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# THE STATUS OF JERUSALEM

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*Prepared for, and under the guidance of,  
the Committee on the Exercise of the Inalienable Rights  
of the Palestinian People*

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## INTRODUCTION

The status of Jerusalem is one of the most sensitive and contentious issues in the Arab-Israeli conflict, with ramifications well beyond the parties themselves. Because of its emotional and potentially explosive significance, negotiations on Jerusalem have been postponed to the negotiations on the permanent status between Israel and the Palestine Liberation Organization (PLO). Those negotiations, which were agreed on to commence not later than the third year of the interim period, began in May 1996, and were interrupted after the first meeting. The present paper is intended as an aid to those wishing to familiarize themselves with the basic aspects of the issue as it has been considered by the United Nations.

Jerusalem, Al-Quds in Arabic, Jerushalayim in Hebrew, is the site of the Western (Wailing) Wall, the last remnant of the second Jewish Temple; the Church of the Holy Sepulchre and the Passion of Crucifixion; and the Al-Aqsa Mosque, the first kibla and third holiest sanctuary of Islam. Accordingly, the City holds enormous religious significance for millions of believers of the three monotheistic religions throughout the world. One of the oldest cities in the world, throughout history Jerusalem has been at the crossroads of cultures and civilizations, and a destination for pilgrims and conquerors. Since antiquity, innumerable battles for its control have been fought by different peoples and groups, which have left a city of unique cultural and religious depth and texture. Since the nineteenth century, the City has been the object of conflicting claims by Jews and Palestinian Arabs; those claims have acquired a political and territorial dimension in addition to the religious one, since both peoples consider the City the embodiment of their national essence and right to self-determination.

For four hundred years until the first world war, Palestine was a province of the Turkish Empire. With the defeat of that empire and the assumption in 1922 of the League of Nations Mandate over Palestine by the United Kingdom of Great Britain and Northern Ireland, tension between Arabs and Jews over the Holy Places, the Wailing Wall in particular, increased. The tension was aggravated by the terms of the Mandate, opposed by the Arabs, which favoured an increase in Jewish emigration to Palestine, and aroused growing fears of a Jewish take-over in Jerusalem and elsewhere in the country. The efforts by the British authorities to calm the atmosphere and to provide remedies achieved some temporarily acceptable arrangements but failed to provide a long-term solution to the conflict.

With the increase in violence in 1947 and the all-out war between the two communities in 1948, which was joined by the neighbouring Arab States, Jerusalem was placed at the heart of the conflict and its control became an essential goal of the fighting parties. In an attempt to find a permanent solution, the United Nations adopted in 1947 the Partition Plan for Palestine which, while dividing the country into Arab and Jewish States, retained the unity of Jerusalem by providing for an international regime under United Nations control.

That formula, however, could not be implemented. It did not stop the violence or alter the efforts of the parties to control the City by force. The Israel-Jordan Armistice Agreement of 1949 formalized the *de facto* division of the City into the eastern sector, including the Old City, controlled by Jordan (which also controlled the West Bank), and the western sector, or the new City which had been developing since the nineteenth century, controlled by the new State of Israel.

The 1967 war, which resulted in the occupation by Israel of East Jerusalem and the Palestinian territories, ended the armistice demarcation line between the eastern and western sectors but reopened with new vehemence the debate over the two competing claims. Israel, which annexed East Jerusalem in 1980, considers that "Jerusalem, whole and united, is the capital of Israel", and wants the City to "remain forever under Israel's sovereignty."<sup>1</sup> Its *de facto* control on the ground has enabled it to invest vast resources and efforts into changing the physical and demographic characteristics of the City. The Israeli claim to Jerusalem, however, has not been recognized by the international community which rejects the acquisition of territory by war and considers any changes on the ground illegal and invalid. On the other hand, the Palestinians have claimed East Jerusalem as the capital of a future independent State of Palestine to be established in the territories occupied since 1967. The status of the Holy Places has a

special significance in that debate and proposals have been made for their internationalization. With the developments in the peace process since 1991, the problem of how to reach a mutually acceptable compromise between these apparently irreconcilable positions and concerns, has acquired particular urgency.

During the negotiations prior to the Madrid Peace Conference on the Middle East in 1991 and the bilateral negotiations in Washington in 1992-1993, Palestinian and Arab efforts to include Jerusalem in the negotiation agenda failed.

A different approach, however, is contained in the Declaration of Principles, signed in September 1993 by the Government of Israel and the PLO. The Declaration stipulates that the status of the City will be negotiated as soon as possible but not later than the beginning of the third year of the interim period of self-rule, which began upon the Israeli withdrawal from most of the Gaza Strip and the Jericho area in May 1994. The agreement has given new vitality to the debate about proposals and visions for the City's future. In the meantime, there is great concern that the evolving *de facto* situation on the ground should not prejudice the outcome of negotiations.

## CHAPTER I

### ***BRITISH MANDATE, THE UNITED NATIONS PARTITION OF PALESTINE AND THE DE FACTO DIVISION OF JERUSALEM (1922-1966)***

#### ***Jerusalem under the British mandate***

The League of Nations Mandate for Palestine, granted to the United Kingdom in 1922, incorporated the Balfour Declaration of 1917 which had as its principal object "the establishment in Palestine of a national home for the Jewish people", while safeguarding "the civil and religious rights of existing non-Jewish communities in Palestine." In the light of the importance of Palestine to the three monotheistic religions, the mandatory Power assumed full responsibility for the Holy Places, including "preserving existing rights," "securing free access" and "free exercise of worship", except with regard to the management of purely Moslem sacred shrines, the immunity of which was guaranteed by the Mandate (art. 13). The Mandate also provided for the appointment of a special commission "to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine" (art. 14). In view of difficulties in establishing representation by all of the religious communities, however, that commission was not established and responsibility for the Holy Places remained with the mandatory Power which continued the Ottoman *status quo* governing relations among the various communities.

In the decade after the establishment of the Mandate, about 100,000 Jewish immigrants entered Palestine, and the Jewish population increased from below 10 per cent to over 17 per cent. In the City of Jerusalem (within the municipal boundaries of the time), the Jewish population increased from approximately 34,100 to 53,800, reaching 57.8 per cent of the total by 1931.<sup>2/</sup>

The increase in Jewish immigration to Palestine had caused growing tensions between the two communities and, in view of its significance to both groups, Jerusalem soon became a flashpoint of conflict. In August 1929, there was a serious outbreak of violence over the Western (Wailing) Wall of the ruins of the ancient Jewish Temple, the holiest site for Jewish worship, which is situated on the western edge of the Haram al-Sharif, the holiest shrine for Muslims in Jerusalem. An international commission was appointed by the mandatory Power, with the approval of the League of Nations, "to determine the rights and claims of Moslems and Jews in connection with the Western or Wailing Wall". The Commission, composed of experts from the Netherlands, Sweden and Switzerland, spent a month in Jerusalem in 1930, hearing numerous witnesses on both sides. It also attempted to promote a negotiated settlement between the parties. Having failed in that endeavour, it issued the following verdict:

*"To the Moslems belong the sole ownership of, and the sole proprietary right to, the Western Wall, seeing that it forms an integral part of the Haram al-Sharif area, which is a Waqf property.*

*"To the Moslems there also belongs the ownership of the pavement in front of the Wall and of the adjacent so-called Moghrabi (Moroccan) Quarter opposite the Wall, inasmuch as the last-mentioned property was made Waqf under Moslem Sharia law, it being dedicated to charitable purposes.*

*"Such appurtenances of worship and/or such other objects as the Jews may be entitled to place near the Wall either in conformity with the provisions of this present verdict or by agreement come to between the Parties shall under no circumstances be considered as, or have the effect of, establishing for them any sort of proprietary right to the Wall or to the adjacent Pavement...*

*"The Jews shall have free access to the Western Wall for the purpose of devotions at all times..."<sup>3/</sup>*

In addition, the Commission prescribed certain subsidiary entitlements and obligations for both religious communities. The Commission's decisions were made law on 8 June 1931.<sup>4/</sup>

The security situation, however, continued to deteriorate as Jewish immigration was swelled by those seeking refuge from Nazism in the 1930s. After the Palestinian uprising which began in 1936 in protest against the immigration, the mandatory Power constituted the Palestine Royal Commission under Lord Peel. In view of the irreconcilable differences between the Arab and Jewish national movements, the Commission concluded that the mandate was unworkable and recommended that it be terminated. It also proposed the partition of Palestine into an Arab State and a Jewish State. In view of the sanctity of Jerusalem and Bethlehem to all three faiths, the Commission held the Holy Places to be, in the words used in the League's Covenant, "a sacred trust of civilization". It proposed that a Jerusalem-Bethlehem enclave encompassing all of the Holy Places, with a corridor to the sea terminating at Jaffa, remain under British trusteeship under a new League of Nations mandate.<sup>5/</sup>

That first plan for the partition of Palestine with a special status for Jerusalem was superseded by political and military events. After the Second World War, the United Kingdom declared it was unable to resolve the conflict in Palestine and brought the problem to the United Nations.

#### ***International regime for Jerusalem under the Partition Plan***

When the Palestine question was taken up by the United Nations in April 1947, the country itself was ravaged by conflict between the Jewish and Arab communities, a conflict which had a deep impact on Jerusalem as well. Most of the Jewish immigrants to the City had settled in a new expanded western sector while the ancient eastern sector, including the walled City and the surrounding towns and villages, remained predominantly Arab. According to a survey made available to the United Nations Special Committee on Palestine, appointed by the General Assembly to present proposals for a solution to the question, there were by December 1946 an estimated 102,000 Jews, 104,000 Moslems and 46,000 Christians in the Jerusalem sub-district.<sup>6/</sup>

The Special Committee unanimously recommended that the sacred character of the Holy Places be guaranteed by special provisions and that access to the Holy Places be ensured "in accordance with existing rights". It also recommended that specific stipulations be made in any future constitution of any State or States to be established in Palestine concerning the status of the Holy Places and the right of religious communities. The Special Committee also submitted two alternative plans for the future of Palestine. The plan recommended by the minority on the Committee envisioned the establishment of an independent, unified, federal State in Palestine with Jerusalem as its capital, with separate municipalities for the Arab and Jewish sectors. It also recommended the creation of a permanent international regime for the supervision and protection of the Holy Places in Jerusalem and elsewhere. The majority plan

recommended the partition of Palestine into an Arab State and a Jewish State, and the territorial internationalization of the Jerusalem area as an enclave in the Arab State.<sup>7/</sup>

It was the latter plan that was approved by the General Assembly in resolution 181 (II) of 29 November 1947, entitled "Future government of Palestine". The resolution contains a Plan of Partition with Economic Union which provides in detail for respective boundaries, governmental institutions, protection of minority rights, freedom of transit and economic and other forms of cooperation among the three entities, with particular regard to the Holy Places and religious rights and freedoms.

The special international regime for Jerusalem was to be administered by the United Nations through the Trusteeship Council. The boundaries of the City were defined as including "the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem; the most western, Ein Karim (including also the built-up area of Motsa); and the most northern Shu'fat" (see maps 1 and 2).

The Assembly requested the Council to elaborate a statute for the City, to last initially for ten years, providing for the appointment of a Governor and administrative staff; broad local autonomy for villages, townships and municipalities; the demilitarization of the City and establishment of a special police force to protect in particular the Holy Places and religious buildings and sites; the election of a Legislative Council by all residents irrespective of nationality; participation of the City in the Economic Union of Palestine; the establishment of an independent judiciary system; and citizenship of the City of Jerusalem for its residents. The statute was also to provide for freedom of transit and civil and political freedom for the two communities, as well as to safeguard existing rights and freedom of access and worship to the Holy Places and religious buildings and sites and ensure their physical preservation. The Governor of Jerusalem was given special responsibilities in that regard both for those located in Jerusalem, as well as within the two independent States.

The General Assembly resolution, however, could not be implemented. The representatives of the Jewish Agency accepted the Partition Plan but the Arab States and the spokesman of the Arab Higher Committee rejected it, declaring that they did not consider themselves bound by the resolution. As a result of the deep differences between the conflicting parties, all-out war broke out in Palestine, resulting in the *de facto* division of the country and of Jerusalem itself.

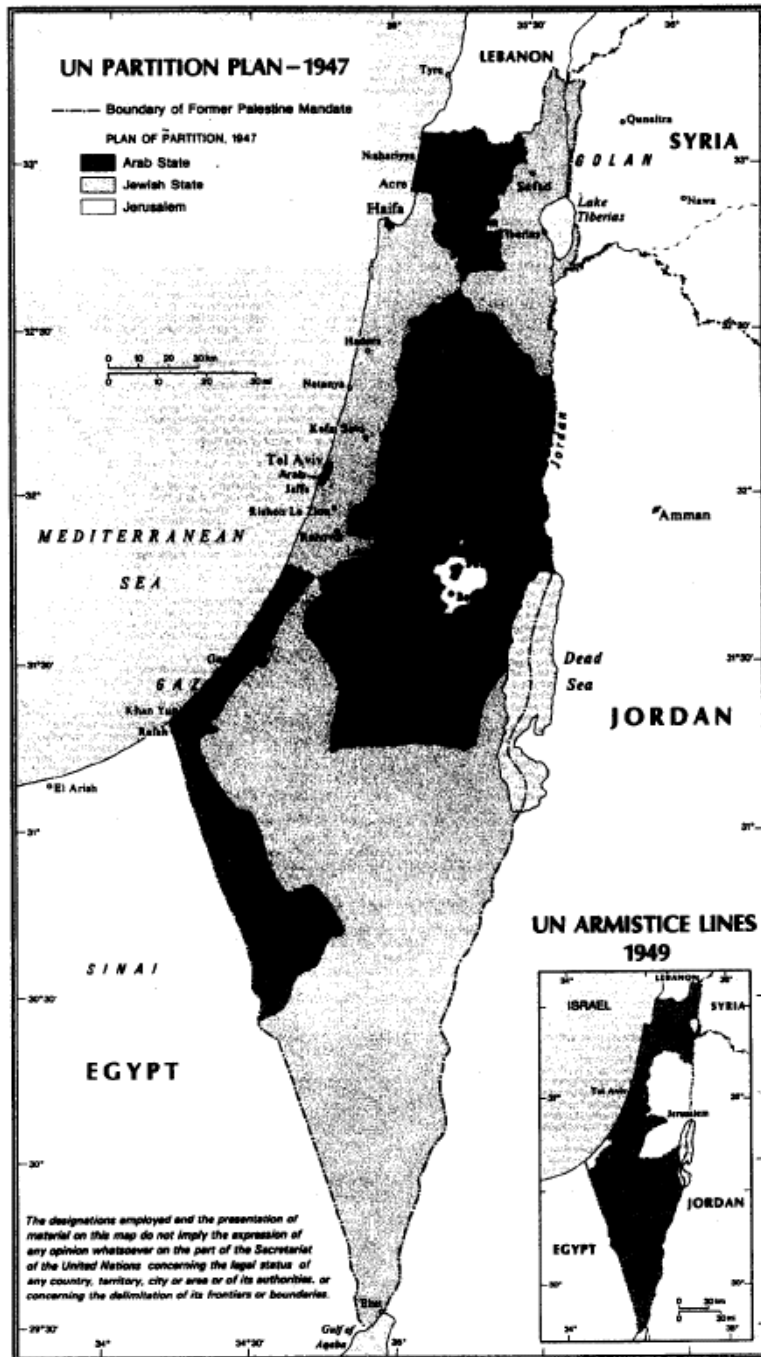
### ***De facto division of Jerusalem, 1948***

During the late 1940s, the fate of Jerusalem was determined not by international agreement but by armed force. Conflict between the Palestinian Arabs and Jewish para-military groups had intensified several months before the United Kingdom relinquished its Mandate for Palestine on 14 May 1948. With the entry of armed forces from Arab countries after the proclamation of the State of Israel on the same date, full-scale war broke out. By the time a United Nations-negotiated truce came into effect on 16 November 1948, Israeli territorial control had expanded deep into the territories allotted to the Arab State, and into the western sector of the Jerusalem enclave destined for internationalization under the partition resolution. About 60,000 Palestinians were estimated to have fled the western sector.<sup>8/</sup> East Jerusalem, including the Holy Places and the West Bank, came under the administration of Jordan, then not yet a member of the United Nations.

