true of the Abbasid caliphate, based in Baghdad, that replaced the Umayyads in 750. The great Abbasid Caliph Harun al-Rashid, who made *hajj* to Mecca every second year, never came to Jerusalem, even though he frequented Syria because of his wars against the Byzantines. The same was true of his successor, al-Ma'mun, as well as most of the later Abbasid caliphs.[24]

The fall of Jerusalem to the Crusaders in 1099 did not bring about a strong initial reaction from the Persian-based Abbasid caliphate.[25] Sultan Kamil, who, following upon his father who succeeded Salah ad-Din, was the Ayyubid ruler of Egypt, voluntarily surrendered Jerusalem in 1229 to the Holy Roman Emperor Frederick II.[26]

Moreover, Muslim scholars, including the great Hanbali scholar, Ibn Taymiyyah, who lived in Damascus, were known to criticize the excessive veneration of Jerusalem as being adopted from Judaism.[27] The Hanbali school of Islamic law is practiced in the Arabian Peninsula, particularly in Saudi Arabia and Qatar. Thus, the relationship of Islam to Jerusalem was not always uniform, especially among those who lived in other parts of the Islamic world.

In the Jewish tradition, Jerusalem served as both a political and a spiritual capital. In the Islamic tradition, Jerusalem served as a spiritual center, but not a political center.[28] The administrative center of Palestine after the Islamic conquests was Ramle, not Jerusalem. And subsequently, Jerusalem became subservient to Muslim empires based in Damascus, Baghdad, Cairo, or Istanbul, but never served as an Islamic capital by itself. It is noteworthy that early Islam demonstrated a relatively tolerant attitude to the

Jewish presence in Jerusalem; Jewish resettlement in Jerusalem was renewed after Caliph Umar ibn al-Khattab took the city in 638 and again after Salah ad-Din vanquished the Crusaders. The early caliphs permitted Jewish families to even take responsibility for the maintenance of cleanliness on the Temple Mount.[29]

Jerusalem's Sanctity to Christianity

Jerusalem has always been a location of special sanctity to Christianity. Among its holy sites are the Church of the Holy Sepulchre (in the Old City) where Jesus was buried, according to Christian tradition, as well as the Tomb of the Virgin Mary (in Nahal Kidron). The Sanctuary of the Ascension, on the Mount of Olives, is where Christians believe Jesus ascended to Heaven.

Originally the Christian attitude, both Roman Catholic and Eastern Orthodox, was far harsher to Jews in Jerusalem than the Islamic approach. Under Byzantine rule, Jews were explicitly forbidden to live in Jerusalem, according to the convention established by the Roman Emperor Hadrian in the second century. Only once a year, on the ninth of Av, did the Byzantines permit Jews to gather at the Western Wall to mourn the destruction of the Temple.

During the Persian and Arab conquests of Jerusalem in the seventh century, Jewish resettlement in the city was permitted. But after the Christian conquest of Jerusalem by the Crusaders in 1099, Jews were again banned. As already noted, the Jewish community only began to recover after Salah ad-Din took Jerusalem from the Crusaders. While Jerusalem was the location of the teachings and crucifixion of Jesus, Christianity (unlike Islam and Judaism) underwent a process of "de-territorialization" over the centuries that began with St. Augustine, but also continued with Luther and Calvin.[30]

In many respects, the Christian connection to Jerusalem today poses far fewer difficulties than the Jewish clash with the Muslim world over the last decades. In the twentieth century, the Vatican position has undergone considerable evolution and is significant to analyze, given the Vatican's unique international role, including its eventual UN membership as an observer mission. During the 1940s the Vatican opposed Jewish control of holy sites. At the time of the debate over the Partition Plan and even following the War of Independence, it supported internationalization of the city. After 1967, however, it dropped this position in favor of internationalization of the Old City alone.

Archbishop Renato Martino, Permanent Observer of the Vatican in the UN, gave an address at Fordham University in April 1989 in which he proposed a special regime for the Old City that would guarantee the equality of rights of the three major religions. The question of sovereignty now appeared less important. By December 1993 the Vatican itself confirmed this view: the original Vatican position calling for internationalization and the rejection of Israeli sovereignty was modified in favor of international guarantees. On December 30, 1993, the "Fundamental Agreement between the Holy See and the State of Israel" was signed, by which they established diplomatic relations. In it, Israel affirmed "its continuing commitment to maintain and respect the 'status quo' in the Christian holy places." In October 1994, the Vatican created formal links with the PLO that fell short of full diplomatic relations.[31]

In early 1999, Archbishop Jean-Louis Tauran, the Vatican's foreign minister, summarized the emerging position of the Vatican on the Jerusalem issue:

> In the beginning, the Holy See supported the proposal for internationalizing the territory, the "corpus separatum" called for by the Untied Nations General Assembly Resolution 181 of November 29, 1947. In the years that followed, although the objective of internationalization was shown to be unattainable, the Holy See continued to call for the protection of the Holy City's identity. It consistently drew attention to the need for an international commitment in this regard. To this end, the Holy See has consistently called for an international juridical instrument, which is what is meant by the phrase "an internationally guaranteed special status."[32]

Tauran clearly stated that the Holy See did not claim "any competence to enter into territorial disputes between nations."

By March 21, 2000, the Vatican's approach to Jerusalem underwent a further significant development with the visit of Pope John Paul II to Israel. Unlike the 1964 visit of Pope Paul VI, who did not call upon any Israeli officials in the western section of Jerusalem, Pope John Paul II met with both the President of Israel, Ezer Weizman, and Israeli Prime Minister Ehud Barak in their Jerusalem offices. And while he described his visit as "a personal pilgrimage," nonetheless, the pope's decision to visit the holy places of Jerusalem in the Old City, under Israel's sovereignty, represented a significant further development in the Vatican's approach to the entire Jerusalem question.

The Political Dimension: The Positions of the Principal Parties to the Jerusalem Question

Israeli Policy and the Current Status Quo in Jerusalem

Israel's international legal position in Jerusalem emanates from the Palestine Mandate, by which the League of Nations, the source of international legitimacy prior to the United Nations, recognized "the historic connection of the Jewish people with Palestine" and called for "the establishment in Palestine of a national home for the Jewish people." The Mandate did not deal with Jerusalem separately from the rest of Palestine. While the Ottoman Empire had ruled Jerusalem from 1517 to 1917, Ottoman Turkey renounced its rights to sovereignty in all of Palestine in August 1920 in the Treaty of Sevres — a process that was completed with the 1923 Treaty of Lausanne, after the establishment of the Republic of Turkey. Moreover, the Covenant of the League of Nations established that the Mandates were no longer under the sovereignty of the states that formerly governed them.

As already noted, even prior to the League of Nations Mandate, the Jewish people established an overwhelming majority in Jerusalem; by 1914, there were 45,000 Jews in Jerusalem out of a total population of 65,000.[33] Indeed, over a half-century earlier, a British visitor to Jerusalem noted: "Although we are much in the habit of regarding Jerusalem as a Muslim city, the Muslims do not actually constitute more than one-third of the entire population."[34] The Jewish presence had spread to beyond the overcrowded Jewish Quarter itself: into the Muslim Quarter, and outside of the city walls even before the Muslim population, in Mishkenot Sha'ananim (1855-1860) across from the Armenian Quarter, Nahalat Shiva (1869) near Jaffa Road, Me'a Sha'arim (1875), Kiryat Neemana (1875) across from the Damascus Gate, and Kfar Shiloah (Silwan) (1884).[35] Jerusalem's demographics, and the spread of its Jewish population to all parts of the city, were consistent with the League of Nations' determination to include the Holy City in the Jewish National Home.

Despite the fact that the League of Nations was formally terminated in April 1946, the rights of the Jewish people in Palestine (and in Jerusalem particularly) were preserved by the successor organization to the League of Nations, the United Nations, through Article 80 of the UN Charter. According to Article 80, the existing rights of states, peoples, "or the terms of

the existing rights of states, peoples, "or the terms of existing international instruments" were protected.[36] True, the UN General Assembly subsequently voted in November 1947, according to Resolution 181, to create an internationalized *corpus separatum* for the Jerusalem area, but, like all General Assembly resolutions, this was only a *recommendation* rather than an internationally legally binding instrument like the League of Nations' mandate for Palestine.

Resolution 181 presented a painful dilemma to the leadership of the Zionist movement. While offering UN support for the idea of a Jewish state, it required internationalization of Jerusalem, the center of Jewish historical aspirations. However, while the Zionist movement accepted Resolution 181 and the *corpus separatum* for Jerusalem that it contained, at least this was not a *permanent* concession of Jerusalem. According to Resolution 181, the special international regime for the city was to "remain in force in the first instance for a period of ten years."

Moreover, the resolution stipulated that at that time, "the residents of the City shall be free to express by means of a referendum their wishes as to possible modification of the regime of the City." Finally, in 1947, the Jewish population constituted two-thirds of Jerusalem's population. Thus, Jerusalem could well be incorporated into the Jewish state in the future.[37] In any case, the leadership of the Zionist movement, at the time, knew that the Arab world, including the Palestinian Arabs, firmly rejected the Partition Plan.

The invasion of Arab armies into the nascent State of Israel in May 1948 made the *corpus separatum* for Jerusalem a dead letter. In a letter to the members of the UN Security Council, UN Secretary-General Trygve Lie defined these military moves as "the first armed aggression which the world has seen since the end of the war (Second World War)." Transjordan's Arab Legion moved against Jerusalem from the north, easily overtaking Atarot and Neve Yaakov, which had to be abandoned. While its artillery pounded Jerusalem from northern positions on French Hill, its main thrust was aimed at the Jewish Quarter of the Old City, which surrendered on May 28, 1948. Egyptian and Muslim Brotherhood forces attacked Jerusalem from the south, but did not advance past Kibbutz Ramat Rachel.[38]

After the siege and invasion of Jerusalem was broken by the efforts of the Israel Defense Forces (and not the UN) during Israel's War of Independence, Israel's first prime minister, David Ben-Gurion, declared in the Knesset on December 3, 1949, after the war's end: "we can no longer regard the UN Resolution of the

29th of November as having any moral force. After the UN failed to implement its own resolution, we regard the resolution of the 29th of November concerning Jerusalem to be *null and void.*"

Moreover, as Ambassador Abba Eban told the UN Trusteeship Council on February 20, 1950, even after the withdrawal of Britain's Mandatory government from Jerusalem on May 14, 1948, "the General Assembly simultaneously decided not to confer any international capacity upon it (Jerusalem)." In short, no other sovereignty or trusteeship superceded the rights of the Jewish people that had been acknowledged by the Mandate.

Jordan was in no position to assert sovereignty in Jerusalem, since the 1948 invasion of Palestine by the Arab Legion was illegal and in violation of the UN Charter; its 1950 annexation of the West Bank was only recognized by Great Britain and Pakistan, and rejected by most Arab states. Yet even the British stipulated that their formal recognition of the union of the West Bank with the Hashemite Kingdom of Jordan did not include recognition of Jordanian sovereignty over Jerusalem.[39] Thus, Prime Minister David Ben-Gurion and Israel's First Knesset were in a strong legal position to re-establish Jerusalem as Israel's capital in 1950. Equally, Israel had a firm basis for extending Israeli law to East Jerusalem, after the 1967 Six-Day War.

The specific circumstances of the Six-Day War along the Jordanian front, in fact, strengthened Israel's postwar claims in Jerusalem. In the weeks leading up to the conflict, the focus of the Middle East crisis had been along Israel's southern front where Egypt had closed off Israeli shipping through the Straits of Tiran and moved the Egyptian army to the Israeli-Egyptian border. While hostilities with Egypt began early in the morning on June 5, 1967, with the first wave of Israeli air attacks on Egyptian air bases at 7:45 a.m., Israel did not initially take any action whatsoever against Jordan. Nonetheless, Jordanian artillery opened fire on Western Jerusalem by 10:00 a.m., hitting both residential and commercial centers.

Already Jordan had massed most of its army (9 out of 12 brigades) along strategic positions in the West Bank and had given permission to Iraq to move an expeditionary army across Jordanian territory toward Israel. Within an hour Prime Minister Levi Eshkol sent a message to King Hussein through General Odd Bull, the commander of the UN Truce Supervision Organization (UNTSO), that Israel would not move against Jordan if Jordan would "not open hostilities." As Foreign Minister Abba Eban noted, "we decided to give King Hussein an ultimate chance to turn back." Jordanian attacks only intensified, including the

movement of armor and infantry; forward Iraqi formations had reached the Jordan River. Israel only moved against Jordan at 12:45 p.m. on June 5 after Jerusalem had clearly come under attack.

With the liberation of the Old City of Jerusalem as a result of the Six-Day War, the Eshkol government, with the backing of the Knesset, extended Israeli law, jurisdiction, and administration to the eastern part of Jerusalem on June 27, 1967. New municipal boundaries were created that included strategic points in the West Bank which had been exploited by Jordanian artillery.

Before the international community, Israel argued that it had not actually "annexed" East Jerusalem. Clearly, this was done in order to assuage states that firmly opposed unilateral Israeli acts after the war. But, according to Israel's Supreme Court, the eastern section of Jerusalem had in fact become an integral part of the State of Israel. The Supreme Court did not have to take into account diplomatic considerations in its ruling, but rather legal realities. Palestinian Arabs in East Jerusalem were not forced to acquire Israeli citizenship or surrender their Jordanian passports, but did have the right to apply and receive Israeli citizenship.

Considering that Jordan's position in Jerusalem had resulted from its 1948 invasion of the city, which was defined by the UN Secretary-General at the time as an act of "aggression" (see above), while Israel's standing in Jerusalem resulted from a war of self-defense, Israel could claim that it had a superior title to unified Jerusalem. Indeed, the UN Security Council refused to agree to a Soviet initiative on June 14, 1967, to have Israel branded as the aggressor in the Six-Day War. This line of argument was largely consistent with the analysis of major international legal experts like State Department Legal Advisor Stephen Schwebel, who would later head the International Court of Justice in The Hague. Schwebel indeed argued in 1970 that "Israel has *better title* in the territory of what was Palestine, *including the whole of Jerusalem* (emphasis added), than do Jordan and Egypt.[40] The situations of Jordan in 1948 and Israel in 1967 thus stood in stark contrast to one another.

In fact, UN Security Council Resolution 242 of November 1967 did not even mention Jerusalem and did not insist on a *full* withdrawal to the pre-1967 lines in the resolution's operative language (only a withdrawal from "territories" to "secure and recognized boundaries"). True, Resolution 242 contains "the inadmissibility of the acquisition of territory by war" in its preamble, but this language did not preclude changes in the pre-1967 lines that would result in "secure boundaries," as stipulated in the operative

language of the resolution.[41] This dovetailed with Israeli legal claims to parts of the territories that it captured, including Jerusalem.

Both U.S. and British spokesmen emphasized that Resolution 242 did not call for a complete Israeli withdrawal. The British Foreign Secretary in 1967, George Brown, stated in 1970 that "The proposal said 'Israel will withdraw from territories that were occupied,' not from 'the territories,' which means that Israel will not withdraw from all the territories."[42] Indeed, Lord Caradon, the British ambassador at the UN who drafted Resolution 242, turned down a Soviet request to add the word "all" before the word "territories." For that reason, the Soviets actually tabled a strict draft resolution calling for a full Israeli withdrawal, but this Soviet effort was not supported by the Security Council.[43] Since Resolution 242 was a British draft resolution, its clear intent is evident from the language used in its English version; thus any alternative interpretations of Resolution 242 that could be derived from its translation to one of the other official UN languages would not be as authoritative.[44]

Resolution 242 had originally been sponsored by the British government. But its final form including its permitting *territorial revision* of the pre-1967 borders would have not been achieved without Israeli diplomatic efforts, at the highest levels, in London and Washington.[45] Despite Israel's new legal position in East Jerusalem, the Eshkol government did not interfere with the administration of the Muslim holy sites on the Temple Mount by the East Jerusalem Waqf, whose officials continued to be appointed by Jordan. Yet Israel did not surrender its sovereignty regarding the Waqf. In its decision to expropriate the areas around the Western Wall and the Jewish Quarter, Israel was ready to assert its sovereignty vis-a-vis Waqf properties.

Nationalization of Waqf properties and compensation have occurred in Arab states like Jordan, too. But since the recovery of the Western Wall and the Jewish Quarter, Israel has rarely exercised its sovereign rights vis-a-vis the Waqf. In effect, a new status quo has arisen under which Israel could in theory intervene heavily, but in practice rarely intervenes at all.[46]

Israeli diplomatic policy on Jerusalem was established at the time of the annexation of East Jerusalem by the Eshkol government. While confirming Israel's political sovereignty over the entire city, Eshkol announced before a group of religious leaders that "it is our intention to place the international administration and organization of the Holy Places in the hands of the respective religious leaders."[47]

The Israeli position had two dimensions. As Foreign Minister Abba Eban wrote several weeks later, in a July 10 letter to the Secretary General of the United Nations: "It is evident from the United Nations discussions and documents that the international interest in Jerusalem has always been understood to derive from the presence of the Holy Places."[48] The letter continued by stating that Israel "ensured that the Holy Places of Judaism, Christianity, and Islam be *administered* [emphasis added] under the responsibility of the religions which hold them sacred." Eban drafted the letter with the assistance of two ministerial colleagues, Menachem Begin (Gahal-Herut) and Zerach Warhaftig (Mizrachi).[49]

Prime Minister Golda Meir continued this line of policy by stating in October 1971: "Israel is prepared to conclude agreements with the religious authorities of Christianity and Islam so as to ensure the religious status and the universal character of the sites holy to the various religions."[50] Thus, Israel was willing to work out inter-religious arrangements with respect to these holy places. The terminology of these arrangements referred to administration but not sovereignty. To the extent that Israel was prepared to make concessions in East Jerusalem, these were highly qualified and were circumscribed to the inter-religious level, and in no way compromised Israeli sovereignty in the city.

Jerusalem was not mentioned in the Camp David Accords of September 17, 1978, largely because of the insistence of Prime Minister Menachem Begin. Nor would Begin agree to Egyptian President Sadat's request that the flag of an Arab state fly over the Muslim holy sites in Jerusalem.[51] Egyptian-Israeli disagreements over Jerusalem were evaded by their agreement to an exchange of letters between Begin, Sadat, and President Carter that reiterated each party's respective policies on the Jerusalem question. Sensitive to the Jerusalem issue with the advent of the autonomy negotiations, the Begin government supported passage of the Jerusalem Law in the Knesset on July 30, 1980. The new law, while reiterating the status of united Jerusalem as the capital of Israel, did not alter its legal status.

The September 1993 Declaration of Principles between Israel and the PLO — the Oslo Agreement — represented a fundamental change in this past policy, for Israel's willingness to negotiate the Jerusalem issue was not narrowly circumscribed as it had been under past Israeli governments. Moreover, one month later, in the October 1993 Holst letter from Foreign Minister Peres, the PLO was recognized as a party to discussions with Israel over specific Palestinian functional interests in the city.

The Holst letter stated that "all Palestinian [sic] institutions of East Jerusalem, including the economic, social, educational, and cultural, and the holy Christian and Moslem places, are performing an essential task for the Palestinian [sic] population."[52] Israel undertook "not to hamper their activity" and had this assurance relayed to the PLO. By recognizing the PLO as a party with regard to the Muslim holy places, the Israeli government was contradicting the status quo that had existed with Jordan for many years.

It also opened up the possibility of functional understandings in Jerusalem regarding the Palestinian population, instead of the narrowly confined inter-religious understandings over the administration of holy places that were proposed by the Eshkol government. At least one leading voice in the Rabin government has made statements that indicate the possibility of flexibility in the future on the issue of Jerusalem. Thus Deputy Foreign Minister Yossi Beilin stated, "I'm not saying Israel is ready to compromise on Jerusalem now, but I think that since we are ready to go a long way with the Palestinians for many other issues, we can solve the problem of Jerusalem too."[53]

The expansion of the negotiating agenda on Jerusalem that occurred with the Holst letter was somewhat corrected in the Washington Declaration of July 1994 by Prime Minister Rabin and King Hussein. The Israeli-Jordanian statement said that: "Israel respects the present special role of the Hashemite Kingdom of Jordan in Muslim holy shrines in Jerusalem. When negotiations on the permanent status will take place, Israel will give high priority to the Jordanian historic role in these shrines. In addition, the two sides have agreed to act together to promote interfaith relations among the three monotheistic religions."[54]

The Israeli position still held that a unified Jerusalem was to remain under Israeli sovereignty. But with respect to the Palestinians, the Rabin government had made the PLO an interlocutor regarding a variety of issues affecting the Palestinian population. As for Jordan, it was an interlocutor on Jerusalem with regard to Muslim shrines alone. This latter approach was closer to traditional Israeli policy that accepted the administration of the holy places by the various religions, even if Jerusalem was to remain united under Israeli sovereignty.

It is important to add that, in approving the Washington Declaration on August 3, 1994, the Knesset also voted on a Likud party proposed statement recalling that a united Jerusalem, under Israeli sovereignty, would remain Israel's "eternal and exclusive capital." This added statement was approved by a majority of 77

to 9, and was supported by all the ministers of the Rabin government, including those from Meretz. It clearly precluded the idea of making Jerusalem a dual capital, both of Israel and of another political entity.

Rabin himself remained firm on retaining Israeli sovereignty over all of Jerusalem; he told a group of Tel Aviv schoolchildren on June 27, 1995: "If they told us that peace is the price of giving up on a united Jerusalem under Israeli sovereignty, my reply would be 'let's do without peace.'"[55] Rabin's preference for the Washington Declaration formulation on Jerusalem over the Oslo track understandings should be understood against the backdrop of his strong position on Jerusalem as a whole. Rabin was born in Jerusalem; during the 1948 War of Independence, he commanded the Harel Brigade that was responsible for keeping the Jerusalem corridor open for Israeli convoys. Finally, he was chief of staff of the Israel Defense Forces in 1967 when Jerusalem was re-united.

Still, there was a contradiction in the policy of the Rabin government between the commitments made by Israel to the PLO in the Holst letter and in the Washington Declaration. The former sought to assure the PLO that Israel would encourage the continuation and even the growth of Palestinian interests in "holy...Moslem places"; the latter gave assurances to Jordan about its role in the very same holy sites. The PLO clearly pushed open the door that the Holst letter created, when it established on September 19, 1994, the Ministry for Waqf Affairs of the Palestinian Authority in East Jerusalem under Hasan Tahbub.

The following month, after Jerusalem Mufti Sulaiman al-Jabari passed away, the Jordanian-PLO rivalry intensified. Jordan appointed a new mufti, Sheikh 'Abd al-Kadir 'Abadin. The PLO appointed its own mufti, Sheikh Ekrima Sabri. The PLO was clearly moving into an area that had been previously under Jordan's special jurisdiction. But the Israeli government did not intervene in the controversy, even if it preferred Jordan as an interlocutor on Jerusalem and not the PLO.

With the implementation of the Oslo Agreements, through the September 28, 1995, Oslo II Interim Agreement, there were three further important developments in Israeli policy under the Rabin government. First, Rabin's concept of "Greater Jerusalem" was circumscribed as Ramallah and Bethlehem went over to full Palestinian control and were designated Area A territories. The Palestinians had hoped that Rabin would turn over Abu Dis, as well, as part of the Bethlehem withdrawal. But Rabin refused to give Abu Dis Area A status and instead made it an Area B territory in which Israeli security forces still had freedom of movement.

Second, under the Interim Agreement, Palestinians residing in Jerusalem could vote in the elections for the Palestinian Council; yet the Jerusalem Palestinians were to only vote at Israeli post offices in East Jerusalem. Israel could claim that the Palestinians were no different than other foreign nationals who voted by absentee ballot in foreign national elections.

Third, Oslo II actually restricted Palestinian Authority governmental activity in Jerusalem, despite the provisions of the Holst letter. According to Article 1, Paragraph 7 of the agreement, "the offices of the (Palestinian) Council, and the offices of its Ra'is and its Executive Authority and other committees, shall be located in areas under Palestinian territorial jurisdiction in the West Bank and the Gaza Strip." The Rabin government did not always insist on PLO compliance with this understanding; it became more salient during the government of Prime Minister Benjamin Netanyahu (see below).

The next major development in Jerusalem policy under the Rabin government was the secret Stockholm channel on permanent status, run by Deputy Foreign Minister Yossi Beilin and Arafat's deputy, Abu Mazen. Their joint paper, reached on October 30, 1995, proposed a Palestinian capital in Abu Dis, but *no* recognition of Israeli sovereignty in East Jerusalem, whose final status would be determined in subsequent negotiations. A Palestinian flag — not a Jordanian flag — would fly in the area of the Temple Mount. The Beilin-Abu Mazen paper was not signed; in fact, it was much more a "working paper" than a completed document. Neither Arafat nor Rabin's successor, Shimon Peres, accepted its terms. Peres had already articulated in 1994 a vision for Jerusalem different from the Beilin-Abu Mazen paper:

> What I mean is that Jerusalem is politically closed, religiously open. No serious person will suggest to make out of Jerusalem another Berlin, to have a wall, a split. Jerusalem is united politically, is the capital of Israel, and you cannot have two capitals in one city. It is under Israeli sovereignty. But when it comes to the religious sites — not that we are going to share, (but) we are going to respect completely, fully, responsibly the rights, the hopes and the worship of the Christians and the Muslims.[56]

Arafat was only willing to call the paper "a basis for further negotiations," which reflected the Palestinian view of the paper as only a draft of negotiations in progress. In any case, Palestinian negotiators viewed Abu Dis not as a permanent substitute for their

aspirations in Jerusalem but rather as a vehicle for absorbing East Jerusalem by "osmosis." Subsequently, Abu Mazen claimed in discussions with the author that he never agreed to the document. Nevertheless, despite the refusal of Prime Minister Peres to accept the Beilin-Abu Mazen paper, it represented a further erosion of Israel's diplomatic position in Jerusalem as presented before Palestinian representatives. At the same time a myth persisted that Abu Dis was an acceptable substitute for Jerusalem, from the Palestinian perspective, leading many Israelis to overestimate the extent to which the issue of Jerusalem was soluble.

Prime Minister Benjamin Netanyahu sought to re-fortify Israel's position in Jerusalem. Israel's commitment to Jordan as custodian of the Muslim shrines and the continuity of the Washington Declaration was reconfirmed. The closure of Palestinian Authority institutions in Jerusalem was a precondition for the first Netanyahu-Arafat summit in 1996. Yasser Arafat, in fact, closed the offices upon which Netanyahu had insisted prior to their first meeting. Netanyahu firmly opposed high-level visits, including those of European foreign ministers, to "Orient House" for meetings with Palestinian Authority officials; the European practice, thus, came to be discontinued. At the time of the signing of the Hebron Protocol, on January 15, 1997, Israel received a commitment from Chairman Arafat to close remaining Palestinian Authority offices in Jerusalem (*Note for the Record*, Palestinian Responsibilities — Article 4), and further movement on Oslo was conditioned on the implementation of Palestinian obligations on the basis of reciprocity.

In accordance with its rights under Oslo that provided Israel with jurisdiction in Jerusalem, the Netanyahu government decided to construct a new Jerusalem neighborhood at Har Homa and approved a new Jerusalem-Tel Aviv Highway (Route 45) north of the Jerusalem corridor. Finally, it refused to acquiesce to international pressure, including a direct appeal by the Clinton administration, to close an ancient Hasmonean tunnel in the Old City, one end of which was opened in September 1996. Arafat was interested in constraining Israeli freedom of action in the Old City at the time and therefore incited widespread riots in the West Bank and Gaza, claiming that Israel was digging a tunnel under the Islamic shrines on the Temple Mount. Israel's intelligence chiefs verified that the massive unrest, which did not break out immediately, was not a spontaneous response to the tunnel opening but rather the product of a decision taken by Arafat himself to escalate tension and incite violence in the wake of the tunnel con-

troversy.[57] The tunnel, in fact, was more than 2,000 years old and ran parallel to the Temple Mount, and not underneath it.

PLO and Palestinian Policy on Jerusalem

Until the Oslo Agreements, the PLO did not focus its diplomatic efforts on Jerusalem as such, but rather on its broader political-military goals, for its main constituency was located in the refugee camps of Lebanon and Syria and not in Jerusalem, proper, which had its own Palestinian elites. The 1968 PLO Covenant rejected Jewish claims to Palestine through the League of Nations Mandate. But it did not specifically single out Palestinian claims to Jerusalem, which is not even mentioned once in the PLO Covenant. It may be that the PLO needed to take into account Jordanian sensitivities on the future of Jerusalem, which could have affected Palestinian declaratory policies until the late 1980s.

Still, Jerusalem had one critical role in Palestinian politics. While PLO Chairman Yasser Arafat was in fact born to a Gazan family in Cairo on August 24, 1929, according to his Egyptian birth certificate, he spent four years of his early childhood in Jerusalem (1933-37), leading him to perpetuate a legend that he was born in Jerusalem and directly related to the elite Husseini family of the Jerusalem Mufti, Haj Amin al-Husseini.[58]

At times, PLO policy on Jerusalem appeared to be more flexible than the positions of the local Palestinian leadership. One of the factors affecting Prime Minister Yitzhak Rabin's decision to pursue the Oslo negotiating track was the readiness of the PLO to exclude Jerusalem from interim self-rule arrangements.[59] In contrast, the Palestinian component of the Jordanian-Palestinian delegation to the pre-Oslo Washington peace talks prepared a document for the Israeli delegation dated March 3, 1992, that outlined a proposed Palestinian Interim Self-Governing Authority (PISGA) entailing "the orderly transfer of powers and responsibilities at present exercised by the Israeli military and/or other Israeli authorities in the Occupied Palestinian Territories (OPT), *including Jerusalem*, to the PISGA [emphasis added]."

Moreover, once the PLO leadership moved into Gaza, after 1994, it appeared ready to agree to (but not always implement) limitations on any Palestinian Authority presence in Jerusalem in accordance with the 1995 Oslo II Interim Agreement (see above). These positions were not always supported by local Palestinians, thereby reinforcing the impression that only the PLO, and Yasser

Arafat, in particular, were prepared to agree to Palestinian concessions in Jerusalem.

Beyond this tactical flexibility at the interim stage, however, when it came to the PLO's concept of final status, it was clear about its aims in Jerusalem: the basis of the PLO's declaration of statehood is UN General Assembly Resolution 181. According to Yasser Arafat's declaration of November 15, 1988, "this resolution still provides conditions for international legitimacy to guarantee the right of the Palestinian Arab people to sovereignty and national independence." Arafat continued his declaration by announcing "the PNC declares in the name of God and in the name of the Palestinian Arab people, the emergence of the State of Palestine over our Palestinian soil and its capital holy Jerusalem." Notably, several months earlier, in his Palestinian independence document, Faysal al-Husseini already also spoke about "Jerusalem, capital of Palestine."

Unqualified references to Jerusalem raise the question of whether the PLO claim is to East Jerusalem alone, or whether it extends to parts of West Jerusalem as well, especially since Resolution 181 did not apportion the western half of the city to Israel, but rather sought to erect a separate international regime for the city as a whole.[60] The PLO's international diplomacy, moreover, has not always sought to distinguish between the eastern and western parts of the city. PLO-proposed UN resolutions, whether in the Security Council, the General Assembly, or the UN specialized agencies, make explicit reference to all of Jerusalem. Formal resolutions have deplored Israeli actions in "Arab territories occupied by Israel since 1967, including Jerusalem." Yet this qualification of territories taken since 1967 did not always appear in earlier drafts.

Privately, well-connected Palestinian academics admit that they still have claims to parts of the western half of the city. They refer to destroyed Arab villages on the western side of Jerusalem. Some still explicitly support "complete internationalization of the city including East and West Jerusalem."[61] During 1998-99, Palestinian spokesmen made strong efforts, in fact, to revive these political claims on the basis of UN General Assembly Resolution 181. Thus Abu 'Ala wrote in *al-Hayat al-Jadida* on December 21, 1998: "it should be emphasized that the [Palestinian] state has internationally recognized borders, which are the borders set in the [1947] partition resolution."

This revival of Resolution 181 had implications for Jerusalem, especially when critical elements of the international community responded. For example, on March 1, 1999, the German

ambassador to Israel, in his capacity as representing the presidency of the European Union, sent a Note Verbale to the Ministry of Foreign Affairs of Israel stating: "The European Union reaffirms its known position concerning the specific status of Jerusalem as a *corpus separatum* (emphasis added)." The EU statement only radicalized the Palestinian position. Again, Abu 'Ala was quoted in *al-Ayyam* on March 14, stating: "The [EU's] letter asserts that Jerusalem in both its parts — the Western and the Eastern — is a land under occupation."