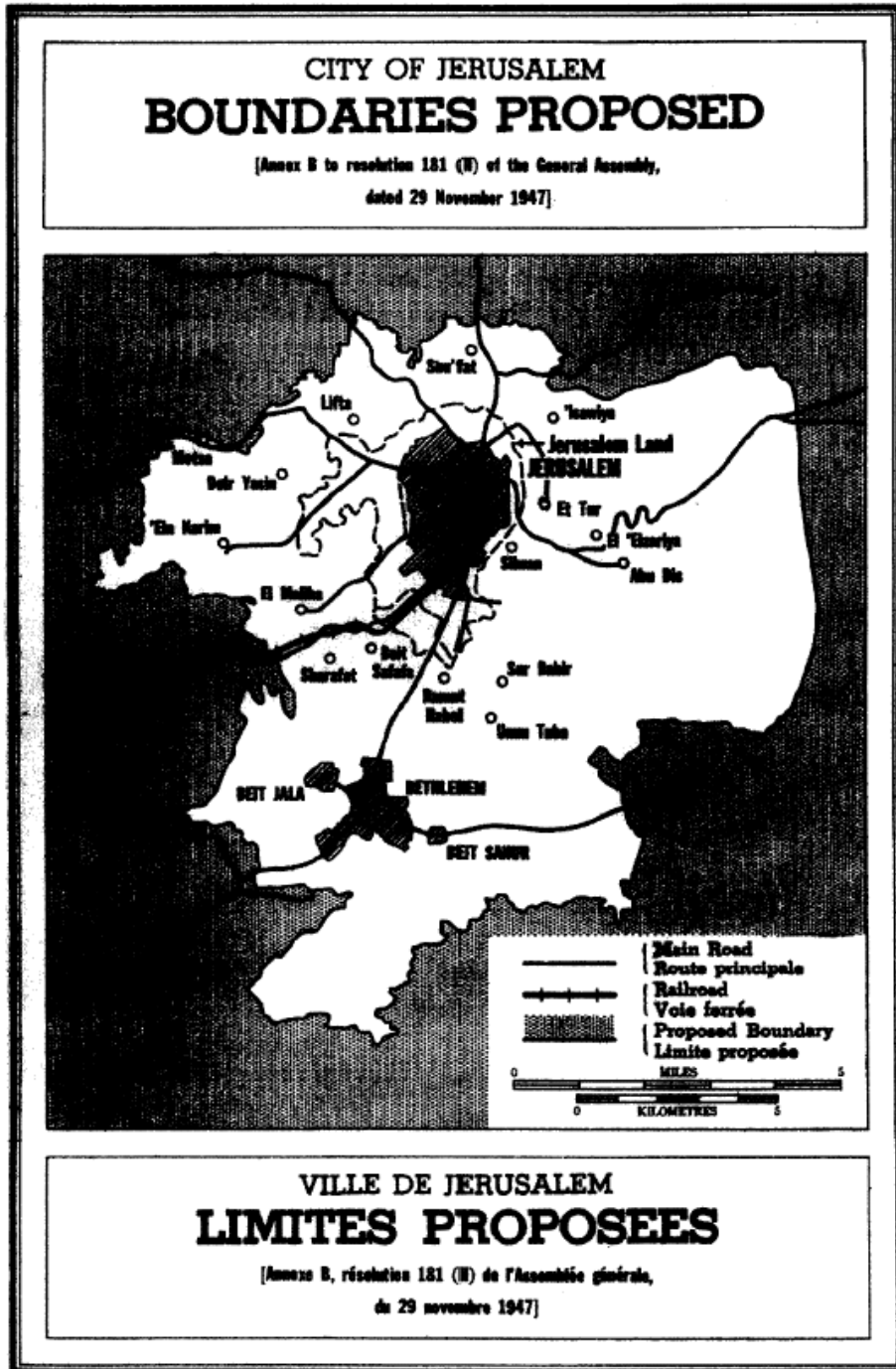
First acknowledged in an Israel-Jordan cease-fire agreement of 30 November 1948, the *de facto* division of the City between two countries at war, with sealed borders, was formalized in the Israel-Jordan Armistice Agreement of 3 April 1949. The Agreement, however, was considered internationally as having no legal effect on the continued validity of the provisions of the partition resolution for the internationalization of Jerusalem. Accordingly, no country established an embassy in Jerusalem until 1967, and as of today, only two countries have embassies in West Jerusalem. Particular mention should also be made of the continued presence in Jerusalem of an international *sui generis* consular corps, commonly referred to as the "Consular Corps of the Corpus Separatum". Nine States have maintained

consulates in Jerusalem (East and West) without, however, recognizing any sovereignty over the City. Unlike consuls serving in Israel, the consuls of those States do not present a consular letter of authorization to the Foreign Ministry and do not receive accreditation by the President of Israel. They do not pay taxes and have no official relations with Israeli authorities. In their activities, they respect common protocol rules designed to prevent any appearance of recognition of sovereign claims to the City.<sup>9/</sup>

Map 1. United Nations Partition Plan, 1947



Map 2. City of Jerusalem: boundaries proposed



MAP NO. 104.1(b)  
DECEMBER 1949

UNITED NATIONS

UN PRESENTATION 600.1(b)

*United Nations efforts to establish an international regime for Jerusalem*



The objective of internationalization of the Jerusalem area was repeatedly reaffirmed by the United Nations, and efforts were made to establish the foundations for an international regime despite the intensification of armed conflict. In April 1948, the Trusteeship Council, which was to become the Administering Authority under Assembly resolution 181 (II), prepared a detailed draft statute for the planned separate territorial entity. The Council also considered proposals for the immediate establishment of an international force and the assumption of temporary trusteeship in order to ensure the protection of the City and its inhabitants but it reported that "it found it impossible to secure mutual agreement of the interested parties."<sup>10/</sup> Meanwhile, in May 1948, the Assembly had also appointed a Mediator (Count Bernadotte) to arrange for common services necessary to the well-being of the population, ensure protection of the Holy Places and promote a peaceful settlement. The Mediator warned that the Partition Plan was being outrun by events and that the new Government of Israel was increasingly sceptical of the proposed internationalization of the City, favouring instead the absorption of at least its Jewish part into the new State of Israel.<sup>11/</sup> In the ensuing months, efforts to prevent further destruction and to achieve a cease-fire and the demilitarization of the City without prejudice to [its] future political status <sup>12/</sup> preoccupied the international community.

On the Mediator's recommendation, the General Assembly by resolution 194 (III) of 11 December 1948 established a three-member Conciliation Commission for Palestine which would have official headquarters at Jerusalem and would assume the Mediator's functions in seeking a final settlement. The Assembly subsequently decided that the Commission would be composed of France, Turkey, and the United States of America. The Commission was instructed to facilitate the repatriation of refugees who, under the resolution, should be permitted to return or paid compensation if they did not choose to return. With regard to Jerusalem, the Assembly resolved that "the Jerusalem area, including the present municipality of Jerusalem plus the surrounding villages and towns ... should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control", and instructed the Commission "to present to the fourth regular session of the General Assembly detailed proposals for a permanent international regime for the Jerusalem area which will provide for the maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area". The Commission was also requested to include recommendations concerning the Holy Places in its proposals.

The efforts of the Commission are detailed in its periodic reports to the General Assembly. Seeking acceptance by the parties, the Commission established a Special Committee on Jerusalem and its Holy Places to undertake the preparatory work and to consult with Arab and Israeli Government representatives as well as local authorities, and with various religious representatives in Jerusalem and elsewhere in the Middle East. The Commission reported that the Arab delegations were in general prepared to accept the principle of an international regime for the Jerusalem area, subject to United Nations guarantees regarding its stability and permanence. Israel, while recognizing that the Commission was bound by General Assembly resolution 194 (III), declared itself unable to accept the establishment of the international regime for the City of Jerusalem, although it accepted without reservation an international regime for, or the international control of, the Holy Places.<sup>13/</sup>

The draft text of an instrument establishing a permanent international regime for the Jerusalem area was adopted by the Conciliation Commission in September 1949 and submitted to the General Assembly. In an effort to reconcile the requirements for "maximum local autonomy in Jerusalem" with the international community's interests in a special status for the City, the draft text provided for the division of the City into an Arab and a Jewish zone, within which the respective local authorities would be empowered to deal with all matters not of international concern. Those were specifically assigned to the authority of a United Nations commissioner to be appointed by and responsible to the General Assembly, who would ensure the protection of and free access to the Holy Places, as well as supervise the permanent demilitarization and neutralization of the area and ensure the protection of human rights and of the rights of distinctive groups. The draft text also contained provisions for the establishment of a mixed council and a mixed

tribunal to regulate matters of common concern, and an international tribunal to protect the interests of the international community.

In a communication conveying its proposals to the Assembly, the Commission explained that the plan was designed to be applied "in the present circumstances" but was to be sufficiently flexible "to be applied to any territorial situation that might emerge from the final settlement of the Palestine problem". In response to various criticisms of the plan, the Commission subsequently issued a clarification that the plan was based on the existing division of the City and left to the Governments of the adjoining States (Israel and Jordan) virtually all normal powers of government within the Arab and Jewish parts of Jerusalem respectively. In that light, the role of the international machinery would be to bridge the gap between what in fact would be two separate jurisdictions in an otherwise geographically unified area.<sup>14/</sup>

Meanwhile, the Israeli authorities had in September 1948 established the Supreme Court in Jerusalem; in February 1949, the Knesset assembled and the President took the oath of office in the City. The Conciliation Commission reported that Israel had established ministerial services as well as other public services within the area to be subject to a permanent international regime; it had accordingly addressed a letter to the Israeli Prime Minister pointing out the incompatibility of those measures with General Assembly resolutions on the internationalization of Jerusalem. A resolution affirming that the actions were incompatible with Assembly resolutions and calling upon Israel to revoke them was also adopted by the Trusteeship Council later that year.<sup>15</sup> Israel's position towards the principle of internationalization of Jerusalem consequently became a major focus of the debate on its application for United Nations membership in 1949. The Israeli representative told the ad hoc Political Committee of the General Assembly:

*"The Government of Israel advocated the establishment by the United Nations of an international regime for Jerusalem concerned exclusively with the control and protection of Holy Places, and would co-operate with such a regime.*

*"It would also agree to place under international control Holy Places in parts of its territory outside Jerusalem, and supported the suggestion that guarantees should be given for the protection of the Holy Places in Palestine and for free access thereto."<sup>16/</sup>*

The representative was queried about a statement by the Israeli Prime Minister to the effect that "for historical, political and religious reasons, the State of Israel could not accept the establishment of an international regime for the City of Jerusalem." In response, he indicated that Israel would submit proposals to the Assembly for defining the future juridical status of Jerusalem that "would differentiate between the powers of an international regime with respect to the Holy Places and the aspiration of the Government of Israel to become recognized as the sovereign authority in Jerusalem."<sup>17/</sup>

The lack of a clear understanding with regard to the issue was not an impediment to Israel's gaining membership in the United Nations. The relevant resolution, however, contains explicit references both to the earlier resolutions on the internationalization of Jerusalem and the repatriation of refugees, and to the explanations given by the Israeli representative.<sup>18/</sup>

Subsequently, the General Assembly reviewed the proposals of the Conciliation Commission for an international regime, which took into account the *de facto* division of Jerusalem. The Assembly, however, expressed its belief that "the principles underlying its previous resolutions concerning this matter [and in particular the partition plan] represent a just and equitable settlement of the question" and restated its intention that "Jerusalem should be placed under a permanent international regime, which should envisage appropriate guarantees for the protection of the Holy Places". Reaffirming the provisions of the partition plan on the establishment of the *corpus separatum* under the administration of the United Nations, the Assembly requested the Trusteeship Council to complete the preparation of the Statute of Jerusalem, omitting the provisions that had become inapplicable, and to proceed immediately with its implementation. It also requested the Council not to allow "any actions taken by any interested

Government or Governments to divert it from adopting and implementing the Statute of Jerusalem". The Assembly also called upon the States concerned to make a formal undertaking that they would be guided by the terms of the resolution.<sup>19/</sup>

At a special session held in December 1949 and at its sixth session held in January 1950, the Trusteeship Council considered the proposed statute with the participation of the two parties in control of the area, Jordan and Israel, as well as neighbouring Arab countries and representatives of various Christian churches. The Council reported that Jordan would not discuss any plan for the internationalization of Jerusalem. For its part, Israel was opposed to the internationalization proposal, but remained willing to accept the principle of direct United Nations responsibility for the Holy Places. The Jordanian representative subsequently clarified that Jordan was not opposed to a United Nations role in monitoring protection of and freedom of access to the Holy Places, under the safeguard achieved by control of his Government.<sup>20/</sup>

Nevertheless, in April 1950, the Council adopted a detailed Statute for the City of Jerusalem based on the provisions contained in the partition resolution (with the exception of those regarding economic union). The Council also entrusted its President with a mission to the two Governments requesting their cooperation. After making efforts to consult with the parties, the President informed the Council that no official reply had been received from Jordan. Israel, for its part, had stated that the Statute could no longer be implemented in view of the creation of the State of Israel and the fact that the western part of Jerusalem had been incorporated in its territory. Israel proposed, "as the only practicable alternative principle", a form of United Nations authority over the Holy Places only. The President consequently concluded that the results of his mission had "proved disappointing and the implementation of the Statute would seem to be seriously compromised under present conditions."<sup>21/</sup>

Meanwhile, on 23 January 1950, the Israeli Knesset proclaimed Jerusalem as the capital of Israel and began moving Government offices into the City. The division of the City was further formalized when Jordan also took steps, pending a solution to the question of Palestine, to extend its jurisdiction to East Jerusalem and the West Bank.