Reinforced by the European position on Resolution 181, PLO Chairman Yasser Arafat brought his campaign on this issue to the United Nations. On March 23, 1999, he met with UN Secretary-General Kofi Annan and raised Resolution 181. Upon leaving Annan's office he told reporters in Arabic:

> I remind the world that the decision calling for the establishment of the Palestinian state is Resolution 181, which refers to a Palestinian state, then to a Jewish state which later came to be called Israel.

Arafat's UN representative, the PLO Permanent Observer, continued the campaign two days later in a letter to the Secretary-General that was turned into a press release and subsequently distributed to all UN member states as a UN document:

> Yesterday, the Israeli representative to the United Nations [Dore Gold] made some comments to the media on the issue of General Assembly Resolution 181 (II) of 29 November 1947, as well as on a statement previously made by President Arafat on the subject. The Israeli representative repeated what the Israeli Foreign Minister [Ariel Sharon] said a few days ago; namely that Resolution 181 (II) was "null and void." These are pathetic statements involving illegal positions....Moreover, we believe that Israel must still explain to the international community the measures it took illegally to extend its laws and regulations to the territory it occupied in the war of 1948, *beyond the territory allocated to the Jewish state in Resolution 181 (II). Such a situation has not been accepted by the international community* (emphasis added).

The PLO letter to the Secretary-General was completed while Arafat was visiting New York and thus it is likely that it had his complete backing with respect to every detail. Clearly, the letter

sought to open up for discussion all Israeli territory between the partition lines and the 1949 Armistice Agreements. But also, the letter, in effect, sought to open up the issue of Jerusalem, and Israeli control of territories that had been planned in 1947 to fall under the *corpus separatum*. As noted in the PLO letter, Israeli Foreign Minister Ariel Sharon had repeated Ben-Gurion's determination from 1949 that 181 was "null and void."

At the UN, Israel's response, on March 30, 1999, described before the international community the PLO effort as a "transparent effort to belatedly derive benefit from a resolution which the Palestinian leadership itself violently rejected 50 years ago." The Israeli ambassador's letter stated that the PLO "seeks to broaden the parameters of the discussion of Jerusalem far beyond what was ever conceived in the Oslo Accords."

The EU position on Jerusalem, which had set off this flurry of diplomatic activity, was praised in parts of the Arab world. The Gulf Cooperation Council, representing the six Arab Gulf states, issued a press release in Riyadh, Saudi Arabia, at the end of its March 15, 1999, Ministerial Council, stating: "The Council again commended the European Union for its refusal to recognize Al-Quds, *including the western section of the city* (emphasis added), as the capital of the Zionist entity."[62] Osama el-Baz, Egyptian president Husni Mubarak's advisor, stated that Egypt welcomed the European position. Equally, the Egyptians were critical of Israel's counter-moves against Resolution 181. *Al-Akhbar*, one of Egypt's official newspapers, reported on its front page on April 4, 1999, that Israel had taken "another bite" of the peace process with the rejection by Israel's UN Ambassador, Dore Gold, of the applicability of Resolution 181 today. Palestinian and European moves were hardening Arab positions across the Middle East.

Nabil Sha'ath, the normally moderate PA Minister of International Cooperation, explained the diplomatic logic behind the PLO's Resolution 181 campaign in the Palestinian press. According to Sha'ath, the PLO planned to replace the Oslo Accords, which were to expire on May 4, 1999, with UN General Assembly Resolution 181. Applying the "Namibia Model" through the UN Trusteeship Council, the PLO hoped to obtain a UN referendum among the Palestinian people living in the areas outside of the borders of the Jewish state that were proposed in Resolution 181. Sha'ath concluded: "If Resolution 181 is applied, all Palestinian land Israel occupies beyond the Partition Resolution borders will be transferred to the UN, *including Jerusalem in its entirety, both East and West* (emphasis added)."[63]

These positions were not new. Arafat himself has even denied the Israeli right to a capital in Jerusalem, even in its western half. In his famous Johannesburg speech on May 10, 1994, he asserted: "I'm saying this to give proof that what they (the Israelis) are saying that it is their capital. No it is not their capital, it is our capital."[64] This was not the only statement of this kind; a few months later in early August, Arafat declared: "Jerusalem was and will remain the capital of Palestine, all of it is Palestinian."[65] In 1995, Faysal al-Husseini stated that the Palestinians have claims to land and property in Western Jerusalem, particularly in the neighborhoods of Katamon and Talbieh. He estimated that 70 percent of the land in Western Jerusalem was Palestinian-owned; and noted Palestinian claims to villages like Lifta and Dir Yassin.[66]

Attempts to raise the issue of the western half of the city are implicit in the proposals of Hanna Siniora, pro-Fatah editor-in-chief of *Al-Fajr:*

> We felt that, using the 1947 Partition Plan divisions, all the institutions of both peoples could be located in the Greater Jerusalem area. West Jerusalem would have the Knesset, the seat of the Israeli government and all other Israeli government institutions, and in East Jerusalem we would have the Palestinian National Council, the seat of the Palestinian government and all other Palestinian government institutions. Our plan calls for the mutual agreement between the two countries to suspend the issue of sovereignty over the entire area of Greater Jerusalem [both east and west — D.G.] or the Metropolitan Council of Jerusalem.[67]

Siniora hopes that his model will permit the enlargement of the Palestinian presence in the western side of Jerusalem. He envisions "Palestinian neighborhoods/settlements in the Greater Area of West Jerusalem" as a means of compensating the Palestinians for the huge Israeli neighborhoods like Ramot or Gilo that have been erected on the eastern side.

While not formally representing the PLO, Walid Khalidi suggested proposals for Jerusalem that reflected some lines of thinking within the organization. Khalidi proposed in a 1988 *Foreign Affairs* article "the designation of West Jerusalem as the capital of Israel, East Jerusalem the capital of Palestine. Extraterritorial status and access to the Jewish holy places would be assured, and a Grand Ecumenical Council formed to represent the three monotheistic faiths (with rotating chairmanship), to oversee interreligious harmony. Reciprocal rights of movement and residence

between the two capitals within agreed-upon limits would be negotiated."[68]

Khalidi's proposals indicate two important elements of Palestinian thought. First, there is no indication of territorial compromise in Jerusalem, other than on the basis of a return to the 1967 lines. His offer of extraterritorial status for the Jewish holy places is within an Old City that reverts to Arab rule. This point is made repeatedly by leading Palestinians in public and private meetings. Second, like Siniora, Khalidi seeks ways of compensating for the Israeli-Jewish population on the eastern side by establishing a *reciprocal* Palestinian right of residence on the western side of Jerusalem.

In a seminar at PASSIA on June 25, 1992, the Palestinian scholar Rashid Khalidi maintained that 40 percent of the land in western Jerusalem was Palestinian-owned; nevertheless, he admitted: "we must demand the right to compensation for property, including public property, in West Jerusalem, and after compensation, offer acceptance of Israeli ownership of this property."[69] However such a negotiation might develop in theory, the Palestinians still harbor claims to the western half of Jerusalem. This means that even if a future Israeli government agreed to a territorial division of Jerusalem, such a settlement would not satisfy all outstanding Palestinian claims in the city.

In summary, it is hard to imagine that the Palestinians really believe that they can secure territorial concessions in the western half of Jerusalem. Nonetheless, their negotiators can be expected to make claims on Palestinian Arab homes and neighborhoods lost in the 1948 War. It would be a mistake to assign these hard positions to PLO Chairman Yasser Arafat and the PLO leadership alone. Palestinian claims to all of Jerusalem are widespread, including some of the most moderate Palestinian spokesmen, and involve the local Palestinian leadership, as well.

Jordanian Policy on Jerusalem

Any discussion of Jordanian policy must recall that, given his Shariffian lineage, the late King Hussein was regarded as a descendent of the Prophet Muhammad; his family exercised a religious role as caretakers of Mecca for many generations. His great grandfather, Sharif Hussein, who led the Great Arab Revolt during World War I but subsequently lost control of Mecca and Medina in the 1920s to the Saudis of eastern Arabia, is buried in Jerusalem.

As noted above, Jordan's political control over the eastern parts of Jerusalem ended in 1967, but its religious role continued nonetheless. The Israeli government left the functions of religious affairs under the East Jerusalem Waqf from the Jordanian administration. Thus, the Jordanian Ministry of Awqaf (Waqf-pl., Arabic) and not the Israeli Ministry of Religious Affairs managed the matters of the East Jerusalem Waqf. The Waqf existed under Jordanian law and Jordan appointed its officials, who generally came from pro-Jordanian segments of the Palestinian Arab population.

Jordan provided considerable funding to the Waqf as well. Moreover, the relative role of Jordan in the Waqf budget increased over the years: in 1977, for example, Waqf expenditures of 951,356 dinars came from Waqf income of 382,389 dinars and a Jordanian contribution of 568,967 dinars. By 1982, as Waqf expenditure increased to 2,607,486 dinars, the relative contribution of Waqf income fell to 362,437 dinars, while the Jordanian contribution rose to 2,245,049 dinars.[70]

Jordan's decision of July 31, 1988, to sever the Hashemite Kingdom's administrative ties to the West Bank did not affect the connections of its Ministry of Religious Endowments and Religious Affairs to the Waqf.[71] These connections continued into 1994. Most recently, King Hussein allotted about eight million dollars for repair work on the Dome of the Rock.

Jordan's policy regarding Jerusalem went through significant developments due to the 1993 Declaration of Principles (DOP). King Hussein reconfirmed his kingdom's responsibility for the Islamic holy sites in the eastern parts of the city. His public statements indicated a willingness to look at the issue of Jerusalem as primarily a religious issue: "With regard to the Islamic holy places of Jerusalem in particular, our position remains unchanged....We did not, nor will we ever, recognize any sovereignty over them, except by almighty God, as indeed with the holy places of all believers in God in this most holy city."[72] A day after signing the Israeli-Jordanian Peace Treaty, in October 1994, he addressed his parliament, saying: "we will never relinquish our religious responsibilities toward the holy sites, under all circumstances."[73]

By the time of the Casablanca Conference of November 1994, former Crown Prince Hassan added new elements to the definition of Jordan's role in Jerusalem. He explained on November 1 that Jordan exercised "holy authority" or "moral authority" over holy shrines within the walls of the Old City. Yet the Jordanian role was now circumscribed in time: "in the final status negotiations, when jurisdiction (over the Old City) is transferred to the Pales-

tinian side, this responsibility in its entirety will be transferred to those concerned."[74] He stated that current arrangements were for the interim period alone.

Two elements could be inferred from Hassan's statement. First, while expressing a willingness to modify the current interim arrangements in the holy places, Hassan only stated that Jordan's responsibility for holy sites would be transferred "to those concerned"; he did not make explicit reference to a Palestinian authority. Jordan could still fit into the category of a concerned party. Second, by stating that present arrangements would be modified only if a final status territorial settlement was reached between Israel and the Palestinians, Jordan now conceivably had an interest in final status agreements never being reached.

Both of these possibilities were contained in statements by then Prime Minister 'Abd al-Salim al-Majali to MBC on October 30, 1994: "As to what the final solution will be, there will be a role for Jordan in any final solution. In other words, we shall submit our viewpoint when the issue is resolved in the final phase. On Jordan's behalf, I affirm to you that on the day when Israel's political sovereignty over Jerusalem ends and the brother Palestinians take over sovereignty, we shall seriously consider abandoning this jurisdiction."[75] Thus, neither Crown Prince Hassan nor Prime Minister al-Majali precluded a continuing Jordanian religious role in final status. They opened up the possibility that the claims of others could be considered.

Under King Abdullah, Jordanian efforts to come to a *modus vivendi* with the PLO have accelerated and insistence on retaining Jordan's exclusive role has been modified. Not long after taking office, in May 1999 Abdullah still referred to Jordan being a partner in determining the final status of Jerusalem: "Well, Jerusalem is extremely important to me as a Hashemite, as a Muslem, as a Jordanian. And I believe that whether we reach final status discussions that I hope that Jordan will have a voice on the future of Jerusalem."[76] King Abdullah did not speak specifically about the Washington Declaration and Jordan's special role as caretaker of the mosques on the Temple Mount.

Abdullah's prime minister, Abdul-Raouf al-Rawabdeh, dropped the Jordanian claim to Jerusalem's holy sites altogether in August 1999. He stated that Jordan was willing to turn over its control of these sites to the PLO.[77] By November 1999, Abdullah was willing to give unqualified support for making Jerusalem the capital of a Palestinian state.[78] However, formal pronouncements in this regard can be expected to shift with the vicissitudes of the process.

U.S. Policy on Jerusalem

There are two very different aspects to the American approach to the question of Jerusalem. One has to distinguish between Jerusalem as a subject of formal policy, and Jerusalem as a subject of internal American politics. The former has pulled the American approach to Jerusalem in a direction that fundamentally conflicts with the Israeli position. The latter has brought about a gradual modification of the formal position in Israel's favor. Yet, even on the level of pure policy, the U.S. position on Jerusalem went through considerable fluctuations, especially with respect to the question of how or whether the 1949 Fourth Geneva Convention applied to the eastern portions of the city after 1967.

The basic American terms of reference on the Jerusalem issue are not the 1967 Six-Day War and Resolution 242, as in the case of other disputed territories. The U.S. formally is still on record supporting Resolution 181 of the United Nations from November 1947, that called for the partition of British Mandatory Palestine and the creation of a special international regime for Jerusalem as a whole.[79] Resolution 181 stated: "The City of Jerusalem shall be established as a *corpus separatum* under a special international regime and shall be administered by the United Nations." After Israel's War of Independence, the U.S. dropped its support for the *corpus separatum* and instead proposed a more limited form of internationalization under a UN Commissioner.[80]

Thus, in July 1952, the Truman administration notified the Israeli government that "the Government of the United States has adhered and continues to adhere to the policy that there should be a special international regime for Jerusalem." And in April 1960, the U.S. notified Jordan that it "has adhered and continues to adhere to a policy which respects the interest of the United Nations in Jerusalem." In the intervening years, Secretary of State John Foster Dulles had softened the official American line when he stated in 1953 that Israel and Jordan could have "some political status" in the city.[81]

After the 1967 Six-Day War, the American preference for an international regime barely survived as an undercurrent of U.S. policy. For example, on June 28, 1967, one day after Israel's annexation of East Jerusalem, the Department of State released a statement saying, "the United States has never recognized such unilateral actions by any states of the area as governing the international status of Jerusalem."[82] This was incorporated into the statement of Ambassador Arthur J. Goldberg before the UN General Assembly the following month; Goldberg's language became

a basic reference point for U.S. statements on Jerusalem for the next decade.

Ambassador Goldberg influenced the drafting of UN Security Council Resolution 242, of November 22, 1967, which was prepared as a British draft resolution by Lord Caradon, Britain's UN ambassador. As already noted, Resolution 242 did not specifically call for an Israeli withdrawal from all the territories that it controlled as a result of the 1967 Six-Day War. Goldberg wrote years later in retrospect, "The facts are that I never described Jerusalem as occupied territory." He pointed out that "Resolution 242 in no way refers to Jerusalem, and this omission was deliberate."[83]

With the election of President Nixon, the U.S. declaratory position on East Jerusalem hardened. Goldberg's successor, Ambassador Charles A. Yost, told the UN Security Council on July 1, 1969: "The United States considers that the part of Jerusalem that came under the control of Israel in the June war, like other areas occupied by Israel, is occupied territory and hence subject to the provisions of international law governing the rights and obligations of an occupying power." Thus, Yost was essentially saying that the U.S. viewed East Jerusalem as occupied territory subject to the 1949 Fourth Geneva Convention. This represented a clear shift in U.S. policy from the Johnson Administration, as articulated by Ambassador Goldberg.[84]

Additionally, under the Nixon administration, Secretary of State William Rogers announced in December 1969, "certain principles" for a Jerusalem settlement. He spoke about the need for a "unified city," open access for persons of all faiths, and "roles for both Israel and Jordan in the civic, economic and religious life of the city" — a more detailed elaboration of Dulles's "some political status." Administrative arrangements for the city, however, were to take into account the interests of "all its inhabitants" as well as of the Jewish, Islamic, and Christian communities. The international regime could still be read into American policy pronouncements at the time of the Rogers Plan.