By October 1949, the Security Council had postponed indefinitely its discussion on how to achieve the demilitarization of Jerusalem,<sup>22/</sup> and in 1950, the Assembly cancelled the financial appropriation for the establishment of an international regime.<sup>23/</sup> Subsequently, United Nations efforts were geared primarily to attempting to resolve the difficult questions posed by the large number of Palestine refugees and their abandoned properties, and the tense situation along the armistice lines. In 1951, the Conciliation Commission undertook its last sustained effort to mediate between the parties to the conflict, and submitted a set of comprehensive proposals with regard to refugees, compensation, territorial adjustments and revision of the armistice agreements to ensure freedom of access to the Holy Places in the Jerusalem area. The Commission, however, once again concluded that the parties' unwillingness to implement the relevant resolutions and the changes that had taken place on the ground made it impossible to proceed towards a settlement.<sup>24/</sup>

Pending such a settlement, the Commission in the ensuing decade engaged in a thorough exercise of identification and valuation of all abandoned Arab properties with a view to future payment of compensation. With regard specifically to Jerusalem, the Commission determined that Arab refugee properties in the sector controlled by Israel had a value of 9.25 million Palestine pounds (US\$25.9 million) at 1947 prices.<sup>25/</sup> After completing this work in 1964, the Commission made available its results on a limited basis to parties directly concerned. With the occupation by Israel of the West Bank, the Gaza Strip and East Jerusalem in June 1967, the Commission reported that the problem had been complicated even further and its efforts could not go forward.<sup>26/</sup> The Commission, which is still in existence, reports each year to the General Assembly along the same lines.

## CHAPTER II

### ***1967 WAR AND THE MILITARY OCCUPATION OF EAST JERUSALEM AND OTHER PALESTINIAN TERRITORIES***

#### ***Measures taken by Israel***

As a result of the six-day war of June 1967 between Israel, on the one hand, and Egypt, Syria and Jordan on the other, East Jerusalem as well as the entire West Bank and the Gaza Strip fell under the control of the Israeli military forces. Immediately after the occupation of the City on 7 June, Gen. Moshe Dayan, the then Defense Minister of Israel declared that:

*"The Israeli Defense Forces have liberated Jerusalem. We have reunited the torn city, the capital of Israel. We have returned to this most sacred shrine, never to part from it again".<sup>27/</sup>*

Subsequently, Israel took a number of measures to extend its jurisdiction over East Jerusalem and to consolidate its physical control. Those measures have been declared invalid by the international community. The present chapter gives details on the evolution of the situation on the ground, while the international position will be described in chapter III below.

Soon after the cessation of hostilities, the Secretary-General, at the request of the General Assembly, dispatched his personal representative, Ambassador Thalmann of Switzerland, to ascertain conditions relating to the assumption of control by Israeli authorities over the entire City of Jerusalem.<sup>28/</sup> Ambassador Thalmann reported that, in his meetings with the Israeli Government leaders:

*"... it was made clear beyond any doubt that Israel was taking every step to place under its sovereignty those parts of the city which were not controlled by Israel before June 1967. The statutory base for this had already been created, and the administrative authorities had started to apply laws and regulations in those parts of the city ... The personal representative was repeatedly assured by the Israel side that every attention was being paid to the well-being of the Arab population and that the Arab residents would have the opportunity to bring their standard of living up to the level prevailing in Israel. The Israel authorities stated unequivocally that the process of integration was irreversible and not negotiable."<sup>29/</sup>*

Ambassador Thalmann's report also detailed the measures taken by Israel to that effect. With two crucial ordinances adopted on 27 June 1967, the Government of Israel had extended the law, jurisdiction and administration of the State of Israel to an area defined as the old City, Sur Baher, Sheich Jarakh, the Kalandia airport, Mount Scopus and vicinity, and Sha'afat, and had similarly extended the boundaries of the Jerusalem Municipality <sup>30/</sup> (see maps 3 and 4). According to an Israeli census, the municipal area was correspondingly enlarged by 60 square kilometres to a total of over 100 square kilometres [*1 square kilometre = 247.11 acres*], with an Arab population of 70,000, as compared to 100,000 Jews in West Jerusalem. Arab sources mentioned in the report, however, had indicated that the population in the Old City and surrounding area was actually higher, or approximately 130,000 and that up to 60,000 persons had fled to Jordan or were working abroad.

The report went on to say that, on 29 June 1967, a Military Defense Order had dissolved the elected 12-member Municipal Council which had governed East Jerusalem under Jordanian administration, and had dismissed the Mayor and other members. The Council members had refused to cooperate with the Israeli authorities and several of them had left the City. The Municipal Council of West Jerusalem, composed of 21 members, all Israelis, had taken over and the Arab technical personnel of the East Jerusalem municipality had been absorbed into the equivalent departments of the new administration.<sup>31/</sup>

The Israeli authorities also informed Ambassador Thalmann of various other measures that had been taken to reopen access to the Old City and the Holy Places, to render the former no man's land safe, to demolish slums and beautify the City, and to establish an integrated administration in all areas of civic life

such as the economy, sanitation and water supply, education, labour relations, the judiciary, and others.<sup>32/</sup>

With regard to the question of protection of the Holy Places, Ambassador Thalmann reported that Israel had adopted the Protection of Holy Places Law 5767-1967 by which it undertook to protect the Holy Places "from desecration and any other violations and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings with regard to those places." The Law charged the Minister of Religious Affairs with implementation, and made provision for consultation with representatives of the different religions.<sup>33/</sup>

For their part, the Palestinian representatives who met with Ambassador Thalmann submitted a long list of grievances. They charged that both Christian and Muslim Holy Places had been desecrated and expressed alarm at statements by the Minister of Religion and others concerning Jewish claims and plans with regard to the Wailing Wall and the Dome of the Rock area. They recalled the adjudication made by the British Royal Commission in that regard. They also protested the dynamiting and bulldozing of 135 houses dating from the fourteenth century in the Maghrabi quarter, mostly owned by the Waqf, in front of the Wailing Wall, which had resulted in the expulsion of 650 persons. They also charged that Israel had evicted some 3,000 Arab residents from the Jewish quarter (also owned by the Waqf) at short notice, and had taken a girls' school owned by the Waqf as the seat of the High Rabbinical Court.

Complaints were also voiced against the imposition of controls over the Muslim religious courts and over the sermons preached from the Al-Aqsa Mosque, as being contrary to the precepts of Koranic law and Muslim theology. The imposition of Israeli civil law and the dissolution of the elected Municipal Council of East Jerusalem and the taking over of its buildings, furnishings and archives by the Municipal Council of West Jerusalem were condemned as a violation of international law. Concern was expressed at the construction of physical barriers between Jerusalem and the West Bank, the restrictions on movement and the imposition of customs duties for West Bank products. It was also stated that the authorities intended to apply the absentee property law to East Jerusalem, and to confiscate Arab movable and immovable property for their own use.

Ambassador Thalmann noted that those and other measures taken by Israel "were considered oppressive by the Arab population and that there was a growing feeling of economic strangulation." With regard to the situation in the cultural and educational field, he found "a pronounced aversion to the efforts of the Israel authorities to apply their own educational system to Arab schools", as well as fear "that the Arab way of life, Arab traditions and the Arabic language would suffer permanent damage under the influence of the Israel majority".

In conclusion, the Secretary-General's representative noted that the Arabs of East Jerusalem:

*"... were opposed to civil incorporation into the Israeli State system. They regarded that as a violation of the acknowledged rule of international law which prohibited an occupying Power from changing the legal and administrative structure in the occupied territory and at the same time demanded respect for private property and personal rights and freedoms. It was repeatedly emphasized that the population of East Jerusalem was given no opportunity to state for itself whether it was willing to live in the Israel State community ... the right of self-determination, in accordance with the United Nations Charter and the Universal Declaration of Human Rights, had therefore been violated."<sup>34/</sup>*

The measures taken by Israel in 1967 and subsequently were the object of numerous meetings and resolutions of the Security Council, the General Assembly and other intergovernmental bodies, which sought to roll back the situation, as detailed in chapter III below.

Despite the international opposition, the Israeli Knesset on 29 July 1980 enacted the so-called 'Basic Law' on Jerusalem by which it proclaimed that "Jerusalem, whole and united, is the capital of Israel. Jerusalem is the seat of the President of the State, the Knesset, the Government and the Supreme Court". The law

also provided for protection of the Holy Places from desecration and from anything prejudicial to freedom of access of the members of the different religions or to their feelings. In addition, the law contained provisions for the development of the City in the economic and other fields.

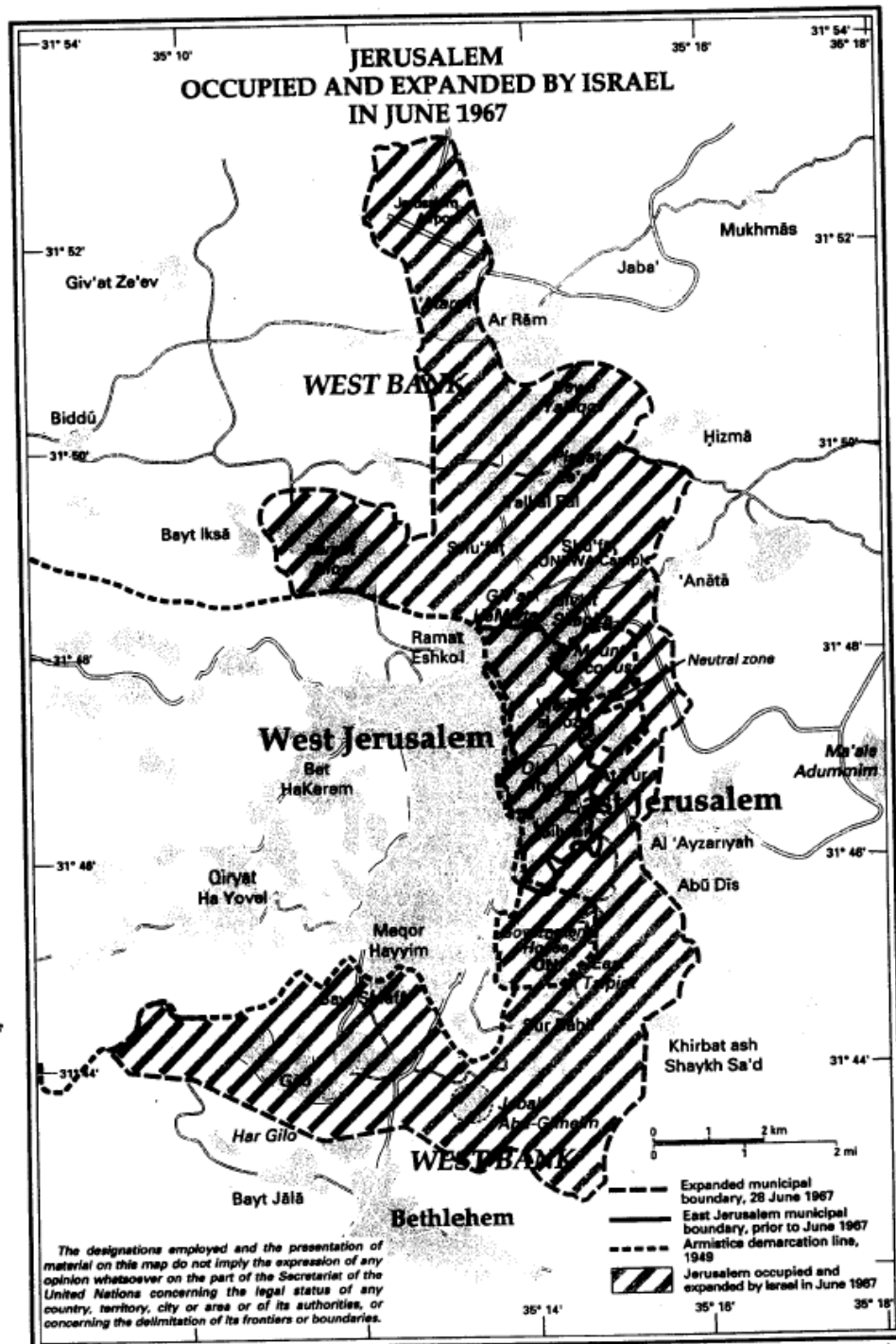
**Map 3. Palestinian territories occupied in 1967, including Jerusalem**



Map No. 3243 Rev.4 UNITED NATIONS  
June 1987

Department of Public Information  
Cartographic Section

Map 4. Jerusalem occupied and expanded by Israel in June 1967



Map No. 3640 Rev. 3 UNITED NATIONS  
June 1967

Department of Public Information  
Cartographic Section

### *The Holy Places*

One of the most emotional issues and a perennial fault-line in the Israeli-Palestinian confrontation in Jerusalem, has been the question of the Holy Places, most particularly the site called Temple Mount by the Jews, and Haram al-Sharif by the Muslims, which is sacred to both religions and is located in the Old City, in the eastern part. When the City was divided between two countries at war, access to the site by Israeli citizens was impossible or restricted after 1948. Following Israel's occupation of East Jerusalem in 1967, the Government of Israel notified the Muslim leadership that it would remain responsible for the administration of the mount and its mosques, while the Israeli security forces would be in charge of approaches to the site and would be responsible for security and the maintenance of public order. At the same time, the Government limited Muslim control by declaring that Jews had the right to unrestricted visits to the mount, as long as they respected traditional customs and practices. The key to the Mughrabi Gate (above the Western Wall) was removed from the *waqf* office by Israeli soldiers to give practical expression to the Government's decision. While proclaiming that freedom of access includes freedom of worship, the Government in practice restricted Jews from praying on the mount in order to avoid religious disturbances.35/

Developments at the site since 1967, including a number of violent incidents, have aroused alarm not only among Palestinians but also in the Muslim community throughout the world, who have charged that Israel is not fulfilling its obligation to protect the site and the Muslim worshippers there but is rather seeking to destroy the Muslim monuments in order to "Judaize" the area.

In their April 1967 memorandum to the representative of the Secretary-General, the Arab Muslim and Christian leaders had already expressed concern at a statement by the Israeli Minister of Religion to the effect that "the occupation authorities considered the Mosque of Omar and its outlying buildings as their property either by past acquisition or by recent conquest", and that "those authorities were determined sooner or later to rebuild their temple on the Dome of the Rock itself".36/

Subsequently, events in and around the site were repeatedly brought to the attention of the Security Council and other international bodies with urgent appeals to ensure the protection of the Holy Places. Among the major developments were the following:

#### *Archaeological excavations*

Excavations of a tunnel along the western wall of the Haram al-Sharif, were begun in March 1968, on the initiative of the Rabbinate and the Ministry of Religious Affairs, with the object of finding traces of the Second Jewish Temple destroyed by the Romans. The tunnel, which is entered through the Western Wall Plaza in the Jewish quarter, was reported to have reached 500 metres in length, at a depth of about 8.9 metres; it was connected in 1987 to a second tunnel, originally an aqueduct, about 80 metres long and 7 metres deep. The tunnels run along the Islamic holy places and run under the densely inhabited Muslim quarter, including several historic buildings. Over the years, the excavations have given rise to repeated protests because of the perceived violation of the sacred character of the area as well as serious fears for the stability of the Islamic monuments, particularly following the appearance of cracks in the walls and the partial collapse of some of the buildings. Security concerns have also been expressed as the tunnel may eventually afford underground access to the mosques.37/

#### *Violent incidents*

Over the years, there have been numerous violent incidents in the area, resulting in grave loss of life among Muslim worshippers as well as damage to their sanctuaries:

In April 1981, an armed individual forced his way into the Dome of the Rock enclave, after killing three Muslim guards, and began firing at the crowd, killing nine and wounding about 40.38/



In January 1988, Israeli policemen firing tear gas confronted Palestinian protesters, injuring at least 70.

In October 1990, efforts by the Temple Mount Faithful, an extremist Jewish group, to lay a symbolic cornerstone for the Jewish temple led to a confrontation with Muslim worshippers in which 20 Palestinians were killed and more than 150 wounded by Israeli security forces, and more than 20 Israeli civilians and police were also wounded.<sup>39</sup> Clashes between Muslim worshippers and Jewish groups seeking to assert Jewish rights on the mount have also taken place on numerous other occasions.

In September 1996, the Government's decision to open a second entrance to the archaeological tunnel in the Muslim quarter caused demonstrations not only in Jerusalem but also throughout the West Bank and Gaza, which were followed by violent clashes that resulted in the deaths of 62 Palestinians, including several policemen, and 11 Israeli soldiers and the wounding of hundreds. At the Haram al-Sharif, three Palestinians were killed and 50 wounded.<sup>40/</sup>

Attacks against the integrity of the Al-Aqsa Mosque have also aroused extreme concern. These included arson in August 1969, which destroyed the 800-year-old Salahuddin pulpit and other parts of the building, causing cracks in various pillars and the partial collapse of the ceiling; and failed attempts by extremist religious groups to blow up the mosque in May 1980 and April 1981.<sup>41/</sup>

Those incidents have led to charges that "under Israeli occupation the Haram al-Sharif has become the target of violation and desecration in contravention of the norms and principles of international conduct which prohibit the occupying Power from carrying out any interference in the normal and public life of the civilian population under occupation or committing acts of aggression against or interfering with freedom of worship in the Holy Places".<sup>42/</sup>

#### *Freedom of worship*

Another grievance voiced by Palestinians has been the inability of residents of the West Bank and Gaza (whether Muslim or Christian) to enter Jerusalem to pray at their respective holy places, even during major holidays, because of the prolonged closures of East Jerusalem for security reasons.<sup>43/</sup>

### ***Land expropriation and settlement***

Because of its far-reaching impact on the geography and demography of the City, and ultimately on its final status in a future settlement, the question of land expropriation and construction of Jewish settlements in and around East Jerusalem is of fundamental importance. In addition to the charges already submitted to Ambassador Thalmann by Palestinian representatives, mentioned above, information about the measures taken by Israel in East Jerusalem shortly after the occupation was also presented to the Security Council by Rouhi El-Khatib, the dismissed Mayor of the City, in a meeting held on 3 May 1968. The former Mayor submitted various maps and a copy of the expropriation bill of January 1968, which he said had been used to seize over 3,000 dunums [*1 dunum = approx. 1,000 square metres = .247 acres*] of Arab-owned land in order to build Jewish neighbourhoods "extending from the perimeter of the Jewish quarter in western Jerusalem heading north-east through the heart of Arab lands and housing areas, with the clear purpose of setting up a fence or rather a dam to separate the Arabs of Jerusalem from their Arab brethren in adjoining villages and other Arab towns to the north of Jerusalem". Mr. El-Khatib charged that the Israeli project could also "contain the Arabs of Jerusalem in a limited space, which will ultimately reduce their numbers and afford Israel the opportunity to bring in new immigrants and make Jews the majority of the population in Arab Jerusalem in a few years."<sup>44/</sup>

It has been reported that, in 1967, the Israeli authorities expanded the municipal boundaries of Jerusalem by adding 70,000 dunums\* of land from the surrounding West Bank villages; 86.5 per cent of that land was removed from Palestinian control through expropriation and confiscation for the purpose of building

and expansion of Jewish settlements (42.5 per cent) or for 'green areas' on which it is forbidden to build until the town planning committee decides otherwise (44 per cent). Accordingly, only 13.5 per cent (9,500 dunums) remains for Arab neighbourhoods and expansion.<sup>45/</sup>

Another report indicated that most of the Palestinian property in East Jerusalem and surroundings was seized in five stages, as follows:

January 1968. About 1,000 acres, mostly in the Sheikh Jarrah Quarter. The first Jewish settlements were build on this land, mainly, Ramat Eshkol, French Hill, Ma'aleh Dafna, and Mt. Scopus, for a current total of 20,000 residents. In addition, a Jewish industrial park was established in the Kalandia area near the airport.

August 1970. About 3,500 acres for the following settlements: Ramat, East Talpiot, Gilo and Neve Ya'acov, with a total current Jewish population of 101,000.

March 1980. About 1,100 acres for the construction of Pisgat Ze'ev, with a projected population of about 50,000 by the end of 1995.

April 1991. About 470 acres for the construction of the planned settlement of Har Homa on Jabal Abu Ghneim mountain (9,000 apartments).

April 1992. About 500 acres for the construction of the new settlement of Ramat Shu'fat (2,100 apartments).

The same report indicated that, with the completion of Ramat Shu'fat, the Palestinian population of East Jerusalem would be encircled and flanked from north, south, east and west by Jewish settlements. The number of Jewish settlers was to reach 180,000 by the end of 1995 and was envisaged to expand to over 220,000 by the end of the century (when the final status negotiations are to be completed).<sup>46/</sup> In May 1995, an additional planned expropriation of 130 acres for the expansion of the Ramat and Gilo settlements was halted following opposition by Arab members in the Israeli Knesset and an international outcry, including a debate in the Security Council.<sup>47/</sup> However, in March 1997, renewed international pressure, including debates in the Security Council and the General Assembly, was unable to stop the start of construction of the Har Homa settlement on Jabal Abu Ghneim, which generated intense concern over the future of Arab East Jerusalem as it would completely close off its south-eastern part from the rest of the West Bank.<sup>48/</sup>

Of great concern also is the fact that a second belt of newer settlements is gradually expanding outward in a "Greater Jerusalem" area which reportedly includes approximately 10 per cent of the land area of the West Bank. Although the territorial reach of that area has not been formally defined, according to a former member of the Jerusalem City Council, it apparently encompasses the area "from Ramallah in the north to Bethlehem in the South, Maaleh Adumim in the east, and Mevasseret in the west in one metropolitan area."<sup>49</sup> A recent report also noted that the Government "has affirmed its intention to continue settlement construction in a 100-square mile surrounding area termed 'Greater Jerusalem'" (see map 5)<sup>50</sup>. The Israeli Deputy Defense Minister was reported to have stated that "past experience has proven that, in order to defend Jerusalem, one must have a strip of defense surrounding it in the north, south, east and west. The consolidation of the existing territorial continuity through expansion of settlements as well as construction of roads, tunnels and bridges and further land acquisition, would be presented in the future negotiations as a geographic fact."<sup>51</sup>

Palestinian residents of East Jerusalem have also been alarmed by the increasing movement of Jewish settlers into established Arab neighbourhoods. In particular, the installation of small Jewish religious communities in houses acquired in the Muslim quarter adjacent to Haram al-Sharif, became a source of tension, as it was seen not only as an encroachment on the demographic integrity of the area but also as part of a broader strategy of occupation. It was reported that 53 buildings had been so occupied in the Muslim quarter as of early 1993.<sup>52</sup> That problem acquired special resonance in October 1991 when

settlers seized several houses in the village of Silwan and forcibly expelled their inhabitants. Not long after the Israeli State Attorney had recognized the legality of many of their claims to the property, plans for the construction of 200 housing units for Jews on the site were disclosed.<sup>53</sup> The Israeli Minister of Construction and Housing declared:

*"...Jewish neighbourhoods and houses will be within the Old City, both in the Muslim Quarter and adjacent to the walls, in accordance with Government policy ... It is certainly the Government's plan to strengthen Jewish settlement in the City of David [Silwan], on Mount Scopus, and the Mount of Olives. We believe it is very important that there be Jewish life in that area, so we are working on land purchases and planning a programme of reinforcing Jewish settlement in those areas."<sup>54/</sup>*

Concern about increasing settlement in the Old City intensified recently, following the Government's destruction of a building in the Old City belonging to the Burj al-Laqlaq charitable association, allegedly to make room for a settlement, and its reported approval of a plan to construct 132 housing units in the Arab neighbourhood of Ras al-Amud, within the pre-1967 municipal boundaries of the City.<sup>55/</sup>

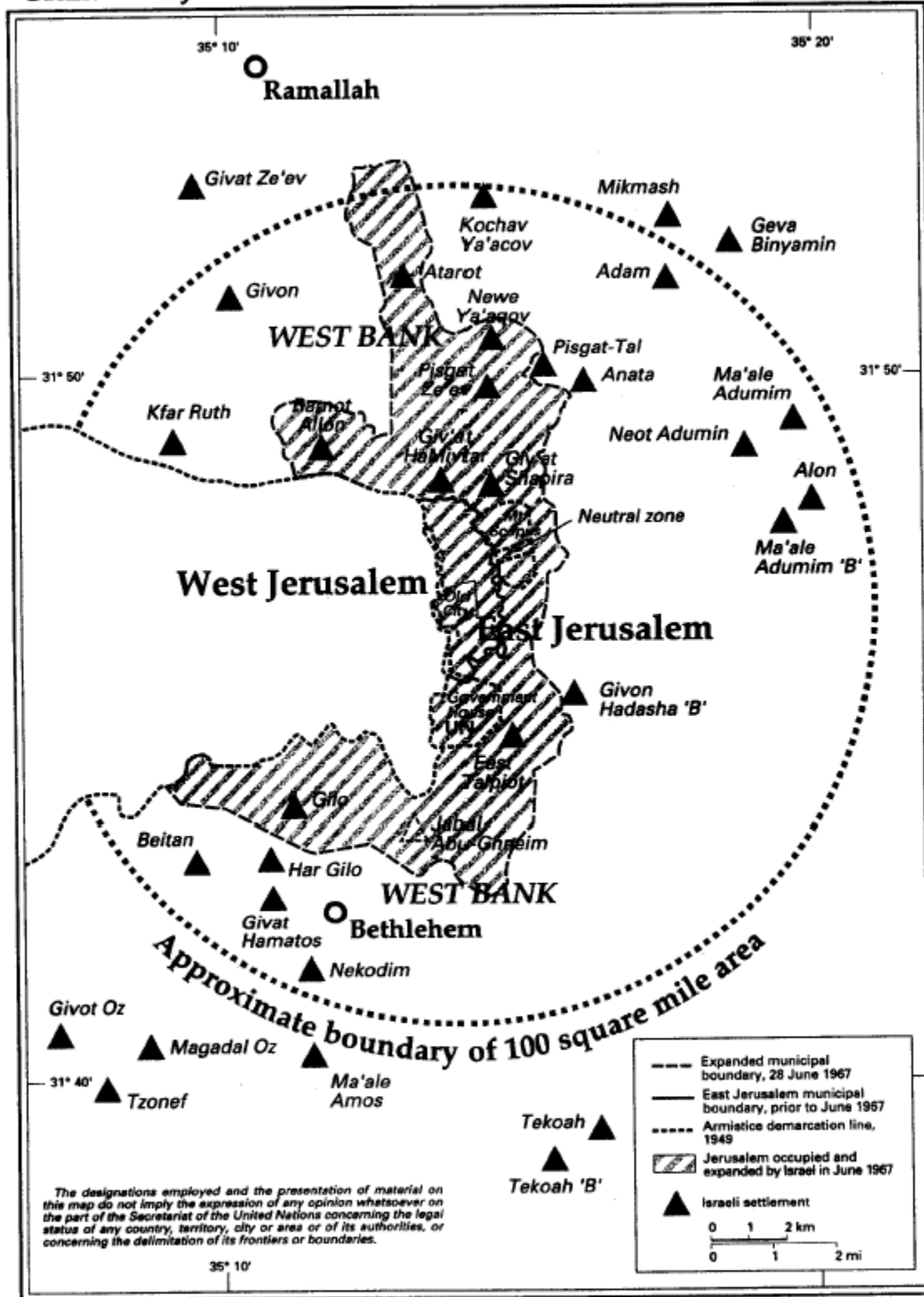
Concern about settlement construction in and around East Jerusalem is exacerbated by the fact that since 1973, the Government of Israel, through its ministerial committee on Jerusalem, has enforced a strict quota on Palestinian housing construction for the stated purpose of maintaining the overall percentage of Palestinian residents in the City at around 22 per cent. According to a former Jerusalem Municipal Council member, since 1967 Israel has constructed dwelling space for 70,000 Jewish families on expropriated Arab land in East Jerusalem, and only 555 dwelling units for its Palestinian residents. The overall growth of the City since 1967, which shows a 76 per cent increase in the Jewish population, has been due to housing construction in those settlements. Whereas in 1967 there were no Jews in East Jerusalem, in July 1993, the Government announced that it had achieved a Jewish majority there (160,000 Jews to 155,000 Palestinians). The ratio for the entire City was approximately 78 per cent to 22 per cent.<sup>56/</sup>

According to the same report, expropriations and land use restrictions resulted in a situation in which at least 21,000 Palestinian families were practically homeless and had to live in tents and hovels, or share with other families. Palestinians building without a permit risked having their houses demolished by the authorities. As a result, many Palestinians had been forced to leave Jerusalem.<sup>57/</sup> According to another source, as many as 50,000 have emigrated abroad or moved into outlying villages.<sup>58/</sup> Complaints have also been voiced by Arab property owners in the Old City due to redevelopment and beautification schemes by the municipality and archaeological excavations, which on occasion have been accompanied by evictions, expropriations, destruction of property and changes in the traditional aspect of parts of the City.<sup>59/</sup>

While with the beginning of the peace process in October 1991 and the change of Government in Israel in 1992 there was a certain redirection of resources away from settlements in the occupied territories, the then Government made it clear that construction projects in East Jerusalem would continue unabated. For its part, the new Government elected in May 1996 gave priority in its policy guidelines to the goals of "reinforcing the status of Jerusalem as the eternal capital of the Jewish people," and "strengthening, broadening and developing settlement."<sup>60/</sup>