At the time of the Camp David Accords, the U.S. government made special efforts to reassure various Arab parties about the future of Jerusalem. As already noted, President Carter wrote to President Sadat referring him to the Goldberg statement of July 1967 (see above). But a far more detailed description of U.S. policy was provided by President Carter to King Hussein in a series of answers to Jordanian questions in October 1978.[85]

Carter first explained that "we believe a distinction must be made between Jerusalem and the rest of the West Bank because of the City's special status and circumstances. We would envisage,

therefore, a negotiated solution for the final status of Jerusalem that could be different in character in some respects from that of the rest of the West Bank." What did "different in character" mean? It could be Israeli sovereignty and Arab administration, it could mean limited Arab sovereignty with international administration, or international sovereignty with Arab administration, along the line of Dulles's "some political status." The phraseology was deliberately vague.

During the Camp David autonomy regime, Carter wrote, he supported proposals "that would permit Arab inhabitants of East Jerusalem who are not Israeli citizens to participate in the elections to constitute the self-governing authority and in the work of the self-governing authority itself." Carter warned that "it is probably not realistic to expect that the *full* scope [emphasis added] of the self-governing authority can be extended to East Jerusalem during the transitional period."

This indicated Carter's appraisal of Israeli public opinion rather than his preference. Concerning the U.S. position on final status, Carter simply stated that "whatever solution is agreed upon should preserve Jerusalem as a *physically* [emphasis added] undivided city." He spoke about free access to holy places and the basic rights of the city's residents. The only international regime hinted at was that "the holy places of each faith should be under the full authority of their representatives."

Thus, Carter seemed to be breaking away from any hint of internationalization and moving toward ultimately dividing sovereignty in Jerusalem, without a physical wall. The issue of an international regime seemed now to focus on the holy places themselves, and not on territorial sovereignty in Jerusalem.

U.S. policy on Jerusalem was affected by the larger question of U.S. policy towards settlement activity in the West Bank and Gaza. During the Carter years, the U.S. determined that settlement activity was "inconsistent with international law." This conclusion was based on the determination of the State Department Legal Advisor, Herbert J. Hansell, that Article 49 of the 1949 Fourth Geneva Convention applied to the case of the territories Israel administered since 1967; Article 49 stated "the occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies."

The Israeli argument that the Fourth Geneva Convention did not apply to the case of Jerusalem, the West Bank and Gaza, because Jordan and Egypt previously occupied those territories as aggressors and hence had no sovereign rights, was not accepted: "the paramount purposes (of the Geneva Convention) are protect-

ing the civilian population of an occupied territory." Nor did the argument that the 1949 Geneva Conventions grew out of the history of mass expulsion in Nazi-occupied Europe affect the judgment of the legal advisor. Hansell had moved one step beyond Yost during the early Nixon years; not only did he invoke the Fourth Geneva Convention, but he specifically connected settlement activity to Article 49 of the convention. The Carter administration had thus veered far away from the original U.S. policy on Jerusalem first articulated under President Johnson.

The test of the Carter administration's position came when the UN Security Council voted for Resolution 465, on March 1, 1980, which affirmed that the 1949 Fourth Geneva Convention applied to "Arab territories occupied by Israel since 1967, *including Jerusalem* (emphasis added). The U.S. initially supported the resolution, but subsequently, two days later, President Carter stated that, given the reference to Jerusalem, the U.S. vote in the Security Council by Ambassador Donald F. McHenry was a mistake. The harsh anti-Israel vote had a political impact on the New York Democratic primary for president three weeks later. Carter lost the primary to Senator Edward M. Kennedy by a margin of 59 to 41 percent; a month earlier, Carter had enjoyed a 54 to 28 percent lead over Kennedy in the polls.[86]

During the Reagan administration these sorts of problems were averted; settlement activity was no longer viewed as a violation of international law, essentially because Washington decided to deal with the question in practical terms rather than get tied down to a debate on principles. At the UN, Ambassador Jeanne Kirkpatrick refused to continue the past policy of the Carter team which supported a General Assembly resolution "strongly deploring" Israel's refusal to accept *de jure* application of the Fourth Geneva Convention to the West Bank and Gaza. The U.S. shifted its affirmative vote to an abstention.[87] Thus, the question of U.S. policy toward the convention's applicability to Jerusalem became a moot point.

Under President Bush, U.S. policy partly reverted to the Carter years as U.S. criticism over Israeli settlement policy included references to Jerusalem, as well. Thus, Bush stated on March 3, 1990: "the foreign policy of the United States says we do not believe there should be new settlements in the West Bank or in East Jerusalem." Nonetheless, Bush did not return to the Carter-era position that viewed settlement activity and Israeli construction in East Jerusalem as a violation of international law.

For example, on February 1, 1990, the U.S. Ambassador to the UN in Geneva, Morris Abram, stated that he was on the U.S.

staff at Nuremberg and "was familiar with the legislative intent behind the Fourth Geneva Convention: it was not designed to cover situations like Israeli settlements in the occupied territories, but rather the forcible transfer, deportation or resettlement of large numbers of people."[88] Thus, as in the Reagan years, the U.S. critiqued Israeli settlement activity on policy grounds rather than on the basis of legality. At the opening of the Madrid Peace Conference on October 30, 1991, Bush did not say a word about Jerusalem; nonetheless, he introduced territorial flexibility, with implications for Jerusalem, when he stated that "territorial compromise is essential for peace."

The Clinton administration moved forward in expressing gradual acceptance of Israel's position in Jerusalem. Just before the 1992 elections, Clinton gave an interview to *Middle East Insight* in which he stated, "I do recognize Jerusalem as Israel's capital, and Jerusalem ought to remain an undivided city."[89] Once in office, Clinton's team softened official U.S. language on Jerusalem considerably. After the deportation of Palestinians from the territories back in early 1988 at the end of the Reagan administration, UN Security Council Resolution 608 was passed, with an American abstention, that referred to the West Bank as a whole as "occupied Palestinian territories." This policy continued into the Bush administration with its abstention on UN Security Council Resolutions 636 (on July 6, 1989) and 641 (on August 30, 1989).

But in March 1994, the Clinton administration formally retreated from tolerating this language when the motion to condemn the Hebron massacre came up for a vote. U.S. Ambassador to the UN Madeleine Albright explained: "we are today voting against a resolution precisely because it implies that Jerusalem is occupied Palestinian territory. We simply do not support the description of the territories occupied by Israel in the 1967 war as occupied Palestinian territory."[90] Ultimately, the Clinton administration supported UN Security Council Resolution 904, which created a Temporary International Presence in Hebron; but Albright registered the U.S. objection to language about Jerusalem as "occupied Palestinian territory" by abstaining on two preambular paragraphs.

Clinton's team was only partially supportive of Israel's view that Jerusalem should not serve as an administrative center of any sort for the PLO's self-governing institutions. On the one hand, the administration "categorically ruled out" opening an office in East Jerusalem to administer financial assistance to the Palestinians through the Agency for International Development.[91]

But on the other hand, U.S. officials did not stop visiting Orient House to conduct political discussions that went beyond the narrow local interests of Palestinians living in East Jerusalem. For example, U.S. Peace Process Coordinator Dennis Ross met with Palestinian representatives in Orient House on January 17, 1994. U.S. Secretary of Commerce Ron Brown followed two days later, meeting Palestinian delegates to the peace process. More importantly, a U.S.-Palestinian memorandum was signed in Orient House on February 2, 1994, covering the financing of a construction project for the Gaza Strip.[92]

The Clinton administration unquestionably affected the evolution of the American position on Jerusalem by its sponsorship of peace accords between Israel and the PLO, on the one hand, and Israel and Jordan, on the other. By backing the DOP, the administration only gave its backing to the procedural point that the issue of Jerusalem would be a subject of negotiations in final status talks. But in the case of the Washington Declaration, the Clinton administration was lending its support to a point of real substance about the future of Jerusalem: that Jordan should receive "high priority" when the issue of the Muslim shrines of Jerusalem come up during permanent status negotiations. And by specifically backing the Israeli-Jordanian agreement, the Clinton administration opened the possibility that American policy might consider a religious solution in Jerusalem and not just a territorial solution.

In the meantime, the administration staunchly refused to allow other diplomatic initiatives to surface on the Jerusalem issue, outside of the bilateral peace process between the parties. On May 17, 1995, the U.S. vetoed a UN Security Council resolution on Israeli land expropriations in Jerusalem; the next day, May 18, the U.S. opposed a Palestinian proposal for a multilateral working group on Jerusalem, that was raised during the Montreux meeting of the Steering Group for the Middle East Peace Process. The administration faced competition on the Jerusalem issue from Congress; a letter dated February 3, 1995, that called for the transfer of the U.S. Embassy from Tel Aviv to Jerusalem, was signed by 93 U.S. senators (only 50 senators supported a similar initiative in 1984). The administration opposed congressional efforts to move to mandatory legislation.

Nonetheless, both houses of Congress adopted the Jerusalem Embassy Relocation Act on October 23, 1995, by huge majorities (93-5 in the Senate and 374-37 in the House of Representatives). The bill stated that the U.S. Embassy should be established in Jerusalem no later than May 31, 1999. It forced the administration to act by stipulating that 50 percent of the money allocated for the

acquisition and maintenance of U.S. buildings abroad could not be spent in fiscal year 1999, if the U.S. Embassy in Jerusalem had not opened by the designated date. The Jerusalem Embassy Act still provided President Clinton with a waiver to avoid the spending penalty out of consideration of U.S. national security interests. President Clinton invoked the waiver three times, and thereby delayed the transfer of the U.S. Embassy.

The U.S. took upon itself a more active and engaged role on Jerusalem matters during the negotiations leading up to the Hebron Protocols in 1996-97. In September 1996, the Clinton administration initially pressured the Netanyahu government to close the Hasmonean tunnel, the opening of one side of which was followed by widespread rioting incited by the Palestinian Authority. Moreover, Washington would not veto UN Security Council Resolution 1073 that was adopted on September 28, 1996. After negotiating out of the text the most explicit anti-Israeli language, the U.S. abstained on the resolution which called for a "reversal of all acts which have resulted in the aggravation of the situation." Later, however, the U.S. became a guarantor of Israel's demand of the Palestinians to close Palestinian Authority offices in East Jerusalem; the Note for the Record, which contained the specific clause for closing these offices, was, in fact, signed by U.S. Peace Coordinator Dennis Ross.

During 1997, the administration, in fact, helped block PLO efforts to internationalize the dispute over Israel's Har Homa building project in eastern Jerusalem, even utilizing the American veto twice in the UN Security Council: on March 7 and on March 21, 1997. Blocked in the UN Security Council, the PLO then sought the convening of an Emergency Special Session of the UN General Assembly under the 1950 "Uniting for Peace" Resolution to adopt a resolution calling for the convening, for the first time in history, of the High Contracting Parties to the 1949 Fourth Geneva Convention, in order to consider measures for enforcing the convention with respect to the West Bank, Gaza, and Jerusalem. The U.S. consistently voted against draft resolutions brought before the Emergency Special Session as it reconvened at least five times. Moreover, the U.S. refused to attend the Conference of the High Contracting Parties to the Fourth Geneva Convention that was finally held on July 15, 1999, at UN Headquarters in Geneva.

Finally, speaking at the annual AIPAC policy conference on May 23, 1999, Vice President Al Gore forcefully rejected PLO efforts to redefine the terms of reference for Israeli-PLO negotiations from UN Resolution 242 to Resolution 181; this clearly placed the U.S. in a different position from the European Union.

Gore added that the U.S. was calling on states to boycott the meeting of the High Contracting Parties to the Fourth Geneva Convention with respect to Israeli building practices in Jerusalem. A day earlier, Texas Governor George W. Bush pledged that, if elected, he would move the U.S. Embassy in Israel from Tel Aviv to Jerusalem. According to Governor Bush's spokeswoman, Bush "would set the process in motion as soon as he becomes president."[93]

The 2000 Camp David Summit, the Clinton Plan, and their Aftermath

The Barak Government's Shift on Jerusalem

The July 11-24, 2000, Camp David Summit was the first serious *official* negotiation between Israel and the Palestinians over Jerusalem. It was also the first time since 1967 that an Israeli prime minister was willing to *consider*, albeit conditionally, specific proposals for re-dividing Jerusalem. Prime Minister Ehud Barak was elected in May 1999, having committed himself to keeping Jerusalem united.

As late as May 2000, he declared on Jerusalem Day: "Only those who do not understand the depth of the total emotional bond of the Jewish people to Jerusalem, only those who are completely estranged from the vision of the nation, from the poetry of that nation's life, from its faith and from the hope it has cherished for generations — only persons in that category could possibly entertain the thought that the State of Israel would actually concede even a part of Jerusalem."

Barak's violation of these sorts of commitments led to the collapse of his parliamentary coalition and his standing in Israeli public opinion. Additionally, Barak dropped reciprocity from the Oslo process. Just before the convening of Camp David, Interior Minister Natan Sharansky and other ministers of the Barak government in fact resigned, representing three coalition partners (Yisrael B'Aliyah, Shas, and Mafdal), leaving Barak with a minority government. Just after the summit, they were joined by Foreign Minister David Levy.

Most commentators attributed the Camp David Summit's failure to the differences between the parties over Jerusalem, although wide gaps remained over every major issue that was on the

negotiating agenda. Nevertheless, Samuel "Sandy" Berger, President Clinton's assistant for national security affairs, insisted that the parties refused to move forward on other Israeli-Palestinian issues before knowing whether their differences over Jerusalem could be resolved.[94] In this sense, Camp David was also a diplomatic test of whether the positions of the parties to the Arab-Israel conflict over the issue of Jerusalem could, in fact, be bridged.

Why Barak and Clinton even believed they could bridge the gap over Jerusalem and therefore proceed to such a high-level summit is not completely clear. Many times what was produced in informal back channel academic contacts, like the Beilin-Abu Mazen final status document, was mistakenly assumed to reflect real Palestinian positions. Deceptive reports on Palestinian flexibility heard even from more central PLO officials were not sufficiently authoritative and must have confused Israeli diplomatic judgment. As Acting Foreign Minister Shlomo Ben-Ami subsequently noted in retrospect: "We discussed Jerusalem with the Palestinians before Camp David. The thing is that the Palestinian negotiators didn't know what Arafat wanted."[95] Clearly, there was a decision to ignore or dismiss many of the past public Palestinian statements on Jerusalem based on UN General Assembly Resolution 181 or claims to western Jerusalem outlined in the previous sections, that were part of the public record.

"Hypothetical" Discussions

The diplomacy over Jerusalem at Camp David was designed so that the parties could consider ideas for solutions without binding themselves to the negotiating record of the talks. At the end of the summit, President Clinton specifically explained that the Camp David Summit was guided by the principle that "nothing is agreed until everything is agreed." Thus, even if the Israeli delegation found one point of a proposal to be acceptable, Israel did not make any firm commitment by expressing approval of the idea or by not rejecting it out of hand. The entire discussion of issues at Camp David was hypothetical, depending on Palestinian agreement on other matters.

Second, very little at Camp David was put in writing. Instead, the ideas raised in the summit were *oral*. Israeli position papers were not shared with other delegations but rather kept within the Israeli delegation.[96] This served as a further protection against any discussion of proposals as constituting a binding commitment that

would later be raised in a future negotiation. Finally, most of the ideas about Jerusalem were raised by the U.S.; Barak tried to keep his direct contact with Arafat to a bare minimum.

Thus, the Jerusalem negotiations at Camp David had three aspects: they were *hypothetical* (pending agreement in other areas), *oral*, and *conducted through a third party*. Together these attributes made Camp David more of a "brainstorming" session than a formal negotiation in which the parties move from paragraph to paragraph until they reach complete agreement. Capturing the dynamics of the summit, Arafat's deputy, Abu Mazen, recalled "in Camp David...the Israelis and Americans were releasing test-balloons regarding solutions to the Jerusalem issues."[97] These very same attributes characterized the Israeli-Syrian negotiations in 1994-96, leading the Clinton administration to conclude that negotiations, under such conditions, could not bind either party. President Clinton himself stated on July 25: "under the operating rules that nothing is agreed until everything is agreed, they are, of course, not bound by any proposal discussed at the summit."

Barak himself sought to clarify the status of what transpired at Camp David as follows: "Ideas, views and even positions which were raised in the course of the summit are invalid as opening positions in the resumption of negotiations, when they resume. They are *null and void*" (emphasis added). Realistically, despite the strong legal ground that Barak stood upon, he would have to contend with the possibility that the Palestinians would not be willing to forget the extent of Israel's concessions on Jerusalem at Camp David. The PLO could well follow the Syrian model in negotiations and insist that negotiations resume "from where they left off."

However, members of Barak's government did not act as though the Camp David proposals were removed from the negotiating table. Acting Foreign Minister Shlomo Ben-Ami told President Mubarak on August 24: "We are not going back to square one" as he sought to enlist Egyptian help in coming up with a new diplomatic formula for the Old City of Jerusalem. Ben-Ami explained that Israel was interested in setting down in writing a "paper to express what the parties understand is the product of Camp David on some core issues."[98] Thus, Barak's negotiating record at Camp David did not legally bind future Israeli governments, but as a matter of policy, he seemed prepared to continue to view Camp David as a basis for future negotiations.

Jerusalem at Camp David

Despite its loose diplomatic style, Camp David was predicated on the assumption, particularly among Israelis and Americans, that the gaps in the positions between the parties on all the issues, particularly Jerusalem, were indeed bridgeable. While the proposals at Camp David were, for the most part, *oral*, nonetheless, it is possible to discern clear U.S. and Israeli formulae that were considered during the talks. That the Palestinians were not prepared to float a compromise plan of their own is indicative of the fact that they were far less optimistic that the gap over Jerusalem could be bridged. Under such conditions, the Palestinian team was either itself not prepared to compromise or assessed that any flexibility it offered would be "pocketed" by the U.S. and Israel.

The discussions over Jerusalem went through several stages during Camp David. Originally, the Israeli team did not envisage significant Israeli concessions in the core area of Jerusalem, in and around the Old City. Israel had informally floated a trial balloon of conceding only outer neighborhoods, like Shu'afat and Beit Hanina. But in the discussions between Israelis and Palestinians held in Stockholm in the month prior to Camp David, the Israeli team had no mandate to discuss Jerusalem.[99] Just before Camp David, Ben-Ami, in fact, suggested postponing the Jerusalem issue for two years, but Arafat refused.[100]

Even this early stage of Israeli informal concessions would have posed a difficult problem for many Jerusalem residents; those living in the Jewish neighborhoods of Neve Yaakov and Pisgat Ze'ev would have found themselves surrounded by areas of Palestinian sovereignty as their neighborhoods would have become virtual Israeli enclaves within Palestinian-controlled Jerusalem. The Palestinians did not find these kinds of proposals to be at all forthcoming in any case: thus Akram Hanieh noted generally about Israel's various Jerusalem proposals: "Israel was keen on getting rid of the Arab residents of Jerusalem while keeping Palestinian land."[101]

First Clinton Proposals for Dividing Jerusalem

The real Camp David negotiations over Jerusalem came in the form of U.S. proposals to the parties. The American bridging paper initially contained the following elements:

- Palestinian sovereignty in the Muslim and Christian Quarters of the Old City.
- Israeli sovereignty over the Jewish and Armenian Quarters.
- The Temple Mount area was to remain under Israeli sovereignty with a new concept of "custodianship" for the Palestinians which would be formally granted to them by the UN Security Council and Morocco. There was a second American proposal put forward as well for the Temple Mount. The Palestinians, according to Abu 'Ala, understood this second proposal to mean that sovereignty would be divided "vertically and horizontally": the Palestinians would control everything above the ground, while Israel would have sovereignty over everything underneath the ground. The U.S. was willing to entertain an Israeli request for a Jewish place of prayer on the Temple Mount itself. Arafat would obtain a headquarters, or a "sovereign presidential compound" (according to one version), inside the Waqf compound on the Temple Mount, access to which would be assured without any Israeli checkpoints through a tunnel, bridge, or a special road from Abu Dis.[102]
- The *outer* Palestinian neighborhoods like Shuafat and Beit Hanina in East Jerusalem would be put under Palestinian sovereignty, while the *inner* neighborhoods like Sheikh Jarah, the area of Salah ad-Din Street, Wadi Joz, Silwan, and Ras al-Amud, around the Old City, would only be under *functional* Palestinian control within the framework of Israeli sovereignty. The Palestinians understood this to mean local self-rule in these areas.

Prime Minister Ehud Barak did not accept the U.S. proposals straight out, but was willing to consider them as a basis for negotiation, if Yasser Arafat would do the same.[103] Thus, while Barak did not legally bind the State of Israel by formally accepting the Clinton proposals, by not rejecting them out of hand he placed himself in a position of being the first Israeli prime minister since 1967 to be politically willing to divide Jerusalem. Barak, however, made clear that he insisted on preserving Israeli sovereignty over the Temple Mount.[104] This conditional approach by Barak essentially placed the burden of acceptance or refusal of the proposals on the Palestinians; that President Clinton considered Barak's response as adequate, without pushing any further for an unconditional Israeli acceptance, prior to turning to Arafat, meant that Washington, in some sense, helped Israel avoid any responsibility for Camp David's failure.

Acting Foreign Minister Shlomo Ben-Ami articulated a vision for the Old City that was very different from the U.S. proposals: "a special regime in the Old City is what we should try to build. Since we have a two-kilometer square, this is the Old City and full of holy sites — Muslim, Christian, Jewish — populations that mingle in the Jewish Quarter, you have Jews in the Muslim Quarter. You have Jews and Muslims in the Armenian Quarter. Half of it is Jewish. So to divide sovereignty in such a limited space is ridiculous."[105] Clearly, Barak's willingness "to consider" U.S. proposals did not mean that the Israeli government accepted them.

The Barak government continued to seek new formulae for resolving the Jerusalem issue, after Camp David, as well. These efforts included proposals for "Divine sovereignty" as a solution to the Temple Mount. Despite U.S. and Egyptian mediation efforts in these post-Camp David negotiations, none of these proposals managed to close the gap between Israel and the PLO.

Palestinian Reactions to Camp David

Yasser Arafat rejected the U.S. proposals for Jerusalem. He argued before President Clinton that no Palestinian could concede Jerusalem, and more specifically he insisted upon the Arab interpretation of UN Security Council Resolution 242: "I want a peace based on the implementation of Resolution 242, as it was implemented on the Egyptian and Jordanian fronts. The Resolution must be implemented in full on the Palestinian territories....Why did you not ask Egypt during Camp David '78 to give up an inch of Sinai?" Arafat also used Islamic argumentation before American negotiators: "Jerusalem is not a Palestinian city only, it is an Arab, Islamic, and Christian one. If I am going to take a decision on Jerusalem, I have to consult with the Sunnis and the Shiites and all Arab countries." Finally, Arafat denied core Jewish claims in Jerusalem, even insisting before U.S. officials that there never were Jewish temples on the Temple Mount.[106]

Arafat's post-summit comments on the negotiations revealed the bottom line of the Palestinian position on Jerusalem: the PLO's demands for sovereignty "not only refer to the Church of the Holy Sepulchre and the Temple Mount mosques, and the Armenian Quarter, but it is Jerusalem in its entirety, entirety, entirety."[107] Arafat's claims extended to the Western Wall: "The British Mandate administration stated as early as 1929 that the Western Wall is the Al-Buraq Wall and that it is considered a Muslim religious endowment (waqf) to which Palestinians hold

historic rights."[108] Arafat repeated his claim to the Western Wall, to which he would give the Jews access, during an interview with NHK, the Japanese News Agency, in Tokyo after the Camp David Summit: "I have offered them free access to pray at the Western Wall...they will have an open corridor to reach the Western Wall."[109]

This was also the position of Faysal al-Husseini who indicated that the Palestinians wanted full control of all four quarters of the Old City, but would allow "some sort of arrangement" with Israel regarding the Jewish Quarter and the Western Wall.[110] The Palestinian Authority Mufti, Sheikh Ikrima Sabri, reinforced this point about Palestinian ownership of the Western Wall: "Arafat can tell them (the Israelis): 'Give me sovereignty over Jerusalem, and I will make it possible for you to reach the Al-Buraq Wall and pray there. I promise you freedom of worship.' [However] granting free access to the Wall does not mean that the Wall will belong to them. The Wall is ours."[111]

These sorts of Palestinian assertions were widespread. Even more moderate voices adhered to this position. Palestinian Legislative Council member Ziad Abu Ziad stated: "My comment to you was that the (international) committee determined that the wall was part of the mosque and was thus Waqf property."[112] Hasan Asfour, one of the young key Palestinian negotiators who accompanied the Oslo process since 1993, also stated: "With regard to the Al-Buraq Wall, which the Jews call the Wailing Wall, the Israelis were told that the Palestinians do not object to free worship by Jews at this site. But, the Israelis must realize that this is a Palestinian concession. They should not view this as a right. It is a Palestinian concession. This is so because the British-Jewish agreement of 1929 gave Jews the right to worship there based on the premise that the Al-Buraq Wall is an Islamic waqf."[113]

Abu Mazen used the same argumentation: "[W]e agreed that they could pray next to the Wall, without acknowledging any Israeli sovereignty over it. We relied on the resolution of Britain's 1930 Shaw Commission. The Commission acknowledged that the Wall belongs to the Muslim Waqf, while the Jews are allowed to pray by it as long as they do not use the Shofar." Abu Mazen also rejected the subsequent proposals for Divine sovereignty over the Temple Mount.[114] Speaking on Palestinian television, Abu Mazen was very clear on this point: "We don't agree to UN sovereignty in Jerusalem or Islamic sovereignty. Sovereignty can only be Palestinian. There is no place for dividing sovereignty and there is

even no place for Divine sovereignty. Any agreement requires recognition of our sovereignty."[115]

In the aftermath of Camp David there was also evidence that the Palestinians retained residual claims to the western side of Jerusalem, as well. Birzeit University conducted a public opinion poll during November 2000 on the issue of Jerusalem and the peace process. When asked "if East Jerusalem comes under Palestinian sovereignty, will you accept Israeli sovereignty over West Jerusalem?," 74.3 percent of respondents replied in the negative (21.1 percent said yes, while 4.6 percent were not sure).[116] Reflecting this view, Faysal al-Husseini proposed his own modified post-Camp David proposals for the "land swap" concept raised at the summit. Instead of agreeing to Israeli annexation of Jewish neighborhoods in East Jerusalem on the basis of a land swap with Israeli territory in the Negev, Husseini insisted that the land swap be made on the basis of exchanging East Jerusalem Jewish neighborhoods for land in West Jerusalem that was occupied by Palestinians prior to 1948.[117]

What is significant in all these statements is that the rejection of the Clinton proposals at Camp David was not confined to Yasser Arafat alone, but rather was widespread. Arafat's deputy, Abu Mazen, was no less forceful in asserting Palestinian claims right up to and including the Western Wall. Moreover, this firm Palestinian position extended beyond the PLO leadership from Tunis to the local Palestinian leadership, as well. Nor were these positions confined to the "older generation" of Palestinian leaders.[118] It would thus be an error to assume that in a post-Arafat era, Palestinian positions might significantly change on the Jerusalem question.

Even Ben-Ami, who sensed a greater flexibility in negotiating positions from the younger Palestinians at Camp David, like Arafat's economic advisor, Muhammad Rashid, and the head of Preventive Security in Gaza, Muhammad Dahlan, cautioned in this regard: "I would caution against the illusion that when there is a sharp transition from Arafat to post-Arafat, the (Palestinian) mythological rules will be broken. For there to be legitimacy there needs to be continuity. Those who come after Arafat will want to build their positions on the basis of their being his successors."[119]

The Palestinian position on Jerusalem was not always identical to that of all Arab and Islamic states, which stressed Islamic holy sites more than the strict implementation of UN Security Council Resolution 242 or the line of June 4, 1967. For example, after a meeting of the Jerusalem Committee of the Islamic Conference,

Egyptian President Husni Mubarak told *Le Figaro*: "I think the Western Wall adjacent to the Haram can be left to the Israelis along with the Jewish Quarter." The Palestinians disagreed and tried diplomatically to explain the differences between Egyptian and Palestinian policy on Jerusalem; they clarified that Mubarak did not negate their demand for full sovereignty over all of East Jerusalem, but only reiterated Arafat's offer of free access to the Western Wall.[120] This disagreement highlighted the Palestinian demand for sovereignty over the Jewish Quarter and the Western Wall.

The Palestinians Initiate the Al-Aqsa Intifada

The results of the Camp David Summit posed a serious problem for Yasser Arafat. Barak's conditional acceptance of the Clinton proposals juxtaposed against Arafat's total rejection of the American plan created a strong impression in the international community that the Palestinians were responsible for the failure of Camp David. As a result, as Arafat, after Camp David, sought international support for a unilateral declaration of a Palestinian state, he discovered that major powers in the international system, including France, were not prepared to assure him that they would recognize a unilaterally declared Palestinian state. Realizing the need to reverse international sympathy away from Israel, back to the Palestinians, the Palestinian Authority began preparing for a renewal of violence against Israel, which would put supposedly unarmed civilians against armed Israeli soldiers — like the Intifada of 1987.

While foreign commentators associated the outbreak of what the Palestinians called the Al-Aqsa Intifada with the visit of Likud Party Chairman MK Ariel Sharon to the Temple Mount on September 28, 2000, the Palestinians have clearly linked the outbreak of the violence to preparations made weeks earlier. Thus, the Palestinian Minister of Communications, Imad al-Faluji, stated in the official Palestinian Authority daily, *Al-Ayyam,* on December 5, 2000, that plans for the outbreak of the current intifada began the moment the Palestinian delegation returned from Camp David, at the request of Yasser Arafat.

Speaking at the 'Ein Al-Hilweh refugee camp in Lebanon during late February 2001, Faluji was even more explicit: "Whoever thinks that the intifada broke out because of the despised Sharon's visit to the Al-Aqsa Mosque is wrong....This intifada was planned in advance."[121] Arafat's advisor for strategic affairs, Hani al-

Hassan, who was also a member of the PLO Central Committee, admitted: "The present intifada enabled the Palestinians to change the old rules of the game, and thwarted Barak's attempt to place responsibility for the stalemate in the peace process [on the Palestinians]."[122]

Already in August 2000, the Palestinian Justice Minister, Freih Abu Middein, confided to another Palestinian Authority daily, *Al-Hayat Al-Jadida*, that "violence is near and the Palestinian people are willing to sacrifice even 5,000 casualties."[123] Clearly, leading Palestinian officials were expressing their awareness that some kind of major public disorders were about to erupt. The Palestinian Authority Police Commander echoed this awareness as well, stating: "The Palestinian Police will be leading together with all other noble sons of the Palestinian people, when the hour of confrontation arrives."[124] This was stated at least six weeks before Sharon's Temple Mount visit. The actual outburst began a day earlier when an Israeli soldier was killed by a roadside bomb at Netzarim junction, in the Gaza Strip, followed by an attack by a Palestinian police officer on his Israeli counterpart during their joint patrol in Kalkilya.

The outbreak of the Al-Aqsa Intifada should have frozen the post-Camp David negotiations over Jerusalem. After all, fundamental assumptions of the entire Oslo process, that had begun in 1993, were put in doubt. First, the idea that Jewish holy sites might be protected by the Palestinian Authority was shattered. Under Oslo, Jewish holy sites had begun to be transferred to Palestinian territorial jurisdiction. Yet at the outset of the riots, Jewish holy sites came under repeated armed assault.

On September 29, 2000, the Western Wall became the target of a rock throwing mob who hurled stones from the Temple Mount, in the presence of Palestinian Authority religious and security officials. On the eve of Rosh Hashanah, the Jewish New Year, large crowds of Jewish worshippers had to be evacuated from the Western Wall area. The Palestinian mob had been incited by the sermon given by Sheikh Hian al-Adrisi at the Al-Aqsa Mosque, who declared: "It is not a mistake that the Koran warns us of the hatred of the Jews and put them at the top of the list of the enemies of Islam....The Muslims are ready to sacrifice their lives and blood to protect the Islamic nature of Jerusalem and Al-Aqsa."[125]

In Nablus, Joseph's Tomb came under constant gunfire and was eventually sacked and burned by Palestinian mobs after it was finally evacuated by Israel on October 7, 2000. Palestinian authorities made preparations to convert the tomb into a mosque.

At the Jerusalem-Bethlehem border, Rachel's Tomb came under repeated Palestinian sniper attack. Finally, on October 12, 2000, the ancient Shalom Al Yisrael synagogue in Jericho was attacked by Palestinians as well. After the synagogue was sacked, many of its holy books and relics were publicly burned.