Map 5. Israeli settlements in and around Jerusalem

"GREATER" JERUSALEM AREA



### Social and economic issues

The civil status of Palestinian residents of East Jerusalem and freedom of movement between the City and the West Bank, its natural hinterland, have also been major issues. Following Israel's occupation of East Jerusalem in 1967, Palestinians living within the municipal boundaries, as subsequently expanded, were classified as permanent residents of the State of Israel. It was reported that some 8,000 Palestinian Jerusalemites lost their residency status because they were not physically present in Jerusalem at the time of the Israeli census in 1967. Moreover, the residency status does not confer citizenship rights or actually guarantee permanent residence. Palestinian Jerusalemites travelling abroad are issued exit permits valid for one to three years, and failure to renew the permit before it expires automatically forfeits the right of the bearer to return. A stay abroad of more than seven years or establishment of residence abroad may also result in loss of the right to reside in Jerusalem. Large-scale confiscation of identification cards from Palestinian Jerusalemites holding foreign passports in 1996 gave rise to great concern. Also, for a Palestinian living in East Jerusalem, moving to a West Bank village nearby might entail losing residency rights and becoming subject to the difficulties of movement and loss of civic rights of Palestinians living under occupation. Non-resident spouses and children of Palestinian residents of Jerusalem do not have automatic residence rights, and must apply for residence on the basis of family reunification, which is subject to a number of limitations.<sup>61/</sup>

On the other hand, residents are permitted to vote in municipal elections. Palestinians, however, have largely boycotted this process (as they have refused an offer of Israeli citizenship in 1980) on the grounds that Israel's annexation of East Jerusalem is illegal. In the 1993 municipal election, less than 7 per cent of the Palestinian population of Jerusalem voted. No Palestinian resident of East Jerusalem sits on the city council.<sup>62/</sup>

Restrictions on civil liberties have also often been imposed on Palestinians, particularly during the *intifadah*, such as censorship of Arabic-language publications, the closing of newspapers and educational, cultural and other institutions based in East Jerusalem, and the arrest of their representatives. Since the signing of the Declaration of Principles by the PLO and Israel in September 1993, the Israeli authorities have sought in particular to curb activities by the PLO and the Palestinian Authority in East Jerusalem, on the grounds that they "are undermining the sovereignty both of Israel and the Jerusalem Municipality over the City". Several offices linked to the Palestinian Authority were closed, and legal proceedings were initiated against Orient House, the Palestinian centre housing various organizations, which serves as the headquarters of the Palestinian delegation to the peace talks.<sup>63/</sup> Palestinians, however, have opposed those measures, invoking a letter dated 11 October 1993 by Israeli Foreign Minister Peres to Norwegian Foreign Minister Holst, made public in June 1994, in which Mr. Peres stated that:

*"I wish to confirm that the Palestinian institutions of east Jerusalem and the interests and well-being of the Palestinians of East Jerusalem are of great importance and will be preserved.*

*"Therefore, all the Palestinian institutions of East Jerusalem, including the economic, social, educational, cultural, and the holy Christian and Moslem places, are performing an essential task for the Palestinian population.*

*"Needless to say, we will not hamper their activity; on the contrary, the fulfilment of this important mission is to be encouraged."<sup>64/</sup>*

Under the agreement of 28 September 1995 between Israel and the PLO,<sup>65</sup> East Jerusalem residents were allowed to participate in the Palestinian elections of January 1996 to the Palestinian Interim Self-Government Authority, albeit in a restricted fashion. While certain restrictions on political expression had been lifted, observers noted that fear of jeopardizing residency status, and intimidation by Israeli police and border guards, had reduced voter turnout to about 30 per cent of those eligible.<sup>66/</sup>

The indefinite closure of the West Bank from Jerusalem, decided by Israel in March 1993, has severely restricted Palestinian freedom of movement not only to and from the City, but also between the northern and southern sections of the West Bank. According to a recent report, as during previous periods of closure, any Palestinian wishing to enter Jerusalem must obtain a special permit issued by the Civil Administration, under penalty of a fine of about \$160 or arrest. Permits are valid for periods varying from a few hours to three months, and may be denied for a variety of reasons, including security concerns and non-payment of taxes. The report noted that, by inhibiting the free movement of goods and people, the closure caused deterioration in economic conditions and disrupted patterns of religious, educational, cultural, and family life as well as access to medical care. The closure was condemned by Palestinian and Israeli human rights groups as "an illegal collective punishment of the Palestinian population and as disproportionate to any legitimate security concern". It was reported that although certain categories (those employed in Jerusalem, women over 25, men over 50, and accompanied children under 16) were exempted from the permit requirement, all Palestinians entering Jerusalem must stop at check-points and present either their permits or identification proving that they were exempt from the permit requirement.<sup>67/</sup>

The effects of Israeli policies in Jerusalem were analyzed by two geographers, who expressed the view that "Jerusalem was a microcosm of the problems that have led to the *intifada*". They noted that, despite a quarter century of integrative policies, "functionally Jerusalem is two separate cities, inhabited by two disparate peoples with different religions, ways of life, and political orientations and aspirations". After describing how business, public transportation, health services, restaurants, theaters, newspapers, schools, welfare and religious services, and even the delivery of electricity, were separate for East and West Jerusalem, they concluded:

*"Although Jerusalem has been decreed a reunified city, during the intifada it returned to its earlier divided status, sundered along the Green Line. The Israeli illusion of Greater Jerusalem and a reunified city for the two peoples vanished during the first two years of the intifada".<sup>68/</sup>*

## CHAPTER III

### *INTERNATIONAL POSITION AND ACTION SINCE 1967*

The occupation of East Jerusalem in June 1967 and the subsequent annexation of the Old City and surrounding area by Israel have not been recognized internationally. The issue has been the object of numerous resolutions by international and regional organizations that reaffirm the special status of the City and seek to roll back the measures taken by the Israeli authorities. Concerns related to the construction of settlements, protection of the Holy Places and the historical heritage of the City, and the provision of assistance to Palestinians living in the City and their institutions, have preoccupied the international community over the past 30 years as each new major development in the City's troubled history leads to an intensified search for modalities and mechanisms to resolve the question.

#### *Legal status*

The international position was expressed forcefully by the United Kingdom's Secretary of State for Foreign Affairs at the fifth emergency special session of the General Assembly, convened in the immediate aftermath of the six-day war:

*"In my view, it follows from the words in the Charter [of the United Nations] that war should not lead to territorial aggrandisement.*

*"I call upon the State of Israel not to take any steps in relation to Jerusalem which would conflict with this principle. I say very solemnly to the Government of Israel that, if they purport to annex the Old City or legislate for its annexation, they will be taking a step which will isolate them not only from world opinion but will also lose them the support that they have."<sup>69/</sup>*

During the emergency session, the question of the status of Jerusalem and the Holy Places was discussed not only in connection with principles for a peaceful settlement of the larger conflict, but also as a separate problem. A number of countries, in a draft resolution, sought to reopen the issue of establishing an international administration for the City. The draft resolution was, however, not adopted. In its resolution, the Assembly considered that the measures taken by Israel in Jerusalem were invalid and called upon Israel "to rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem."<sup>70</sup> A few days later, after receiving Israel's response, the Assembly deplored the failure of Israel to implement the earlier resolution and reiterated its call to Israel "to rescind all measures already taken and to desist from taking any action which would alter the status of Jerusalem".<sup>71/</sup>

The Security Council, in its landmark resolution 242 (1967) of 22 November 1967, while not specifically addressing the status of Jerusalem, emphasized the inadmissibility of the acquisition of territory by war and affirmed that the fulfilment of principles of the Charter of the United Nations required, among other things, withdrawal of Israeli forces from territories occupied in the war, and respect for and acknowledgement of the sovereignty and territorial integrity and political independence of every State in the area.

Since efforts to achieve an overall settlement made no progress, the Council, in May 1968, held a round of meetings devoted specifically to Jerusalem. After reviewing the report of the Secretary-General's representative Ambassador Thalmann and hearing the expelled Mayor of East Jerusalem, the Security Council noted that Israel had taken additional measures affecting Jerusalem and deplored its failure to comply with the Assembly's resolutions. Reaffirming that "acquisition of territory by military conquest is inadmissible", the Council considered that "all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status", and urgently called upon Israel "to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of Jerusalem."<sup>72/</sup>

In addition to that clear position of principle based on the Charter of the United Nations, reaffirmed by both the Security Council and the General Assembly in many subsequent resolutions, the international community has also invoked the provisions of international humanitarian law governing military occupation as being applicable to the situation in all the territories occupied in 1967, including Jerusalem. In 1968, the Commission on Human Rights and the International Conference on Human Rights paid particular attention to the question of respect for the provisions of the Geneva Conventions of 12 August 1949. Subsequently, the Assembly established the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and in its terms of reference included in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention).<sup>73/</sup>

A principal concern of the Fourth Geneva Convention (to which Israel is a party) is the prohibition of annexation of territory by an occupying power (art. 47) and of the transfer of that power's population into the occupied territory (art. 49). Of relevance to the situation in Jerusalem is also the Convention's prohibition of the destruction by the occupying Power of real or personal property, whether owned individually or collectively or by the State or other public authorities or organizations (art. 53), and the requirement not to alter the status of public officials or judges in the occupied territories (art. 54). Under the Convention,

*"... the occupation of territory in wartime is essentially a temporary, de facto situation, which deprives the occupied power of neither its statehood nor its sovereignty; it merely interferes with its power to exercise its rights. That is what distinguishes occupation from annexation ... Consequently, occupation as a result of war, while representing actual possession to all appearances, cannot imply any right whatsoever to dispose of territories."<sup>74/</sup>*

Israel has not recognized the applicability of the Geneva Convention to the territories occupied since 1967, on the grounds that no legitimate sovereignty had been established over those territories since the end of the British Mandate, and has opposed the adoption of the relevant resolutions in the Security Council and the General Assembly.<sup>75</sup> Nevertheless, it has allowed the International Committee of the Red Cross (ICRC), which has a special status under the Convention, to carry out humanitarian activities on an ad hoc basis, including in the East Jerusalem area.

In contrast to Israel's position, the applicability of the Fourth Geneva Convention to Jerusalem, as part of the territory occupied in 1967, has been repeatedly affirmed in various United Nations and other intergovernmental forums. Since its inception, the aforementioned Special Committee on Israeli Practices included East Jerusalem in its interpretation of the term "occupied territories" falling within the scope of the Geneva Conventions,<sup>76</sup> and has regularly reported on developments in East Jerusalem. Since the early years of the occupation, both the General Assembly and the Security Council have repeatedly called on Israel to observe the provisions of the Convention in the occupied territories. In 1973, the Assembly affirmed that the Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, (the Fourth Geneva Convention), "applies to the Arab territories occupied by Israel since 1967" and, in 1975, it reaffirmed that the Convention "is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem". The Assembly also called on States parties to the Convention—which are bound under article 1 not only to respect its provisions but also to ensure respect for them in all circumstances—to exert all efforts in order to ensure compliance by Israel.<sup>77</sup>

After a series of meetings devoted to Israel's settlements policies and practices, the Security Council in 1979 also affirmed that the Fourth Geneva Convention "is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem", and established corresponding terms of reference for its Commission on Settlements created under the same resolution.<sup>78</sup> The Council has repeatedly used similar terminology in resolutions addressing human rights issues such as violence by settlers, deportations, and attacks against the Holy Places. Since 1986, the Council has used the terminology "Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem" to reaffirm the applicability of the Geneva Convention to the area under Israeli occupation.<sup>79</sup>

Israel's decision in 1980 to enact legislation formally annexing East Jerusalem and proclaiming the united City Israel's capital, was met with firm rejection not only by the Security Council and the General Assembly, but also by various intergovernmental organizations. The Council censured "in the strongest terms" the enactment by Israel of the "basic law" on Jerusalem and the refusal to comply with relevant Security Council resolutions, and affirmed that the enactment of the law "constitutes a violation of international law and does not affect the continued application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian and other Arab territories occupied since 1967, including Jerusalem". The Council decided "not to recognize the 'basic law' and such other actions by Israel that, as a result of this law, seek to alter the character and status of Jerusalem", and called upon all Member States to accept its decision, and upon those States that had established diplomatic missions at Jerusalem to withdraw such missions from the Holy City.<sup>80</sup> The General Assembly adopted a similar resolution, calling in addition on "specialized agencies and other intergovernmental organizations to comply with the present resolutions and other relevant resolutions" and urging them "not to conduct any business which is not in conformity with the provisions of [those] resolutions".<sup>81</sup> Subsequently, the Secretary-General informed the Security Council that 13 Governments had informed him of their decision to withdraw their respective diplomatic missions from the Holy City.<sup>82</sup>

Those resolutions, subsequently reaffirmed with similar wording, continue to embody the position of principle of the United Nations and of most Governments on the status of Jerusalem.

Beginning in the mid-1970s, a number of developments of historical significance have spurred on the search for a political solution to the problem of Jerusalem as part of an overall settlement of the Palestine



question and of the Arab-Israeli conflict as a whole based on the recognition of the existence of the Palestinians as a people endowed with national rights (rather than as inhabitants of disputed areas or refugees). In 1974, the General Assembly reintroduced the item "Question of Palestine" on its agenda, affirmed "the inalienable rights of the Palestinian people in Palestine", and granted observer status to the PLO.<sup>83/</sup> The following year, it established a Committee on the Exercise of the Inalienable Rights of the Palestinian People and requested it to make proposals on how to implement those rights.<sup>84/</sup>

In the plan that it submitted to the General Assembly and the Security Council, the Committee did not make specific recommendations with regard to the future status of Jerusalem; however, it recalled the international status of the City of Jerusalem, as provided for in General Assembly resolution 181 (II) and stated that any solution of the delicate problem of Jerusalem should be sought within the framework of the inalienable rights of the Palestinian people and the religious characteristics of the City and that Israel should be called upon to desist from any actions or policies designed to change the legal status of Jerusalem.<sup>85/</sup>

The Camp David Framework for Peace in the Middle East, signed by Egypt and Israel in September 1978 after the historic visit by President Anwar Sadat to Jerusalem, contained two significant elements. One was that "the agreed basis for a peaceful settlement of the conflict between Israel and its neighbours is United Nations Security Council resolution 242 in all its parts." The other was the recognition by the parties, for the first time in a formal agreement, of "the legitimate rights of the Palestinian people and their just requirements". There was no agreement, however, on Israeli withdrawal from Jerusalem, and the opposing views of the signatories were reflected in an exchange of letters accompanying the document.<sup>86/</sup> The accords were considered as only a partial solution for not addressing the crucial issues of Jerusalem and Palestinian national sovereignty, and as such were rejected by the majority of countries in the General Assembly.<sup>87/</sup>

For the next several years, many efforts were made to develop principles for a settlement that would resolve all fundamental questions. Concerned about "the increasing possibility of a new war", the Sixth Conference of Heads of State or Government of Non-Aligned Countries affirmed that "the Palestinian question is the crux of the problem of the Middle East and the fundamental cause of the Arab-Israeli conflict" and that "neither can be settled in isolation from the other". The Conference affirmed a number of basic principles for a comprehensive solution, including that "the City of Jerusalem is an integral part of occupied Palestine. It must be evacuated in its entirety and restored unconditionally to Arab sovereignty."<sup>88/</sup>

Similarly, the Third Islamic Summit Conference "the Palestine and Al-Quds al-Sharif session", held in Mecca in January 1981, stressed "the determination of the Palestinian people to maintain their eternal right to the Holy City of Al-Quds as the capital of their homeland Palestine, and the insistence of Muslim Governments and peoples alike on their eternal right to the Holy City of Al-Quds, in view of the permanent political, religious, cultural and historical importance of Al-Quds to all Muslims", and affirmed "the commitment of Islamic States to liberate Al-Quds to become the capital of the independent Palestinian State, and to reject any situation which might infringe on the Arab right to full sovereignty over Al-Quds".<sup>89/</sup>

In their declaration adopted at Fez, Morocco, in September 1982, the Heads of State or Government of the League of Arab States also called for the establishment of an independent Palestinian State with Al Quds as its capital.<sup>90/</sup> A similar call was made by Leonid Brezhnev on behalf of the Soviet Union in the same year.<sup>91/</sup>

More limited proposals were made by the European countries, which recognized the right to self-determination of the Palestinian people, rejected "any unilateral initiative designed to change the status of Jerusalem", and stated that "any agreement on the City's status should guarantee freedom of access of everyone to the holy places."<sup>92/</sup> Over the years, several proposals based on the Camp David accords and the "land for peace" formula were advanced by successive United States administrations. While "not

supporting annexation or permanent control by Israel" of the occupied lands, those proposals envisaged that Jerusalem "must remain undivided and that its final status should be decided through negotiations."<sup>93/</sup> Without addressing the issue of sovereignty, the Holy See and several Catholic countries have called for international guarantees to ensure freedom of worship and access to the Holy Places, protection of existing rights and privileges of the various religious communities, and the safeguarding of the cultural and historical heritage of the City.<sup>94/</sup>

The International Conference on the Question of Palestine, convened at Geneva in 1983 with the participation of 117 States, also adopted a number of principles for a solution of the question, which were subsequently endorsed by the General Assembly. They included "the right of all States in the region to existence within secure and internationally recognized boundaries; the withdrawal of Israel from the territories occupied since 1967, including Jerusalem; the rejection of any measures already taken by Israel to change the status of the City and of the occupied territories; and the attainment of Palestinian rights, including the right to establish its own independent State in Palestine."<sup>95/</sup> Those principles formed the basis for sustained efforts, in the next several years, to convene an international peace conference that would resolve all aspects of the Middle East conflict.