The attack on Jewish holy sites reflected a general refusal on the part of the Palestinian Authority leadership to acknowledge the Jewish attachment to the Temple Mount, Jerusalem, and other religious sites. As already noted, this came out explicitly during the Camp David Summit. But on the ground it was expressed in another way. The Waqf had been eroding Israeli authority on the Temple Mount since September 1996, when Israel Antiquities Authority supervisors were first expelled. But it was at the end of September 2000 that these archeological supervisors were completely prevented from returning to oversee the Waqf's construction efforts which included the completion of two huge underground mosques. Some 13,000 tons of rubble from the First and Second Temple periods, containing archeological artifacts, were removed by the Waqf in hundreds of trucks and dumped in various waste sites in the Jerusalem area.

In March 2001, it was reported that the Waqf had brought a heavy stone-cutter onto the Temple Mount and was cutting stones from ancient structures.[126] The Director-General of the Israel Antiquities Authority stated: "I can categorically state in an unequivocal manner that there is archeological damage being done to antiquities on the Temple Mount."[127] The Waqf showed no regard for the damage it caused to the remains of the ancient Hebrew heritage on the Temple Mount, making its behavior similar to the Taliban attacks against the pre-Islamic Buddhist presence in the Bamian Valley of Afghanistan in 2001, rather than resembling the occasionally more tolerant attitudes toward the Jewish presence in Jerusalem demonstrated by some of Jerusalem's earlier Islamic rulers.

Second, on the security level, the Al-Aqsa Intifada exposed further basic weaknesses in the original Oslo arrangements. Since the implementation of Oslo II in early 1996, Gilo had been the only population center inside of municipal Jerusalem which was a few hundred meters (and hence within automatic rifle range) from Area A, where the Palestinians exercised exclusive security control (and hence excluded an Israeli security presence). Exploiting their immunity from Israeli ground movements, Palestinian units, chiefly belonging to the Fatah Tanzim militia, regularly opened fire on Gilo from positions in Beit Jalla during the Al-Aqsa Intifada. Israel responded with counter-fire from Gilo to Beit Jalla,

but did not patrol or set up its own positions in Beit Jalla to prevent the town's infiltration by Tanzim snipers.

A similar situation could have evolved from Abu Dis toward the Mount of Olives and the Old City. In May 2000, the Barak government authorized the transfer of Abu Dis from Area B status to Area A; it nonetheless made the transfer conditional upon the disarming of the Tanzim, which the Palestinian Authority failed to implement. Thus, the Israel Defense Forces retained their freedom of action in Abu Dis, unlike the situation in Beit Jalla. The Israeli experience with Palestinian Authority behavior with respect to Jewish holy sites and regarding the overall security situation only reinforced a deep sense of mistrust toward any peace arrangements that placed historic elements of the national Jewish heritage in Palestinian hands and increased Israeli vulnerability to the PLO any further.

The Clinton Plan for Jerusalem

These experiences did not alter the determination of the Barak government to go forward with its post-Camp David diplomacy, including consideration of new American proposals for Jerusalem that were more forthcoming for the Palestinians than what was proposed at Camp David. On December 23, 2000, President Clinton met with Israeli and Palestinian negotiators in the White House and read aloud the new American plan for Jerusalem. Just like at Camp David, Clinton did not present his proposals in writing. Moreover, U.S. officials came to refer to the plan as the "Clinton Parameters," indicating that the proposals only sought to set out roughly the expected outlines of a settlement; clearly, further negotiation between the parties was envisioned to produce a detailed agreement. Significantly, according to notes taken by Giddi Grinstein, who worked for Israeli negotiator Gilad Sher, the oral presentation made by Clinton was to be regarded as "the ideas of the President." And if the ideas were not accepted, Clinton stated, "they are not just off the table; they go with the President as he leaves office."[128] Clinton's proposals could be summarized as follows:

Division of Sovereignty in Jerusalem

The "general principle" put forward was that "Arab areas are Palestinian and Jewish areas are Israeli." This principle of assign-

ing sovereignty was to be applied to the Old City, as well. Clinton urged both sides "to create maximal contiguity." This new Clinton proposal was even more favorable to the PLO than the earlier Camp David ideas, since it transferred Palestinian residential areas in the *inner* neighborhoods around the Old City to full Palestinian sovereignty instead of just giving the Palestinians functional powers in the framework of Israeli sovereignty.

Temple Mount

The Clinton proposals contained several alternative solutions for the Temple Mount:

1. Palestinian sovereignty over the Temple Mount and Israeli sovereignty over the Western Wall "and the space sacred to Judaism of which it is a part," or Israeli sovereignty over the Western Wall "and the Holy of Holies of which it is a part." This proposal would also contain a firm commitment by both sides not to excavate beneath the Temple Mount or behind the Western Wall.
2. Palestinian sovereignty over the Temple Mount and Israeli sovereignty over the Western Wall and "shared functional sovereignty over the issue of excavation," requiring the mutual consent of the parties before any excavation could take place. This second alternative eliminates the idea of Israeli subterranean sovereignty on the Temple Mount that was advanced at Camp David.

Clinton's final summary of his Jerusalem proposal was presented publicly in his parting address to the Israel Policy Forum on January 7, 2001: "First, Jerusalem shall be an open and undivided city, with assured freedom of access and worship for all. It should encompass the internationally recognized capitals of two states, Israel and Palestine. Second, what is Arab should be Palestinian, for why would Israel want to govern, in perpetuity, the lives of hundreds and thousands of Palestinians? Third, what is Jewish should be Israeli. That would give rise to a Jewish Jerusalem larger and more vibrant than any in history."

Risks to Israeli National Security

Neither Israel nor the Palestinians fully accepted the Clinton Plan; indeed, the Palestinian position was closer to outright rejection. The Israeli cabinet conditioned its acceptance of the proposals upon their acceptance by the PLO; moreover, the Israeli government prepared a list of reservations regarding the details of the Clinton Plan. As the Israeli head negotiator, Gilad Sher, noted: "Israel was willing to explore these ideas as a basis for further negotiations, but the Palestinians gave their so-called 'positive' answer, which was negative for all intents and purposes."[129]

No less significant than the official Israeli response was the reaction of the heads of Israel's security establishment to the Clinton proposals. The Chief of Staff of the Israel Defense Forces, Lt. General Shaul Mofaz, severely criticized the Clinton Plan as a virtual disaster for Israel, before the Israeli cabinet: "The Clinton bridging proposal is inconsistent with Israel's security interests and, if it will be accepted, *it will threaten the security of the state*" (emphasis added).[130] With respect to its Jerusalem component, Mofaz added: "The proposed plan will turn Jewish neighborhoods in Jerusalem into enclaves within Palestinian sovereignty that will be difficult to defend."[131] Avi Dichter, the head of Israel's General Security Services (GSS), was concerned about how the Clinton Plan would address the problem of terrorism in light of the situation that had emerged whereby Palestinian security services, that were supposed to fight terrorism, were now engaged in terrorism themselves.

There was a further fundamental problem that the Clinton Plan for Jerusalem created for Israel's overall national security. The plan was based on Palestinian sovereignty over Palestinian-populated areas in Jerusalem *and* keeping Jerusalem undivided. Yet conceivably, a Palestinian resident of a Palestinian state could move freely from the West Bank to a Palestinian sovereign section of Jerusalem. From a Palestinian neighborhood, that same individual could cross into an Israeli Jerusalem neighborhood (and then into Israel) since no border checks were to be introduced into the heart of Jerusalem itself. In other words, the Clinton Plan would have created a gaping hole in the separation of Israel from a West Bank Palestinian state, through which hundreds of thousands of Palestinians could move in order to take up residence in Israel. Given the relatively high Israeli per-capita GNP (in comparison with the Palestinians) and the Palestinian ideological determination to exercise some "right of return," the Clinton Plan arrangements for Jerusalem could pose a *demo-*

graphic threat to Israel that could only be alleviated by placing border controls in the heart of Jerusalem, and thus dividing the city.

Palestinian Reservations

The Palestinians had their own forceful argumentation against the Clinton Plan that they presented in the form of a letter from Arafat to Clinton:

> We seek, through this letter, to explain why *the latest American proposals, that were presented without any clarifications, do not meet the required conditions for a lasting peace*. In their present form, the American proposals may lead to the following: 1) partitioning the Palestinian state into three different cantons connected by roads either for Jews only or for Arab [sic] only. These roads will also divide the cantons which may jeopardize the viability of this state; 2) *partitioning Palestinian Jerusalem into several islands detached from one another as well as from the Palestinian state* [emphasis added]; 3) forcing the Palestinians to concede the refugees' right of return.[132]

The Palestinian critique of the Clinton Plan included the formulae proposed for the Temple Mount: "it seems that the American proposal recognizes, in essence, the Israeli sovereignty underneath the Haram (al-Sharif), since it implies that Israel has the right to excavate behind the Wall (which is the same area underneath the Haram), but it voluntarily concede [sic] this right."[133] Implicit in this Palestinian objection is a residual claim to the Western Wall, itself, which the PLO leadership, in fact, voiced after Camp David. Clearly, the Palestinians were concerned that Israeli sovereignty over the Wall would lead to Israeli sovereignty behind the Wall and hence subterranean Israeli sovereignty under the Temple Mount plaza. This would be consistent with the PLO claim, according to the 1930 Shaw Commission from the period of the British Mandate, that the Western Wall is an integral part of the Temple Mount.

The last chapter of Israeli-Palestinian negotiations during the Barak period took place in Taba, Egypt, during the latter part of January 2001. Unlike the Camp David Summit and the Clinton Plan, the Taba negotiations were mostly bilateral, with only a low-level American diplomatic presence. Foreign Minister

Shlomo Ben-Ami heralded the Taba talks as producing a near breakthrough toward an Israeli-Palestinian agreement: "We have never been closer to an agreement." Yet Ben-Ami's Palestinian counterpart, Abu 'Ala, had exactly the opposite assessment of the marathon talks: "there has never before been a clearer gap in the positions of the two sides."[134]

Abu 'Ala appeared to present a more accurate version of Taba. The Palestinian line appeared to have hardened on the issue of settlement blocs. Israeli negotiators tested with the Palestinians the idea of creating a special international regime for the "Holy Basin" — an area including the Old City and some areas outside the walls including the Mt. of Olives cemetery. The Palestinians rejected the proposal, insisting on Palestinian sovereignty instead.[135]

Lessons for the Future

It is important to carefully analyze the failure of the Camp David diplomacy over Jerusalem in order to draw lessons for future diplomatic initiatives, especially by Israel or the U.S.:

1. Unbridgeable Gaps Between Israel and the Palestinians

Despite the unprecedented concessions offered by Prime Minister Ehud Barak regarding Jerusalem, especially in comparison with every preceding Israeli prime minister since 1967, the PLO did not offer any corresponding readiness *to compromise* on territorial matters. Generally, Yasser Arafat insisted on receiving 100 percent of the West Bank (including East Jerusalem) and the Gaza Strip. He was only willing to concede land in these territories if he received equivalent compensation, in terms of a land swap, from unpopulated territories inside of pre-1967 Israel, like the Halutza area of the Negev.

It was not even clear whether the land swap concept, based on the Halutza area, could be applied to Jerusalem at all. Official Palestinian statements indicated little or no willingness to compromise on land inside the Old City of Jerusalem; residual Palestinian claims to sovereignty in the Jewish Quarter and even with respect to the Western Wall were repeatedly voiced in the post-Camp David period. There were also Palestinian voices that sought special land swaps for Jerusalem, utilizing land in the western side of the city in exchange for Israeli populated areas in

East Jerusalem. Finally, while Barak was willing to forgo exclusive Israeli sovereignty over the Temple Mount, albeit stipulating that he would not accept exclusive Palestinian sovereignty, the PLO would accept no alternatives to Palestinian sovereignty, period.

The Taba negotiations illustrated the problem Israeli negotiators had in reading Palestinian positions. Foreign Minister Ben-Ami asserted that the parties "had never been closer to an agreement." Yet the Palestinians presented a completely contradictory assessment; Saeb Ereqat said that Taba "emphasized the size of the gap between the positions of the two sides."[136] It appeared that throughout the negotiating process from Camp David to Taba, Israeli and American assessments of the Palestinians were based more on wishful thinking than on hard analysis.

Part of the problem of bridging the gap between Israel and the PLO over the issue of Jerusalem, or over any final status issue, for that matter, could be the result of a far more fundamental problem with the PLO's approach to peace negotiations that became more evident during the Al-Aqsa Intifada. Leading Palestinian spokesmen revealed that they ultimately had no intention of ever reaching a final peace with Israel. Thus, Yasser Abd Rabbo, the Palestinian Authority Minister of Information, confessed on a television program broadcast on November 17, 2000, on the Qatar-based Al-Jazeera network that "there is a consensus among Palestinians that the direct goal is to reach the establishment of an independent Palestinian state in the June 4, 1967, borders, with Jerusalem as its capital, [but] regarding to the future after that, it is best to leave the issue aside and not to discuss it."[137]

In a similar spirit, Faysal al-Husseini, the Palestinian Authority Minister for Jerusalem Affairs who has been associated with relatively moderate political views, addressed a forum of Arab lawyers in Beirut where he asserted:

> There is a difference between the strategic goal of the Palestinian people, who are not willing to give up even one grain of Palestinian soil and the political [tactical] effort that has to do with the [present] balance of power and with the nature of the present international system. The latter is a different effort from the former. We may lose or win [tactically] but our eyes will continue to aspire to the strategic goal, namely, to Palestine from the river to the sea. Whatever we get now cannot make us forget this supreme truth.[138]

A month earlier, Salim Za'anun, the Chairman of the Palestine National Council, stated in an official PA newspaper that the PLO Covenant calling for Israel's destruction was never changed and, hence, remained in force.[139]

Of course, these statements could be the product of the heated political environment created by the Al-Aqsa Intifada. Yet, throughout the post-1993 Oslo period, there was considerable evidence that the PLO leadership's ambitions extended beyond any arrangements *within* the 1967 lines, in accordance with UN Security Council Resolution 242, and extended into Israel itself. Arafat referred to the original Oslo Agreement as another Treaty of Hudaybiyyah, which was a temporary truce from the time of Muhammad.[140] The repeated references of PLO spokesmen in 1998-99, including at the United Nations, to UN General Assembly Resolution 181 of 1947 as a *territorial* basis for a peace settlement further indicates Palestinian ambitions well beyond the West Bank and Gaza Strip alone. If these hard-line positions were the true bottom line of PLO negotiators, then no diplomatic initiative could close the gap between the parties.

Finally, Barak's readiness to *consider* American proposals for the re-division of Jerusalem were not even acceptable to the general Israeli public. Thus, even if the PLO unconditionally had accepted the Clinton Plan, which it did not, it is far from clear that the plan would be approved in a national referendum of Israelis. On January 8, 2001, nearly 400,000 Israelis protested against these proposed concessions outside of the walls of Jerusalem's Old City. Diaspora Jewry joined the protest; the Chairman of the Conference of Presidents of Major American Jewish Organizations, Ronald S. Lauder, actually spoke to the demonstrators — his attendance was approved by a majority of American Jewish organizations (by a 14 to 9 vote), but because Conference decisions required unanimity, he appeared only in a personal capacity. The heads of the Israeli security establishment, IDF Chief of Staff Lt. General Shaul Mofaz and GSS head Avi Dichter, pointed out serious security deficiencies with the Clinton Plan. Finally, Israel's chief rabbis ruled that Israel must retain its own sovereignty over the Temple Mount.

Additionally, it is important to recall that the Al-Aqsa Intifada actually began when a Palestinian police officer shot and killed his Israeli counterpart in a joint patrol in Kalkilya; Israeli readiness to experiment with joint patrols in the sensitive Old City of Jerusalem was limited, at best. The deteriorating security situation, including Palestinian sniper attacks on Jewish neighborhoods in Jerusalem, assaults on holy sites, and the dam-

age caused to ancient Jewish archeological artifacts, only reinforced the view that Jerusalem must remain united, under Israeli sovereignty and effective control.