The international community and the parties to the conflict, however, remained deeply divided on the framework for a peaceful settlement when the Palestinian uprising known as the *intifadah* began in late 1987. A year later, following Jordan's decision to sever its legal and administrative links with the West Bank, the Palestine National Council (the Palestinian parliament in exile) adopted the Declaration of Independence and a political communiqué, by which it indicated acceptance of General Assembly resolution 181 (II) (the partition resolution) and Security Council resolution 242 (1967), and declared "the establishment of the State of Palestine in the land of Palestine with its capital at Jerusalem."<sup>96/</sup>

The evolution of the international environment following the war in the Gulf and the end of the Cold War, created the conditions for the beginning of a formal negotiating process between the parties at the Madrid peace conference in October 1991, followed by the historical breakthrough achieved in September 1993 with the mutual recognition between the Government of Israel and the PLO, and the signing of the Declaration of Principles. The Declaration and the subsequent agreements, have led to the withdrawal of Israeli forces from the Gaza Strip and Jericho area in 1994, the establishment of a Palestinian police force and the assumption of a range of responsibilities by the Palestinian Authority, elections to a legislative Council and the presidency of the Authority in January 1996, followed by the redeployment of Israeli forces from a number of towns and villages in the West Bank. The agreements provide for a five-year transitional period of Palestinian self-government beginning in May 1994, leading to a permanent settlement based on Security Council resolutions 242 (1967) and 338 (1973). Jerusalem and settlements are among the issues deferred to the permanent status negotiations which, under the Declaration were stipulated to start not later than the beginning of the third year of the interim period, that is, May 1996.<sup>97/</sup> Following an initial meeting on 5 May 1996 and subsequent repeated delays in the peace process, the negotiations were scheduled to start on 15 March 1997, pursuant to the Israel-PLO agreement relating to Hebron and other issues, signed on 15 January 1997.<sup>98/</sup> They were, however, delayed again in light of the deteriorating situation on the ground and the growing divergence of views between the parties.

#### ***Action against settlements***

The issue of Israeli settlements in and around Jerusalem and the problems they pose for international action aimed at furthering a just peace have been addressed by a variety of United Nations and other intergovernmental bodies. They have been unanimous in declaring the illegality and invalidity of settlements under international law, and in calling for an end to this policy and practice.

The Security Council has devoted particular attention to the issue of settlements both in the context of the status of Jerusalem, and with regard to its material consequences for the Palestinian population. In resolutions adopted in 1968 and 1971, the Council included expropriation of land and properties and transfer of populations among the Israeli measures declared invalid and which could not change the status

of Jerusalem.<sup>99/</sup> In 1976, the Council stated that "the measures taken by Israel in the occupied Arab territories which alter their demographic composition or geographical character, and in particular the establishment of settlements, are strongly deplored. Such measures, which have no legal validity and cannot prejudice the outcome of the efforts to achieve peace, constitute an obstacle to peace."<sup>100/</sup>

In a series of meetings on the settlements problem in 1979, many speakers expressed great concern at the fact that the policy and practice of settlements was continuing unabated and would have negative consequences for efforts to achieve a comprehensive peace. It was also stated that settlements were clearly incompatible with the attainment of Palestinian national rights.<sup>101/</sup> In the resolution adopted following the debate, the Security Council determined "that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East". It called upon Israel to abide by the Fourth Geneva Convention, and "to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories". The Council established a Commission consisting of three of its members "to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem" and decided "to review the situation in the light of the findings of the Commission."<sup>102/</sup>

The Commission visited Jordan, the Syrian Arab Republic, Lebanon and Egypt in May 1979, meeting with Government officials, representatives of the PLO, and a number of witnesses and experts. Israel informed the Security Council President that its Government "had rejected that resolution in its entirety and accordingly could not extend any form of cooperation to a Commission set up under it."<sup>103/</sup> Based on the evidence provided to it, the Commission concluded that "the Israeli Government is engaged in a wilful, systematic and large-scale process of establishing settlements in the occupied territories for which it should bear full responsibility." With regard to the consequences of the settlements, the Commission found a correlation between their establishment and a reduction in the Arab population, as well as "drastic and adverse changes to the economic and social pattern of the daily life of the remaining Arab population." It considered that the settlement policy was causing "profound and irreversible changes of a geographical and demographic nature in those territories, including Jerusalem", which constituted a violation of the Fourth Geneva Convention and various Security Council and General Assembly resolutions, and "was widely regarded as a most negative factor in the achievement of peace in the area."

The Commission recommended that the Security Council address an urgent appeal to Israel warning of the "disastrous consequences" of the settlements policy and calling for an end to the establishment, construction and planning of settlements. It pointed out that the question of the existing settlements would have to be resolved, and that measures should be considered "to safeguard the impartial protection of property arbitrarily seized." With regard in particular to Jerusalem, the Commission recommended that the Council call upon Israel to implement previous resolutions and "consider steps to protect and preserve the unique spiritual and religious dimensions of the Holy Places in that City." It further recommended that, "in view of the magnitude of the problem of settlements and its implications for peace in the region, the Security Council should keep the situation under constant survey."<sup>104/</sup>

The Council endorsed the Commission's recommendations, renewed its mandate, and requested it to inform the Council on the implementation of the resolution.<sup>105/</sup> In its second report, the Commission concluded that it had "detected no evidence of any basic positive change in Israel's policy with regard to the construction and planning of settlements ... the Commission is of the view that that policy has largely contributed to a deterioration of the situation in the occupied territories and that it is incompatible with the pursuit of peace in the area." The Commission recommended that the Security Council "adopt effective measures to prevail on Israel to cease the establishment of settlements in occupied territories and to

dismantle the existing settlements accordingly," and that it continue to keep the situation under constant review.<sup>106/</sup>

Resolution 465 (1980) of 1 March 1980 is the strongest statement adopted by the Security Council on the settlements question. In the resolution, the Council "strongly deplored" Israel's rejection of the previous resolutions and its refusal to cooperate with the Commission, and expressed deep concern over the consequences of the settlements policy for the local Arab and Palestinian population, and for the peace efforts. Reiterating and strengthening previous statements, the Council called the settlements policy and practices "a flagrant violation" of the Fourth Geneva Convention and "a serious obstruction" to achieving peace in the Middle East; it called upon the Government and people of Israel to rescind the measures taken, to dismantle the existing settlements and to cease urgently all settlement activities. It also called upon all States "not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories." It also accepted the Commission's conclusions and recommendations, renewed its mandate, and decided to meet again to consider the implementation of the resolution in light of the Commission's report.

In its third report, based on another visit to the region (with the exception of Israel, which again declined to cooperate), the Commission noted the continued increase and expansion of settlements and the ongoing transformation of the character of Jerusalem. The Commission observed that the pursuance of the settlements policy had led to a further deterioration in the situation in the occupied Arab territories, including Jerusalem, which was marked by heightened tensions and increased conflict, particularly following the enactment of a "basic law" by the Israeli Knesset. Noting that "the settlements policy is one of the major components at the core of the conflict in the area", the Commission reiterated its earlier recommendations and called again upon the Security Council to "adopt effective measures to prevail on Israel to cease forthwith its settlements policies in all aspects in the occupied Arab territories, including Jerusalem."<sup>107/</sup>

The Commission's recommendations were not acted upon by the Council. In the ensuing years, however, the Council met repeatedly to address various aspects of the situation in the occupied territories, including questions related to settlements, violence by armed settlers and violent incidents at the Holy Places. The General Assembly, the Economic and Social Council, and other bodies and organizations of the United Nations system have also received reports and adopted resolutions with regard to the problems posed by the settlements policy and practice. In particular, reference may be made to the resolutions of the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities; the annual reports of the Special Committee on Israeli Practices; the letters of the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the proceedings of various seminars and meetings of non-governmental organizations organized under the Committee's auspices; the reports of the Committee on the Elimination of Racial Discrimination regarding Israel's obligations in the occupied territories as a State party to the relevant Convention; the resolutions of the International Labour Conference on the implications of Israeli settlements for the situation of Arab workers, and the relevant annual reports of the Director-General of the International Labour Office; and the reports of the Economic and Social Commission for Western Asia on the economic and social repercussions of settlements.

In May 1995, the question of land expropriation for Jewish settlement in East Jerusalem was brought to the Security Council. However, a draft resolution co-sponsored by six non-aligned countries calling upon Israel to rescind its expropriation orders could not be adopted owing to the negative vote of a permanent member.

More recently, in March 1997, the issue of construction of 6,500 housing units at the planned Har Homa settlement on Jabal Abu Ghneim mountain was debated in the Security Council on two occasions, and in the General Assembly. During the first round of meetings in the Council, all speakers opposed Israel's decision to build the settlement. However, a draft resolution submitted by France, Portugal, Sweden and

the United Kingdom, calling upon Israel to refrain from its settlements activities and to abide by the Fourth Geneva Convention, could not be adopted in the light of the negative vote of a permanent member of the Council. The General Assembly, convened in resumed session to deal with the matter, subsequently adopted a similar resolution co-sponsored by 57 countries, by an overwhelming vote of 130 in favour, 2 against and 2 abstentions. As construction began, against a background of increasing tension in the region, the Council held a second meeting, again without being able to adopt a resolution on the issue owing to the negative vote of a permanent member of the Council.

Following the failure of the Council to act on the matter, the General Assembly, convening its tenth emergency special session, condemned the Israeli construction on Jabal Abu Ghneim, demanded its cessation, and reaffirmed that all measures and actions taken by Israel to alter the character, legal status and demographic composition of Jerusalem were null and void and had no validity.<sup>108/</sup> The emergency session was resumed in July 1997, in light of Israel's refusal to cease construction of the new settlement and to cooperate with the Secretary-General. In a strong resolution adopted by 131 votes in favour, 2 against and 14 abstentions, the Assembly reaffirmed that "all illegal Israeli actions in occupied East Jerusalem ... cannot be recognized, irrespective of the passage of time", called for international action against the settlements and on the States parties to the Fourth Geneva Convention to convene a conference on measures to enforce its provisions in the occupied Palestinian territory, including Jerusalem.<sup>109/</sup>

#### ***Protection of Jerusalem's heritage and assistance to Palestinians***

Efforts by the Security Council, the General Assembly and other United Nations bodies to ensure respect for the Fourth Geneva Convention and to achieve an end to the occupation, have been complemented by a number of activities aimed at the preservation of the Holy Places and the historical monuments and character of the Old City of Jerusalem and at assisting Palestinians living in East Jerusalem. The United Nations Educational, Scientific and Cultural Organization (UNESCO), the Organization of the Islamic Conference and a number of Governments and non-governmental organizations have been active in this endeavour.

In 1968, the General Conference of UNESCO asserted "the exceptional importance of the cultural property in the Old City of Jerusalem, particularly the Holy Places, not only to the States directly concerned but to all humanity, on account of their artistic, historical and religious value". It addressed an urgent international appeal in accordance with General Assembly resolution 2253 (ES-V), calling upon Israel "to preserve scrupulously all the sites, buildings, and other cultural properties, especially in the Old City of Jerusalem" and "to desist from any archaeological excavations, transfer of such properties and changing of their features or their cultural and historical character."<sup>110/</sup> For its part, the Executive Board of UNESCO called for the establishment of a UNESCO presence in the City with a view to securing the implementation of this and other resolutions.<sup>111/</sup>

In subsequent resolutions, the General Conference increasingly stressed the need to protect the cultural, historical and religious heritage of the City as a whole, as part of the common heritage of mankind. The Conference also condemned Israel's archaeological excavations and other actions aimed at changing the historic and cultural configuration of Jerusalem, as being contrary to the aims of the UNESCO Constitution and the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.<sup>112/</sup>

Under that Convention,<sup>113/</sup> parties undertake to respect cultural property, whether situated in their own territory or that of another party, "by refraining from any use of the property and its immediate surroundings ... for purposes which are likely to expose it to destruction or damage in the event of armed conflict, and by refraining from any act of hostility directed against such property"; and undertake "to prohibit, prevent and, if necessary, put a stop to any form of theft pillage or misappropriation of, and any acts of vandalism directed against, cultural property" (art. 4). In addition, an occupying power "shall as far as possible support the competent national authorities of the occupied country in safeguarding and

preserving its cultural property" or take appropriate measures itself in case the national authorities are unable to do so (art. 5). For the purposes of the Convention, cultural property includes any "movable or immovable property of great importance to the cultural heritage of every people," whether secular or religious, including buildings, monuments, archaeological sites, works of art, books and other objects (art. 1). The Convention entrusts UNESCO with special responsibilities with regard to its implementation.