2. The Non-Binding Nature of the Camp David and Post-Camp David Discussions

In international legal terms, the only diplomatic activity that can legally bind the State of Israel is a signed international agreement that is ratified, in accordance with past Israeli practice, by the Knesset. Nonetheless, in the past there have been efforts, at least, to *politically* bind the State of Israel to the negotiating record of even failed peace talks. In 1996, for example, Syria insisted on resuming negotiations with Israel "from the point where negotiations broke off," ignoring the change in Israeli government policy that transpired after the May 1996 elections; both the U.S. and Israel rejected this Syrian policy in September 1996. A similar Palestinian effort cannot be ruled out in the future that would be intended to lock in the concessions of the Barak government to the Camp David negotiating record without committing the PLO to any corresponding concessions.

Yet the entire pattern of Camp David diplomacy was designed to preclude this sort of diplomatic course of action. As noted above, President Clinton himself summarized the negotiations on July 25 by re-stating the guiding rule of the summit, that "nothing is agreed until everything is agreed." Thus, there could be no locking-in of Israeli concessions on Jerusalem without locking in concessions in every field: borders, refugees, security arrangements, etc. For that reason, Clinton concluded in a public declaration that the parties were "not bound by my proposal at the summit."

Even in the post-Camp David diplomacy, these principles were preserved. Thus, when the Clinton Plan was presented to Israeli and Palestinian negotiators on December 23, President Clinton himself stated that these were his ideas and that "they go with the President as he leaves office." The U.S. Peace Coordinator, Dennis Ross, repeated this principle in an interview on January 19, 2001: "The President's ideas leave [the White House] with the President."[141] Thus, Ross concluded that "the new administration is not obligated in any way, shape, or form by these ideas."

After the landslide victory of Prime Minister Ariel Sharon in the February 6, 2001, elections, outgoing Prime Minister Ehud Barak wrote a letter to President George W. Bush stating that the

ideas raised with the Palestinians for a peace settlement during his term in office would not obligate his successor.[142] Secretary of State Colin Powell confirmed that this was the U.S. understanding of the legal status of Israel's past proposals on Jerusalem: "Prime Minister Barak, who is still acting prime minister, the caretaker prime minister until Mr. Sharon forms a government, has pulled those concessions off the table."[143] In summary, neither the Camp David Summit, nor the failed Clinton Plan, nor Taba *legally* or *politically* obligated successive U.S. or Israeli governments in the future. Thus, Prime Minister Ariel Sharon could declare at the annual American-Israel Public Affairs Committee (AIPAC) conference on March 19, 2001, that "Jerusalem will remain united under the sovereignty of Israel forever."

3. The Cost of Failed Negotiations

Both the U.S. and Israel incorrectly assumed that the diplomatic gap between Israel and the PLO over the subject of Jerusalem could be bridged. This was largely due to a misreading of the Palestinian position on Jerusalem. Flexible utterances in academic back channels or in private conversations with Arafat aides did not stand the test of real negotiations. It could be asserted that at least the real positions of the parties are now known and that nothing was lost in trying to reach a final peace settlement that included a resolution of Israeli-Palestinian differences over Jerusalem. However, this kind of assertion would be wrong.

The failed negotiations over Jerusalem led to violence that the Palestinians intentionally chose to call the Al-Aqsa Intifada, for good reasons. Since 1929, the struggle over Jerusalem has always been a convenient vehicle for mobilizing the Palestinian populace, as well as the Arab and Islamic worlds, more generally. This has been especially true of any struggle over the Temple Mount. A failed negotiation over Jerusalem can thus potentially convert an Israeli-Palestinian national struggle over land and boundaries into an inter-religious struggle with region-wide implications.

Both Israel and the U.S. paid a price for this development. In times of war, intelligence errors can be costly; the same is true for errors in diplomacy, as well. Egypt recalled its ambassador from Israel as a result of the Al-Aqsa Intifada, while Jordan failed to send its ambassador back to Israel. Israeli relations with North Africa and the Gulf states were frozen. U.S. officials discerned a deepening rage in large parts of the Arab world, that even led to demonstrations in places like Oman and Saudi Arabia, where po-

litical activism in the streets was previously very limited. It is probable that while the compromises on Jerusalem in the Clinton Plan that were demanded of Israel were unacceptable to most Israelis, nonetheless, the American compromises demanded of the PLO were not popular in the Arab world, either.

There is one main course of action that should be pursued by Israel and the U.S. in the period ahead. It is clear that a completed final status negotiation between Israel and the Palestinians is premature at this time. If Palestinian violence against Israel comes to an end and the parties return to the negotiating table, on the basis of the Camp David experience, Israel and the PLO would be better advised to focus on areas where they *can* reach agreement: meaning a new, long-term, interim understanding that sets aside the explosive issue of Jerusalem for the future.

In any case, the period of the Al-Aqsa Intifada only reinforced a point that was evident during the centuries of Jerusalem's history: only under the rule of a democratic Jewish state has Jerusalem been truly open to peoples of all faiths. The attacks on Jewish holy sites by Palestinian military personnel and the destruction of Jewish antiquities on the Temple Mount by the Palestinian Waqf clarified this truth for most Israelis. Again, the Jewish universalist instinct with respect to Jerusalem could be best achieved by pursuing a particularist political course.

Notes

1. Faysal al-Husseini spoke on June 16, 1999, at the Center for Policy Analysis on Palestine in Washington, D.C. He stated: "You can't say that Jerusalem is Abu Dis or that Abu Dis is Jerusalem....When we're talking about Jerusalem, its center is the Old City. *From there we must find a solution* (emphasis added)." See Center for Policy Analysis on Palestine web site: www.palestinecenter.org. For Abu 'Ala, see "Symbols, Semantic Key to Jerusalem Compromise" by Savi Bashi, *Associated Press*, January 31, 2000.
2. Israel Kimchi, Shalom Reichman, and Joseph Schweid, *The Metropolitan Area of Jerusalem* (Jerusalem: Jerusalem Institute for Israel Studies, 1984), pp. 8-9.
3. In 1845, more than a half century before the first Zionist Congress set out the territorial aims of political Zionism, the Prussian Consul General in Jerusalem, Dr. Schultze, estimated that there were 7,120 Jews, 5,000 Muslims, and 3,390 Christians in the city. From that moment, the Jews were to remain the largest single religious community. Their numerical dominance increased, despite periods of first Turkish and

then British restrictions on their entry into Palestine. Two years after Dr. Schultze's estimate, a British visitor, Dr. John Kitto, wrote in his book, *Modern Jerusalem*: "Although we are much in the habit of regarding Jerusalem as a Muslim city, the Moslems do not actually constitute more than one-third of the entire population."

...On April 15, 1854, *The New York Daily Tribune* ran an article that declared: "The sedentary population of Jerusalem numbers about 15,500 souls, of whom 4,000 are Musulmans and 8,000 Jews." The author of the article was Karl Marx.

...In the last decade of the nineteenth century, the influx (of) Ashkenazi Jews, especially from Tsarist Russia, raised the Jewish population to more than 28,000 in 1896. At the same time the Christian Arabs and the Muslim Arabs each numbered less than 9,000....By 1914 the Jewish population had reached 45,000 out of 65,000. Only the coming of the First World War halted the continuing demographic dominance of the Jews, many of whom were expelled to Egypt or deported to Turkey.

(All of the above are from Martin Gilbert, "Jerusalem: A Tale of One City," *The New Republic*, November 14, 1994. A French source, Father Abbe J.J. Bourasse, estimated in the late 1850s that the Jewish population in Jerusalem numbered 7,000 out of a total population of 15,000 (5,000 Muslims and 2,500 Christians). See David S. Landes, "Palestine before the Zionists," *Commentary*, vol. 61, no. 2 (February 1976):51.

4. Estimates of the British Consul, Noel Temple More, in 1864, see Martin Gilbert, *Jerusalem: Illustrated History Atlas* (Jerusalem: Steimatsky Publishers, 1994), p. 47.
5. See Terence C.F. Prittie, "Jerusalem Under the Mandate" and Lottie K. Davis, "First Americans in Jerusalem" in Alice L. Eckardt, ed., *Jerusalem: City of the Ages* (Lanham, Md.: University Press of America, 1987).
6. *Jerusalem Post*, November 1, 1994.
7. *Jerusalem Post*, September 27, 2000, citing the *1999 Statistical Yearbook for Jerusalem*, Jerusalem Institute for Israel Studies.
8. Israel Kimhi, *Arab Building in Jerusalem 1967-1997* (Boston: CAMERA, 1997), p. 38.
9. In a viciously anti-Turkish pamphlet, for example, Arnold J. Toynbee argued in 1917, during the First World War, for removing Istanbul (Constantinople) from Turkish sovereignty, but notably these sorts of arguments did not endure in subsequent decades:

   Constantinople, since the Turks conquered it from its last Christian Emperor in 1453, has been the political capital of the Ottoman Empire. But ever since it has been a city at all, it has also been the strategical and economic key to the Black Sea, conditioning the security and dominating the economic development of all peoples bordering on the Black

> Sea coasts. It is the most cosmopolitan city in the world. It is the Turk's at present by right of conquest, but that right justifies his expulsion by war if it justifies his original intrusion, and on broader considerations of population, sentiments, traditions and monuments of the past, Constantinople is more truly the capital of all the Christian peoples of the East. But it is not the exclusive possession of any of its native inhabitants, whether their presence there dates from more ancient or from comparatively recent times.

Arnold J. Toynbee, *The Murderous Tyranny of the Turks* (London: Nodder & Stoughton, 1917).

10. Martin Kramer, *Islam Assembled: The Advent of Muslim Congresses* (New York: Columbia University Press, 1986), pp. 106-112.
11. Document 54, "Statement made by Israel's Prime Minister, Golda Meir," in Ruth Lapidoth and Moshe Hirsch, eds., *The Jerusalem Question and Its Resolution: Selected Documents* (Dordecht: Martinus Nijhoff Publishers, 1994), p. 285.
12. > [T]he Commission herewith declares that the ownership of the Wall, as well as the possession of it and of those parts of its surroundings that are here in question, accrues to the Moslems. The Wall itself as being an integral part of the Haram-esh-Sherif area is Moslem property. From the inquiries conducted by the Commission, partly in the Sharia Court and partly through the hearing of witnesses' evidence, it has emerged that the Pavement in front of the Wall, where the Jews perform their devotions, is also Moslem property.

    Report of the Commission appointed by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland, with the approval of the Council of the League of Nations, to determine the rights and claims of Moslems and Jews in connection with the Western or Wailing Wall at Jerusalem, December 1930 (London: His Majesty's Stationery Office, 1931).
13. J.C. Hurewitz, *The Struggle for Palestine* (New York: Shocken, 1976), p. 21.
14. Tawfik al-Khalil, *Jerusalem From 1947 to 1967* (Amman: Economic Press, n.d.), pp. 90-92.
15. Uzi Benziman, "Israeli Policy in East Jerusalem after Reunification," in Joel Kraemer, ed., *Jerusalem: Problems and Prospects* (New York: Praeger Books, 1980), p. 112.
16. Whether the Ark of the Covenant contained *both* the Ten Commandments *and* the Torah is a matter of rabbinic dispute from the time of the Mishnah. See *Encyclopedia Talmudit,* Volume II, entry on the Ark of the Covenant (Jerusalem: Yad Ha-Rav Herzog, 1990) (Hebrew).
17. Document 100, "The Report of the Commission of Investigation into Events on the Temple Mount," in Lapidoth and Hirsch, *The Jewish Question and its Resolution*, p. 466. Nonetheless, there is

considerable evidence that Jews historically prayed on the Temple Mount even if this practice was discontinued. Rabbinic writings indicate that Jewish prayer on the Temple Mount was permitted by the early Arab rulers of Jerusalem. See Menahem Elon, "A City Knit Together: The Heavenly Jerusalem and the Earthly Jerusalem," in Mordechai Naor, *City of Hope: Jerusalem from Biblical to Modern Times* (Jerusalem: Yad Ben-Zvi, 1997), p. 317.

18. The Armenian historian Sebeos has written: "As the Persians approached Palestine, the remnants of the Jewish nation rose against the Christians, joined the Persians and made common cause with them." Jerusalem was captured in May 614 and placed under the rule of a Jewish leader, Nehemiah ben Hushiel ben Ephraim ben Joseph. See H.H. Ben-Sasson, ed., *A History of the Jewish People* (Cambridge: Harvard University Press, 1976), p. 312.
19. Jacob Mann, *The Jews in Egypt and in Palestine Under the Fatimid Caliphs* (New York: Ktav Publishing House, 1970), pp. 55-59, 166.
20. Maimonides was born in Cordova, Spain, in 1135, fled to Fez, Morocco in 1160, and in 1165 visited Jerusalem, before settling in Cairo; the Baal Shem Tov once reached Istanbul, planning to head for Eretz Yisrael, but was forced to return home. His brother-in-law settled in Jerusalem.
21. Salo Wittmayer Baron, *A Social and Religious History of the Jews: Late Middle Ages and Era of European Expansion, 1200-1650*, Volume X (New York: Columbia University Press, 1965), p. 95. See also entry on "Jerusalem" in the *Jewish Encyclopedia*, Volume VII (New York: Funk and Wagnalls, 1906), pp. 131-132.
22. Shmuel Berkovets, *The Battle for the Holy Places: The Struggle over Jerusalem and the Holy Sites in Israel, Judea, Samaria, and the Gaza District* (Or Yehuda: Hed Arzi Publishing House, 2000), p. 109 (Hebrew). Berkovets details which Islamic scholars took this position. See also Dan Bahat, "The Physical System," in Yehoshua Praver, ed., *The Book of Jerusalem 638-1099* (Jerusalem: Yad Ben-Zvi, 1987), p. 66.
23. W. Montgomery Watt, *Islamic Political Thought* (Edinburgh: Edinburgh University Press, 1968), p. 347.
24. S.D. Goitein, "Al-Kuds" in Bosworth, Van Donzel, Lewis and Pellat, eds., *The Encyclopedia of Islam* (new edition) (Leiden, E.J. Brill, 1980), vol. V, p. 326.
25. Emanuel Sivan, "The Sanctity of Jerusalem in Islam in the Period of the Crusades," in Yehoshua Praver and Hagai Ben-Shamai, eds., *Sefer Yerushalaim 1099-1250* (Jerualem: Yad Yitzhak Ben-Zvi, 1991), pp. 287-288.
26. Carl Brockelman, *History of the Islamic Peoples* (New York: Capricorn Books, 1960), pp. 231-232.
27. Joel Kraemer, "The Jerusalem Question," in Joel Kraemer, ed., *Jerusalem: Problems and Prospects* (New York: Praeger Books, 1980), p. 34.

28. Moshe Sasson, former Israeli Ambassador to Egypt, has made the point that Arab states have not made holy cities into their political capitals. The capital of Saudi Arabia is Riyadh, not Mecca; the Shi'ite holy cities of Najaf and Karbala were not made into the capital of Iraq. The only exception to Sasson's thesis, however, is Mecca, which for a short time served as the capital of the Hijaz, under the Hashemite throne, prior to the Saudi conquests. *Ma'ariv,* July 7, 1994.
29. Moshe Gil, "The Jewish Settlement," in Yehoshua Praver, ed., *The History of Jerusalem: The Early Islamic Period (638-1099)* (Jerusalem: Yad Yitzhak Ben-Zvi, 1989), p. 137. This eighth century practice has also been recorded by the Muslim historian Mujir al-Din in 1496.
30. Zwi Weblowsky, *The Meaning of Jerusalem to Jews, Christians and Muslims* (Jerusalem: Intratypset, 1977). Mordecai Chertoff, "Jerusalem in Song and Psalm," in Alice L. Eckardt, ed., *Jerusalem: City of Ages* (New York: University Press of America, 1987).
31. Marshall J. Breger and Thomas A. Indinopulos, *Jerusalem's Holy Places and the Peace Process* (Washington: Washington Institute for Near East Policy, 1998), pp. 30-31.
32. *Middle East Insight,* vol. xiv, no. 1, January-February 1999, p. 32.
33. See footnote 3.
34. *Ibid.*
35. Ruth Kark and Michal Oren-Nordheim, *Jerusalem and Its Environs: Quarters, Neighborhoods, Villages, 1800-1948* (Jerusalem: Academon, 1995), p. 103. At one point about 1,000 Jews lived in the Muslim Quarter of the Old City; they began to purchase houses in the Muslim Quarter in the 1860s, but after the riots of 1929, all but a few found it impossible to live there. See Nadav Shragai, *The Temple Mount Conflict* (Jerusalem: Keter Publishers, 1995), pp. 190-191 (Hebrew).
36. See, for example, the analysis of Paul S. Riebenfeld, who served as a Zionist delegate to the Permanent Mandates Commission of the League of Nations from 1937 to 1939. "The continued validity, however, of rights derived from a Mandate after the expiry of the League and the Mandate system was spelled out in the Charter of the United Nations, in its Article 80, which in the literature is often referred to as 'the Palestine clause.' The reason is that this provision, which is part of Chapter XII, dealing with International Trusteeship, was drafted as a result of Zionist representations at the San Francisco conference in order to protect, in addition to the existing rights of any states, also those of 'any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.' It mentions 'peoples.' The rights referred to were in particular those of the *Jewish people* as the beneficiary of the Palestine Mandate, in an international system based on the membership of *states*." Douglas J. Feith, William V. O'Brien, Eugene V. Rostow, Paul S. Riebenfeld, Malvina Halber-

stam, and Jerome Hornblass, *Israel's Legitimacy in Law and History* (New York: Center for Near East Policy Research, 1993), pp. 41-42.

37. This logic certainly guided the thinking of the Jewish leadership at the time; see Walter Eytan, *The First Ten Years* (London: Weidenfeld and Nicolson, 1958), p. 65.
38. Chaim Herzog, *The Arab-Israeli Wars* (New York: Vintage Books, 1982), pp. 59-61.
39. Statement by the Minister of State of the United Kingdom in the House of Commons, April 27, 1950, in Lapidoth and Hirsch, *The Jewish Question and its Resolution*, p. 147.
40. Stephen Schwebel, "What Weight to Conquest," *American Journal of International Law* 64 (1970):346-347. Israeli spokesmen subsequently adopted Schwebel's analysis in making Israel's case before the international community. See Chaim Herzog, *Who Stands Accused? Israel Answers Its Critics* (New York: Random House, 1978), pp. 90-91.
41. Julius Stone, "Israel, the United Nations and International Law: Memorandum of Law by Julius Stone," in John Norton Moore, ed., *The Arab-Israel Conflict, Volume IV, The Search for Peace (1975-1988)* (Princeton: Princeton University Press, 1991), pp. 816-817.
42. Meir Rosenne, "Legal Interpretations of UNSC242," in *UN Security Council Resolution 242: The Building Block of Peacemaking* (Washington: Washington Institute for Middle East Policy, 1993), p. 5.
43. See chapter by Vernon Turner in *ibid.*, p. 27.
44. "There is debate as to the discrepancy between the French text and the English text (of Resolution 242). Since this matter has been raised many times, it should be noted that, in international law, if there is any difficulty in interpreting the language of the texts, the original text is used as the reference point. Since the resolution was a British proposal, it is the English text that prevails." See Rosenne, "Legal Interpretations of UNSC 242," pp. 31-32.
45. Abba Eban, *An Autobiography* (New York: Random House, 1977), pp. 448-451.
46. On the Temple Mount itself, the Waqf administers the entry of visitors and worshipers. Israel does not intervene in the religious affairs of the Temple Mount, even when inflammatory speeches are given. For example, on March 19, 1993, Sheikh Muhammad Jamal, the assistant to the Jerusalem Mufti, said in a Friday sermon: "the Jewish presence in Palestine is temporary and we must crucify Palestinians collaborating with Israel" (*Kol Yisrael*, March 19, 1993). Israel placed a police presence on the Temple Mount after an Australian Christian fundamentalist, Dennis Michael Rowan, set fire to the Al-Aqsa Mosque in 1969. The unit is under the command of an Israeli Muslim officer and is manned by members of the three faiths. In 1969, Palestinian Arab leaders claimed that "occupying powers (like Israel) as such cannot escape their security responsi-

bilities" for the Temple Mount; the Waqf, they argued, was not meant to fulfill this role. Clashes between Palestinian rioters and Israeli police erupted on the Temple Mount on October 8, 1990, leaving 20 Palestinians killed and 53 wounded ("Commission of Investigation into the Events on the Temple Mount," in Lapidoth and Hirsch, *The Jewish Question and its Resolution*, pp. 486-470).

47. Cited in Yehuda Blum, *The Juridical Status of Jerusalem* (Jerusalem: Leonard Davis Institute, 1974), p. 31.
48. *Ibid.*
49. Abba Eban, *An Autobiography*, p. 442.
50. Statement made by Israeli Prime Minister Golda Meir in the Knesset in response to the UN Resolutions concerning Jerusalem, October 26, 1971, in Lapidoth and Hirsch, *The Jewish Question and its Resolution*, p. 285.
51. Menachem Klein, *Doves over Jerusalem's Sky: The Peace Process and the City, 1977-1999* (Jerusalem: Jerusalem Institute for Israel Studies, 1999), pp. 62-63 (Hebrew).
52. "Peres/Holst Letter Regarding Jerusalem," Israel Information Service Gopher, Ministry of Foreign Affairs, Jerusalem.
53. Marshall J. Breger, "The New Battle for Jerusalem," *Middle East Quarterly*, vol. 1, no. 4 (December 1994):29-30.
54. The Washington Declaration, Israel-Jordan, The United States, July 25, 1994, Israel Information Service Gopher, Ministry of Foreign Affairs, Jerusalem.
55. Agence France Presse, June 27, 1995.
56. "Interview with Foreign Minister Shimon Peres in Jerusalem," MacNeil/Lehrer Newshour, July 25, 1994, Israel Information Service Gopher, Ministry of Foreign Affairs, Jerusalem.
57. The head of Israel Military Intelligence, Major-General Moshe Yaalon, moreover, stated that Arafat gave a green light to Fatah, Hamas, Islamic Jihad, and the PFLP to attack Israeli soldiers and settlers. *Jerusalem Post*, September 29, 2000.
58. Said K. Aburish, *Arafat: From Defender to Dictator* (New York: Bloomsbury, 1998), pp. 7-13.
59. David Makovsky, *Making Peace with the PLO: The Rabin Government's Road to the Oslo Accords* (Washington: Washington Institute for Near East Policy, 1996), p. 42.
60. Some would argue that the Palestinians have limited ambitions that are largely confined to East Jerusalem: "whereas Israel lays claim to the entire city (within its enlarged municipal borders) and has declared it its eternal capital, Palestinians who seek a settlement generally regard only East Jerusalem as the capital of the Palestinian state." See Mark A. Heller and Sari Nusseibeh, *No Trumpets, No Drums: A Two-State Settlement of the Israeli-Palestinian Conflict* (New York: Hill and Wang, 1991), p. 116.
61. Khaled A. Khatib, *The Conservation of Jerusalem* (Jerusalem: PASSIA, June 1993), p. 117. Alternatively, there are references to diluting Israeli sovereignty in western Jerusalem, even if explicit

claims are made only on the eastern half; thus, at the opening of the Madrid Peace Conference, Hadar Abd al-Safi declared: "Our homeland has never ceased to exist in our minds and hearts, but it has to exist as a state on all the territories occupied by Israel in the war of 1967 with Arab Jerusalem as its capital in the context of that city's special status and its non-exclusive character." See Document A.5 in *The Palestinian-Israeli Peace Agreement, A Documentary Record* (Washington: Institute for Palestine Studies, 1994), p. 20.

62. Letter dated March 22, 1999, from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the Security Council. A/53/869, S/1999/308, March 23, 1999.
63. *Al-Ayyam,* April 23, 1999. All of Sha'ath's quotations come from MEMRI Special Dispatch No. 31, April 23, 1999.
64. *Jerusalem Post*, May 18, 1994.
65. *Yediot Aharonot*, August 3, 1994. Cited by Peace Watch, "The Standing of Israel and the Palestinians in their Commitments in the Matter of Jerusalem" (Hebrew).
66. *Ha'aretz*, May 29, 1995.
67. Hanna Siniora, "The Siniora-Amirav Model," in *Jerusalem Perspectives Towards a Political Settlement* (Tel Aviv: New Outlook/United States Institute for Peace, 1993), pp. 30-31.
68. Walid Khalidi, "Toward Peace in the Holy Land," *Foreign Affairs* (Spring 1988):771-789.
69. *PASSIA Annual Report*, 1992 (Jerusalem: PASSIA, 1993), p. 37.
70. Yitzhak Reiter, *The Waqf in Jerusalem* (Jerusalem: Jerusalem Institute for Israel Studies, 1991), p. 60 (Hebrew).
71. Asher Susser, *In Through the Out Door: Jordan's Disengagement and the Middle East Peace Process,* The Washington Institute — Policy Papers, No. 19 (Washington: Washington Institute for Near East Policy, 1990), pp. 24-25.
72. Jordan Television Network, Amman, October 12, 1993, in *Foreign Broadcast Information Service*, October 14, 1993.
73. *Jerusalem Post*, October 23, 1994.
74. "Jordanian Crown Prince on Regional Development, Jerusalem and Other Issues," Hashemite Kingdom of Jordan Radio, Amman, November 1, 1994, *BBC-Summary of World Broadcasts (ME)*, November 3, 1994.
75. "Prime Minister Majali Responds to Criticisms of Treaty with Israel," MBC TV, October 30, 1994, *BBC-Summary of World Broadcasts (ME)*, November 2, 1994.
76. ABC News Interview with Peter Jennings; *BBC-Summary of World Broadcasts*, May 20, 1999.
77. *Israel Wire,* August 31, 1999.
78. His Majesty King Abdullah II, Speech from the Throne opening the 3rd Ordinary Session of Jordan's 13th Parliament, November 1, 1999.

79. Clyde R. Mark, *The U.S. Embassy in Israel: Arguments in Favor of and Opposed to Moving the U.S. Embassy from Tel Aviv to Jerusalem*, Congressional Research Service, Library of Congress, March 22, 1984. This document is included in U.S. House of Representatives, Committee on Foreign Affairs, Subcommittee on Europe and the Middle East, *Legislation Calling for a Move of the U.S. Embassy to Jerusalem* (Hearings and Markup) (Washington: U.S. Government Printing Office, 1984), p. 355.
80. Donald Neff, "Jerusalem in U.S. Policy," *Journal of Palestine Studies*, XXIII, no. 1 (Autumn 1993):24.
81. Both documents are contained in U.S. House of Representatives, *Legislation Calling for a Move of the U.S. Embassy to Jerusalem*, pp. 350-351.
82. U.S. House of Representatives, Committee on Foreign Affairs, Subcommittee on Europe and the Middle East, *The Search for Peace in the Middle East: Documents and Statements, 1967-79* (Washington: U.S. Government Printing Office, 1979), p. 290.
83. Arthur J. Goldberg, Letter to the Editor of the *New York Times*, March 6, 1980, cited in Shlomo Slonim, *Jerusalem in America's Foreign Policy, 1947-1997* (The Hague: Kluwer Academic Publishers, 1998), p. 202.
84. *Ibid.*, pp. 200-201.
85. William B. Quandt, *Camp David: Peacemaking and Politics* (Washington: Brookings Institution, 1986), pp. 388-396.
86. Jeffrey S. Helmreich, "The Israel Swing Factor: How the American Jewish Vote Influences U.S. Elections," *Jerusalem Letter/Viewpoints* No. 446, January 15, 2001.
87. Allan Gerson, *The Kirkpatrick Mission: Diplomacy Without Apology, America at the United Nations 1981-1985* (New York: The Free Press, 1991), pp. 56-69.
88. Morris Abram, UN Geneva, February 1, 1990.
89. *Middle East Insight*, vol. IX, no. 1, p. 15.
90. *Cable News Network*, "Text of Amb. Albright's Speech to the UN on Mideast," March 18, 1994.
91. "U.S. Rules Out Office in East Jerusalem," *United Press International,* July 17, 1994.
92. Peace Watch, *Meetings and Diplomatic Visits in Orient House in East Jerusalem From November 1993 Until the Beginning of November 1994.*
93. *The Forward*, July 23, 1999.
94. Interview with Charlie Rose on the Middle East Peace Talks, July 27, 2000.
95. *Maariv,* April 6, 2001.
96. *Haaretz*, July 28, 2000.
97. *Al-Hayat* (London-Beirut), November 23-24, 2000, translated by MEMRI, November 28, 2000.
98. *Jerusalem Post*, August 25, 2000.
99. *Haaretz*, July 28, 2000.

100. *Jerusalem Post*, August 4, 2000, and *Newsweek*, November 27, 2000.
101. Undated manuscript of English translation of Akram Hanieh combined newspaper articles.
102. *Haaretz*, July 28, 2000; and Yotam Feldner, "The Formulae for a Settlement in Jerusalem," MEMRI, September 13, 2000.
103. *Haaretz*, July 28, 2000.
104. Hanieh manuscript.
105. Interview with Charlie Rose, September 12, 2000.
106. Clyde Haberman, "Dennis Ross's Exit Interview," in *New York Times Magazine*, March 25, 2001.
107. *Al-Hayat Al-Jadida*, July 28, 2000, translated by MEMRI, August 4, 2000.
108. *Al-Hayat*, July 27, 2000, translated by MEMRI, August 4, 2000.
109. Japanese News Agency, NHK, August 15, 2000, cited by MEMRI, August 28, 2000.
110. *Jerusalem Post*, September 13, 2000.
111. *Kul Al-Arab*, August 16, 2000, translated by MEMRI, August 28, 2000.
112. Interview with Ziad Abu Ziad, December 31, 2000, http://www.imra.org.il.
113. Voice of Palestine, September 17, 2000.
114. *Al-Hayat* (London-Beirut), November 23-24, 2000, translated by MEMRI, November 28, 2000.
115. Cited in *Haaretz*, October 20, 2000.
116. Birzeit University Development Studies Program, "The Palestinian Intifada and the Peace Process," November 6-8, 2000. http://www.birzeit.edu.
117. "East Jerusalem and the Holy Places at the Camp David Summit," August 28, 2000. MEMRI Special Dispatch.
118. Ben-Ami subsequently noted, somewhat differently, "We are seeing the battle between the generations. The older generation was distanced. It knew in its heart the only thing it wanted and knew it wasn't getting it. The younger Palestinian generation, on the other hand, tried to be pragmatic, but it did not have enough legitimacy." *Maariv,* April 6, 2001.
119. *Ibid.*
120. Yotam Feldner, "The Formulae for a Settlement in Jerusalem," MEMRI, Report 40, September 13, 2000.
121. *Al-Safir* (Lebanon), March 3, 2001, MEMRI.
122. *Al-Ayyam*, October 12, 2000, MEMRI.
123. *Al-Hayat Al-Jadida*, August 24, 2000, MEMRI.
124. *Al-Hayat Al-Jadida*, August 11, 2000, MEMRI.
125. Sharm el-Sheikh Fact-Finding Committee, First Statement of the Government of Israel, 2000, p. 38.
126. *Jerusalem Post*, March 30, 2001.
127. *Jerusalem Post*, March 22, 2001.
128. *New York Times,* January 6, 2001.

129. Gilad Sher, "An Inside Look from Camp David to Taba," *Peacewatch*, no. 318, April 18, 2001, Washington Institute for Near East Policy.
130. *Yediot Ahronot*, December 29, 2000.
131. *Maariv*, December 29, 2000.
132. "Arafat's Letter of Reservations to President Clinton," January 3, 2001, MEMRI.
133. *Ibid.*
134. *Al-Ayyam*, January 28, 2001, MEMRI.
135. *Al-Ayyam*, January 29, 2001, MEMRI.
136. *Al-Quds*, January 28, 2001, MEMRI.
137. MEMRI Special Dispatch No. 155, "Three Palestinian Viewpoints on the Intifada and the Future of the Palestinian State," November 22, 2000.
138. *Al-Safir* (Lebanon), March 21, 2001, MEMRI. This was not the first time Faysal al-Husseini made such an assertion. In December 1992, Husseini stated: "We must bear in mind the slogan of the present phase is not 'from the [Mediterranean] Sea to the [Jordan] River'....[Yet} we have not and will not give up on any of our commitments that have existed for more than seventy years"; see Benjamin Netanyahu, *A Place Among the Nations: Israel and the World* (New York: Bantam Books, 1993), p. 225.
139. *Al-Hayat Al-Jadida*, February 3, 2001, MEMRI.
140. *Palestinian Authority and PLO Non-Compliance with Signed Agreements and Commitments: A Record of Bad Faith and Misconduct* (Jerusalem: Government Press Office, 2000), p. 10.
141. *Jerusalem Post*, January 19, 2001.
142. *Jerusalem Post*, February 9, 2001.
143. *CNN Late Edition*, February 11, 2001.