With the agreement of the Government of Israel, the Director-General of UNESCO has periodically sent his personal representative to Jerusalem to consult with Israeli officials, the Islamic *waqf* and Christian religious authorities, and to report on the state of the cultural and religious heritage and on the action needed to preserve and restore it. The personal representative has verified facts on the ground in the light of complaints submitted by Governments and other sources to the Director-General. He has also examined in detail the consequences for the preservation of the City's heritage of Israeli policies and practices with regard to archaeological excavations, demolition of buildings, urban development projects, land confiscation and the establishment of settlements.<sup>114/</sup>

The work of UNESCO in that regard was given further impetus with the placing of the Old City of Jerusalem and its walls on the World Heritage List in 1981, and on the list of World Heritage in Danger in 1982, in the context of the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage. International assistance can be mobilized under the Convention for preserving and rehabilitating selected sites. A solemn appeal was also launched by UNESCO in 1987 for the safeguarding in particular of the Islamic cultural and religious heritage belonging to the *waqf*, and a special account was established for contributions by Governments, intergovernmental and non-governmental organizations, private institutions and others. More recently, a study to inventory cultural properties and prioritize projects was launched, and teams of internationally recognized experts were appointed to review the situation with regard to specific monuments on the ground, both Islamic and Christian, and to make recommendations for their preservation or restoration, in cooperation with the respective religious authorities.<sup>115/</sup>

Following the signing of the Declaration of Principles by Israel and the PLO, the General Conference of UNESCO, while welcoming the agreement, reaffirmed previous resolutions and requested the Director-General to be particularly vigilant in carrying out the task of safeguarding the religious, cultural, and historical heritage and the demographic character of Jerusalem, pending the results of the current negotiations.<sup>116/</sup>

Other efforts to ensure the preservation of the City's Arab and Islamic heritage have been made, in particular by the Organization of the Islamic Conference, founded in 1969 in response to the arson attack on the Al-Aqsa mosque. In addition to its political and diplomatic objectives, spearheaded by the Al-Quds Committee founded in 1975, the Organization gave priority to concrete measures of assistance. An "Al-Quds fund" was established in 1976 to receive contributions from Islamic States "with the dual aim of countering the policy of Judaization in the occupied Arab territories and sustaining the heroic resistance of the Palestinian Arab people in Jerusalem and other occupied territories."<sup>117/</sup>

In addition, a number of Governments, as well as governmental and non-governmental organizations, have been active in providing direct assistance for the protection of East Jerusalem, including projects in the areas of housing, social and health institutions, restoration of religious and historic sites and artifacts, and protection of Arab property from encroachment. Since the beginning of the peace process, Palestinians in East Jerusalem have been actively engaged in initiatives to develop their part of the City despite existing constraints, with the goal of being able to exercise sovereignty in the context of a future negotiated settlement. Among the initiatives considered are the revival and modernization of an East Jerusalem municipal council; the establishment of an urban development corporation; the creation and strengthening of neighbourhood community self-management organizations; and the media and public promotion of Palestinian perspectives and proposals on the future of the City. Cooperation with Israeli Jerusalemites and the concrete support of the international community are considered to be of particular importance for the success of these endeavours.<sup>118/</sup>

## CHAPTER IV

### *SEARCH FOR A SOLUTION: SOME INDEPENDENT PROPOSALS*

As mentioned above, Israel and the PLO have agreed that Jerusalem will be on the agenda of the permanent status negotiations. In view of the polarization between the parties, the clear international position with regard to occupied territory, and the great significance of the City to millions of believers worldwide, this is expected to be one of the most difficult and emotionally charged issues in the negotiations.

In recent years, and particularly since the beginning of the peace process, the complexity of the issue has stimulated a great deal of thought by Palestinian and Israeli political personalities, international legal scholars and others, in a pragmatic endeavour to bridge the mutually exclusive claims and to find formulas and models of solutions that might become a basis for compromise.

These efforts by and large sidestep the international legal aspects of the problem, starting from the premise that its political and religious significance and the physical, demographic, and economic realities created on the ground since 1967 make it impossible to either re-divide the City along international borders, unify it under a single exclusive sovereignty, or establish a *corpus separatum* under international administration according to the 1947 partition plan. The proposals made, therefore, seek to elaborate various sharing and cooperative arrangements that would leave the City undivided while preserving its unique role as a national, cultural and religious symbol for both Israelis and Palestinians. They are predicated on the emergence of peaceful relations between the two sides, the establishment of a Palestinian national entity alongside Israel, mutual recognition of the legitimacy of the claim to Jerusalem as the political capital of each side, and the development of new concepts of sovereignty to allow for the coexistence of two sovereignties as well as the rights of the international community with the City.

Detailed and far-reaching proposals, for example, have been developed by the Israel/Palestine Centre for Research and Information (IPCRI), an institution of prominent Palestinian and Israeli personalities, through a series of roundtables held since 1992.<sup>119/</sup> Their plan envisages a geographically undivided city which is, however, politically divided so that it can serve as two capitals with two municipal structures within its boundaries. Under the plan, sovereignty would be attached to territory and would be determined on the basis of the national make-up of neighbourhoods, considered a practicable option since there are no integrated neighbourhoods in Jerusalem. Accordingly, Jewish neighbourhoods would fall under Israeli sovereignty and Palestinian neighbourhoods under Palestinian sovereignty. The plan also envisages that Palestinians would be compensated for their land used to build settlements in Eastern Jerusalem, and that the map of the city would be redrawn to genuinely represent the area's actual demographic balance.

With regard to the future administration of the City, the IPCRI plan envisages that each side would have full control over its own territory and would be able to build, plan and use the land as it saw fit for the well-being of its own people. However, it would be recognized that physically Jerusalem is one city and its infrastructure would be coordinated and developed cooperatively, through joint planning commissions and a joint mayors' forum which would be the ultimate authority for the resolution of disputes. Special arrangements would be made for the Old City, including the establishment of a council representing all of the interests of the local and international communities in the Old City. The plan also contains provisions with regard to the status of the Holy Places, the legal system, the police system, the need for a constitutional charter for Jerusalem to be adopted by both sides, and other aspects.

Another approach, which seeks to defuse the issue of sovereignty and with it, "the battle for demographic advantage", is that developed by a Jerusalem City Council member, in consultation with Israeli and Palestinian intellectuals and politicians.<sup>120/</sup> The plan proposes redrawing the City's boundaries to quadruple the current land area, adding an almost equal amount of territory from Israel and the West

Bank, and incorporating in the new metropolitan area a population of about 450,000 residents of each nationality.

The entire area, according to this plan, would be under the jurisdiction of a greater Jerusalem council, and would be divided into 20 cities, each with its own municipal government. Powers currently exercised by the national Government would be devolved to the metropolitan and local administrations, including health services, education, the courts, planning and development, and taxation. The Jewish cities within the expanded metropolitan area would be under Israeli sovereignty, and the Palestinian ones under Palestinian sovereignty, with Jerusalem serving as the capital of both States.

Because the role of the central government in the metropolis itself would be vastly reduced, so would the importance of sovereignty. Functionally, Jerusalem would be an autonomous unit, where Israelis would be citizens of Israel and vote for Israeli mayors and city council, and Palestinians would be citizens of a Palestinian State and vote for Palestinian municipal administrations. The metropolitan council would be joint Israeli-Palestinian, with delegates from each city and a rotating chairperson. The Holy Places would be managed by a body made up of delegates from all three faiths. The plan also envisages that because of the particular sensitivity of the Old City, it would have its own municipal government, with both the Government of Israel and the Palestinian Government having veto power over any changes in the *status quo*, and with representatives of the three religions on the City Council.

A related proposal, advanced by some American personalities, envisages a condominium over the City, taking as a precedent some historical examples of shared sovereignty (the United Kingdom and France over the New Hebrides; France and Spain over Andorra; the Allies over Berlin after the Second World War).<sup>121/</sup> That model provides for joint sovereignty over an undivided city, which would be the capital of two States and be administered by an umbrella municipal council and local district councils. The City itself would be demilitarized, and there would be some form of economic union between the two States, with minimal controls on transit of persons and goods. Since neighbourhoods are not integrated, Israelis would be subject to Israeli administration, and Palestinians to Palestinian administration, through their respective district councils. As many aspects of municipal governance as possible would be devolved to the district council level, reserving to the umbrella municipal council only those major matters that can only be administered efficiently at a city-wide level. The plan also envisions the possibility of developing a flexible system for the application of either Palestinian or Israeli law, based not on a purely territorial basis but on various circumstances such as subject matter, the parties involved and the municipal district in which the issue or dispute arises.

Yet another formulation, proposed by a prominent Jordanian official, distinguishes between the ancient walled City, as the locus of most intense religious, historical and political attachment by both Arabs and Jews; and the areas outside the walls, built up in modern times.<sup>122/</sup> In that view, the essential dispute about Jerusalem concerns not the secular City but rather the area within the walls, where the Holy Places are located and believers from the three religions have historically made their home. Accordingly, the proposal seeks to defuse the dispute by encouraging compromise over the areas outside the walls but within present municipal boundaries, and recommending that no State have political sovereignty over the walled City. The latter would belong to the whole world and to the three religions and would remain a spiritual basin, as it was originally founded and universally conceived. It would be governed by a council representing the highest Muslim, Christian and Jewish religious authorities, each of which would be responsible for running and maintaining the holy sites of its faith and participating on an equal footing in the administration of the walled City. With regard to the areas outside the walls, this framework envisages in general terms that the urban areas stretching to the east, north-east and south-east would be under Palestinian sovereignty and those to the west, north-west and south-west under Israeli sovereignty.

The above-mentioned models, and several possible combinations thereof, which have been discussed in various forums, show that dialogue and the development of compromise proposals are possible even for a problem as seemingly intractable as Jerusalem.



## CHAPTER V

### *PEACE PROCESS AND REAFFIRMATION OF THE INTERNATIONAL POSITION ON JERUSALEM*

While supporting the agreements concluded by the parties since September 1993, which provide for negotiations over Jerusalem as part of the negotiations for a final settlement, the United Nations and other intergovernmental organizations have repeatedly reaffirmed the particular status of Jerusalem, as well as their position that Israel's occupation is illegal and its actions invalid under international law, and that withdrawal from all occupied territories is indispensable for the achievement of a just peace. They have also expressed increasing concern at measures taken by the Israeli authorities to strengthen control over Jerusalem prior to the beginning of the final status talks, particularly with regard to settlements, the isolation of East Jerusalem from the West Bank, measures against Palestinian residency status and Palestinian institutions, as well as the archaeological excavations. They have reaffirmed that the Fourth Geneva Convention is applicable to all the Palestinian and other Arab territories occupied since 1967, including Jerusalem, and have called upon the Government of Israel to refrain from establishing a fait accompli on the ground which might predetermine the outcome of the final status talks.

Although, as mentioned above, the Security Council was unable to act on repeated occasions on the issue of land expropriation and settlement in East Jerusalem, it reaffirmed its relevant resolutions on the applicability of the Fourth Geneva Convention to the territories occupied since 1967, including Jerusalem, and Israel's responsibilities thereunder, on the occasion of a debate on the massacre of Palestinians by a Jewish settler in Hebron in early 1994.<sup>123/</sup> In another resolution adopted on the issue of the opening of a new entrance to the archaeological tunnel in September 1996, the Council recalled its previous resolutions on Jerusalem and called for the immediate cessation and reversal of all acts that have resulted in the aggravation of the situation and that have negative implications for the peace process, and for the safety and protection of Palestinian civilians to be ensured.<sup>124/</sup>

For their part, many delegations participating in the debates firmly expressed the position that East Jerusalem is occupied territory, subject to international principles. In a statement adopted by the Council of Ministers of the European Union, and endorsed by several other European countries, it was declared that:

*"East Jerusalem is subject to the principles set out in Security Council resolution 242 (1967) of 22 November 1967, notably the inadmissibility of the acquisition of territory by force, and is therefore not under Israeli sovereignty ... the Fourth Geneva Convention is fully applicable to East Jerusalem, as it is to other territories under occupation."<sup>125/</sup>*

For its part, the League of Arab States reaffirmed that under no circumstances would it recognize the actions taken by Israel, the occupying Power, designed to change the legal status, geographical nature and demographic composition of Al-Quds, and called upon countries throughout the world to refuse to recognize such changes.<sup>126/</sup> The Organization of the Islamic Conference also reiterated its previous resolutions.<sup>127/</sup>

In its most recent resolution on the status of Jerusalem, which recalls previous resolutions of both the General Assembly and the Security Council, the Assembly determined that "the decision of Israel to impose its laws, jurisdiction and administration on the Holy City of Jerusalem is illegal and therefore null and void and has no validity whatsoever", deplored "the transfer by some States of their diplomatic missions to Jerusalem in violation of Security Council resolution 478 (1980) and their refusal to comply with the provisions of that resolution", and called once more upon those States concerned to abide by the provisions of the relevant United Nations resolutions, in conformity with the Charter of the United Nations".<sup>128/</sup>

The status of Jerusalem was also addressed in the resolutions adopted by the Assembly at its tenth emergency special session, convened following the unsuccessful Security Council debates on the construction of a new settlement on Jabal Abu Ghneim. The Assembly affirmed its support for the Middle East peace process on the basis of the relevant Security Council resolutions and for the principle of land for peace. Recalling its relevant resolutions, including resolution 181 (II) (the Partition Plan) and those of the Security Council, the Assembly reaffirmed that the international community, through the United Nations, has a legitimate interest in the question of the City of Jerusalem and the protection of its unique spiritual and religious dimension. The Assembly reaffirmed the continued invalidity of all actions taken by Israel, the occupying power, that have altered or purported to alter the character, legal status and demographic composition of Jerusalem. It further recommended that a comprehensive, just and lasting solution to the question of Jerusalem, which should be reached in permanent status negotiations between the parties, should include internationally guaranteed provisions to ensure the freedom of religion and of conscience of its inhabitants, as well as permanent, free and unhindered access to the Holy Places.<sup>129/</sup>

The above-mentioned statements and resolutions, as well as many others adopted by United Nations bodies, international organizations, non-governmental organizations and religious groups, demonstrate the will of the international community to remain involved in the determination of the future of Jerusalem as a city holy to three religions and embodying the national essence of both Palestinians and Israelis, in accordance with established international principles and the agreements already reached in the first stage of the negotiations. They also show the great concern over the current delicate status of the peace process, and the unanimous desire that no actions be taken on the ground for short-term advantage, that would irremediably jeopardize that process.

#### **Notes**

1. *Law Enacted by Israel's Knesset Proclaiming Jerusalem the Capital of Israel, 29 July 1980; Guidelines of the Government of Israel, June 1996.*
2. *The source of figures for Jerusalem is A. Shmueli, D. Grossman, and R. Zeevy, eds. Studies in Settlement Geography (Jerusalem, 1977) pt. 2, p. 468; for figures on Palestine, see United Nations, Division for Palestinian Rights, The Origins and Evolution of the Palestine Problem, 1917-1988, p. 36.*
3. *British Government: 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 (London, H.M.S.O. 1931), pp. 57-58. (reprinted by the United Nations as an addendum to document A/7057-S/8427).*
4. *Palestine Government: Official Gazette of the Government of Palestine, Jerusalem, 8 June 1931.*
5. *British Government: Palestine Royal Commission: Report Cmd. 5479 (London, H.M.S.O., 1937), pp. 131, 370.*
6. *Supplement to Survey of Palestine, Notes compiled for the information of the United Nations Special Committee on Palestine, June 1947, p. 13.*
7. *Official Records of the General Assembly, Second Session, Supplement No. 11 (A/364).*
8. *Ibrahim Matar, "To whom does Jerusalem belong?" (Publication of the Centre for Policy Analysis on Palestine, Washington, D.C., 1993).*
9. *Costa Rica and El Salvador have embassies in West Jerusalem. The nine countries that have consulates are: Belgium, France, Greece, Italy, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America. On the operation of the consulates, see Uzi Benziman, "Israeli policy in East Jerusalem after reunification", in Joel L. Kraemer, ed., Jerusalem: Problems and Prospects (Praeger, 1980; Gershon Baskin, Jerusalem of Peace (IPCRI, 1994); Jean-Philippe Mochon, "Le consulat général de France à*

*Jérusalem - Aspects historiques, juridiques et politiques de ses fonctions*", Annuaire français de droit international, XLII, 1996.

10. See documents T/118/Rev.2 and A/544.
11. Official Records of the General Assembly, Third Session, Supplement No. 11 (A/648).
12. Security Council resolution 54 (1948).
13. UNCCP, second progress report (A/838).
14. The UNCCP proposals and subsequent clarifications are contained in document A/973 and Add.1; see also a detailed summary account of the Commission's efforts in a later general progress report and supplementary report (A/1367/Rev.1).
15. UNCCP, third progress report (A/927) and thirteenth progress report (A/2629); Trusteeship Council resolution of 21 December 1949 (T/427).
16. Official Records of the General Assembly, Third Session, Part II, Ad Hoc Political Committee, Summary Records of Meetings, 6 April-10 May 1949, 45th meeting, p. 236.
17. *Ibid.*, 46th meeting, p. 254.
18. General Assembly resolution 273 (III).
19. General Assembly resolution 303 (IV).
20. Question of an International Régime for the Jerusalem area and Protection of the Holy Places, special report of the Trusteeship Council, Official Records of the General Assembly, Fifth Session, Supplement No. 9 (A/1286).
21. *Ibid.*, annex III. The Israeli proposal was not discussed by the Council.
22. Security Council decision of 25 October 1949, 453rd meeting.
23. General Assembly resolution 468 (V).
24. Progress report of the UNCCP covering the period from 23 January to 19 November 1951, Official Records of the General Assembly, Sixth Session, Supplement No. 18 (A/1985).
25. The work of the Commission with regard to refugee property holdings and the methods and techniques of identification and valuation are described in detail in a working paper prepared by its land expert in 1964 (A/AC.25/W.84). Information on Jerusalem is contained in working paper A/AC.25/W.81/Rev. 2, annex V, p. 8. Palestinians, however, have argued that United Nations estimates have substantially undervalued Palestinian properties (Centre for Policy Analysis on Palestine, Washington D.C. Palestinian Losses in 1948: The Quest for Precision, Information Paper No. 6 (1996)).
26. Progress report of the UNCCP covering the period from 1 October 1967 to 29 September 1972, Official Records of the General Assembly, Twenty-seventh session, Annexes, agenda item 40 (c) (A/8830).
27. Facts on File, vol. XXVII, 7 June 1967.
28. Report of the Secretary-General under General Assembly resolution 2254 (ES-V) relating to Jerusalem (S/8146), p.1.
29. *Ibid.*, p. 7.
30. Law and Administration Ordinance (Amendment No. 11); Law and Municipal Corporation Ordinance, both of 27 June 1967. See *Ibid.*, p. 8.
31. *Ibid.*, pp. 5-6. See also statement by the former Mayor, Mr. Rouhi El-Khatib, in the Security Council on 3 May 1968 (S/PV.1421).
32. *Ibid.*, pp. 9-19, and annex II.
33. *Ibid.*, p. 26.
34. *Ibid.*, pp. 20-24.

35. *A summary of these arrangements is contained in the "Summary of the Report of the Commission of Investigation into Events on the Temple Mount, 8 October 1990", submitted by Israel to the Secretary-General (S/21919, Add.3); also in Uzi Benziman, op. cit.*
36. *A/6793-S/8146, p. 39. The term "mosque of Omar" is used by locals to refer to the Al-Aqsa mosque.*
37. *A chronology and details of the excavations are contained in a report submitted by the Government of Jordan to the Security Council (S/14684); periodic reports have been issued by the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO).*
38. *Statement by Jordan (S/PV.2352).*
39. *Report submitted by the Secretary-General to the Security Council in accordance with resolution 672 (1990) (S/21919).*
40. *The New York Times, 28 September 1996.*
41. *Statement by the representative of Jordan in the Security Council, 13 April 1982 (S/PV.2352); report by the Director-General of UNESCO to the Executive Board, August 1984 (120 EX/14).*
42. *Statement by the representative of Jordan in the Security Council, 21 January 1986 (S/PV.2644).*
43. *See chapters on freedom of religion in the annual reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, the most recent of which was issued under the symbol A/50/463; relevant information is also included in the annual reports of the Commissioner-General of UNRWA, the latest of which was submitted to the fiftieth session of the General Assembly (Official Records of the General Assembly, Fiftieth Session, Supplement No. 13 (A/50/13 and Add.1)).*
44. *S/PV.1421.*
45. *Alternative Information Center, Jerusalem, The Other Front, Issue No. 337, September 1995; Sara Kaminker, Presentation on "Looking ahead - Key issues", North American NGO Symposium on the Question of Palestine, Toronto, Canada, 6-8 July 1994.*
46. *S/PV.3536, S/PV.3538.*
47. *Ibrahim Matar, presentation on "Elements of the final settlement and obstacles to peace - Jerusalem and settlements", made at the International NGO Meeting/European NGO Symposium on the Question of Palestine, Vienna International Centre, 29 August to 1 September 1995.*
48. *See below, p. 43.*
49. *Report on Israeli Settlements in the Occupied Palestinian Territories (publication of the Foundation for Middle East Peace, Washington, D.C., February 1994), p. 3.*
50. *Ibid., vol. 3, No. 4, July 1993, p. 5, quoting a report by the United States Department of State of April 1993.*
51. *Ibid., special issue, February 1994, p. 8.*
52. *Synoptic report on the application of UNESCO resolutions and decisions regarding the cultural heritage of Jerusalem (UNESCO document 127 EX/12 Rev) p. 23-4; Statement by A. Aghazarian at the journalists encounter on "Jerusalem - Visions of Reconciliation", organized by the United Nations Department of Public Information, held at Athens on 27 and 28 April 1993.*
53. *Jan de Jong, "Jerusalem: A city under siege", Challenge, vol. III, No. 1.*
54. *Foreign Broadcast Information Service, Daily Report: Near East and South Asia, No. FBIS-NES-92-067, 7 April 1992, p. 16.*
55. *Letters by the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council (A/51/731-S/1996/1044). See below, p. 43.*
56. *Sara Kaminker, Presentation on "Looking ahead - Key issues", North American NGO Symposium on the Question of Palestine, Toronto, Canada, 6-8 July 1994.*

57. Sara Kaminker, *op.cit.*
58. *Tanmiya*, newsletter of the Geneva-based Welfare Association, Issue 36, September 1994.
59. *Synoptic Report on the Application of UNESCO Resolutions and Decisions*, *cit.*
60. *Report on Israeli Settlements ...*, *cit.* Special issue, February 1994, p. 8; and Vol. 6, No. 4, July 1996.
61. Welfare Association, *cit.*; *The Washington Report on Middle East Affairs*, September-October 1994, pp. 12 and 85-86; and issues of *Article 74*, a publication of the Jerusalem-based Alternative Information Center/Project for Palestinian Residency and Refugee Rights.
62. United States Department of State, *Country Reports on Human Rights Practices for 1993* (Washington, D.C).
63. *The New York Times*, 28 August 1995; annual report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/50/463).
64. *Jerusalem Post*, 7 June 1994.
65. *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*, signed at Washington, D.C., on 28 September 1995.
66. *The New York Times*, 4 January and 21 January 1996. The new Palestinian Council will include seven representatives from East Jerusalem (five Muslims and two Christians).
67. United States Department of State, *cit.*
68. Allen G. Noble and Elisha Efrat, "Geography of the Intifada" in *The Geographical Review*, July 1990, p. 305.
69. *Official Records of the General Assembly, Fifth Emergency Special Session, 17 June-18 September 1967*, A/PV.1529, p. 2.
70. General Assembly resolution 2253 (ES-V).
71. General Assembly resolution 2254 (ES-V). Israel's reply is annexed to the report of the Secretary-General (A/6753-S/8052).
72. Security Council resolution 252 (1968).
73. General Assembly resolutions 2443 (XXIII) and 2546 (XXIV). The Special Committee was later renamed Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories.
74. ICRC, *Commentary: IV Geneva Convention*, pp. 275-276.
75. Statement by the representative of Israel in the General Assembly, 26 October 1977 (A/32/PV.47).
76. First report of the Special Committee to Investigate Israeli Practices, *Official Records of the General Assembly, Twenty-fifth session* (A/8089), p. 15.
77. General Assembly resolutions 3092 (XXVIII) and 3525 (XXX).
78. Security Council resolution 446 (1979). See the following section on the work of the Commission.
79. See, e.g., Security Council resolutions 592 (1986) and 605 (1987).
80. Security Council resolution 478 (1980).
81. General Assembly resolution 35/169 E.
82. S/14248. Three Governments (Chile, Ecuador and Venezuela) had withdrawn their missions prior to the adoption of Security Council resolution 478 (1980); the remaining 10 (El Salvador, Costa Rica, Panama, Colombia, Haiti, Bolivia, Netherlands, Guatemala, Dominican Republic and Uruguay) did so in response to the resolution. El Salvador and Costa Rica later moved their embassies back to West Jerusalem.

83. *General Assembly resolutions 3236 (XXIX) and 3237 (XXIX).*
84. *General Assembly resolution 3376 (XXX).*
85. *First report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, Official Records of the General Assembly, Thirty-first Session, Supplement No. 35 (A/31/35), p. 8.*
86. *Camp David Frameworks for Peace, September 17, 1978, reprinted in The Search for Peace in the Middle East - Documents and Statements, 1967-1979, Report prepared for the Sub-Committee on Europe and the Middle East of the Committee on Foreign Affairs of the United States House of Representatives (Washington, D.C., 1979), pp. 20-29.*
87. *See summary of relevant documentation and debates in the Yearbook of the United Nations, United Nations Department of Public Information, New York, vol. 33 (1979).*
88. *A/ES-7/8, annex.*
89. *A/36/138, res. 2/3 P (IS).*
90. *A/37/696-S/15510.*
91. *Speech by Leonid I. Brezhnev, General Secretary of the Central Committee of the Communist Party of the Soviet Union and President of the Presidium of the Supreme Soviet of the USSR, 20 September 1982 (A/37/457-S/15403).*
92. *European Council, declaration on the Middle East, Venice, 13 June 1980, reproduced in The New York Times, 14 June 1980.*
93. *President Reagan's address to the nation, 1 September 1982, reproduced in The New York Times, 2 September 1982.*
94. *See statement by the Permanent Observer of the Holy See to the United Nations before the Special Political Committee of the General Assembly, 30 October 1995 (press release).*
95. *Geneva Declaration on Palestine, Report of the International Conference on the Question of Palestine, Geneva, 29 August-7 September 1983 (A/CONF.114/42), p. 2; General Assembly resolution 38/58.*
96. *The Declaration is reproduced in document A/43/827-S/20278, annex III.*
97. *Declaration of Principles on Interim Self-Government Arrangements, articles I and V (A/48/486-S/26560).*
98. *Note for the record accompanying the Protocol concerning the Redeployment in Hebron, 15 January 1997, as made available by the Israel Information Service (www.Israel.org).*
99. *Security Council resolutions 252 (1968) and 298 (1971).*
100. *Statement by the President of the Security Council on behalf of the Council, 11 November 1976 (S/PV.1969).*
101. *United Nations Yearbook, vol. 33, 1979, pp. 382-385.*
102. *Security Council resolution 446 (1979).*
103. *Report of the Security Council Commission established under resolution 446 (1979) (S/13450), p. 7.*
104. *Ibid., pp. 40-42.*
105. *Security Council resolution 452 (1979).*
106. *Report of the Security Council Commission established under resolution 446 (1979) (S/13679).*
107. *Report of the Security Council Commission established under resolution 446 (1979) (S/14268), pp. 47-49.*
108. *S/PV.3536, S/PV.3538 and draft resolution S/1995/394; S/PV.3745, S/PV.3747 and draft resolution S/1997/199; A/51/PV.93 and General Assembly resolution 51/223; S/PV.3756 and draft resolution S/1997/241; A/RES/ES-10/2 and A/ES-10/PV.1-3.*
109. *General Assembly resolution A/RES/ES-10/3; Secretary-General's report, A/ES-10/6-S/1997/494.*

110. UNESCO General Conference, Fifteenth Session, resolution 3.343, 20 November 1968.
111. UNESCO Executive Board, 88th Session, decision 4.3.1.
112. UNESCO General Conference, Seventeenth Session, resolution 3.422 of 17 November 1972.
113. Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954, United Nations, Treaty Series, vol. 249, pp. 240-365.
114. See the following reports of the UNESCO Director-General on Jerusalem and the implementation of resolutions of the General Conference: 21C/7; 22C/90; 23C/15; 24C/15; 25C/14; 26C/14.
115. Information on UNESCO's projects is contained in the reports of the Director General to the twenty-seventh and twenty-eighth sessions of the General Conference (27C/19 and Add.; and 28C/19).
116. UNESCO General Conference, twenty-seventh session, resolution 3.8 (1993).
117. Resolution of the Seventh Islamic Foreign Ministers Conference, Istanbul, 12-14 May 1976.
118. See Reports of the Director-General of UNESCO, cit.; Tanmiya, quarterly newsletter of the Welfare Association, issue 36, September 1994, and issue 41, December 1995; Michael Safier, "The future of Jerusalem: a cosmopolitan perspective", report of a seminar on "The Future of Jerusalem", (Arab Research Centre, London, 1994).
119. Gershon Baskin, "A strategic analysis for Implementing a Peace Plan in Jerusalem", JADE News, April 1994, pp. 14-15.
120. Moshe Amirav, "Blueprint for Jerusalem", The Jerusalem Report, 12 March 1992.
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122. Adnan Abu Odeh, "Two capitals in an undivided Jerusalem", Foreign Affairs, spring 1992, pp. 183-188.
123. Security Council resolution 904 (1994).
124. Security Council resolution 1073 (1996).
125. Declarations issued by the European Union, on 1 October 1996, A/51/447-S/1996/825, and on 27 February 1997, A/52/86-S/1997/181.
126. Communiqué issued on 23 February 1997 by the General Secretariat of the League of Arab States (A/51/808-S/1997/157).
127. Statement issued on 3 March 1997 by the Islamic Group of the Organization of the Islamic Conference, A/51/817-S/1997/182.
128. General Assembly resolution 51/27.
129. General Assembly resolutions ES-10/2 and ES-10/3.

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