

## Chapter 7

### *Jerusalem*

*Religious peace in Jerusalem is necessary for the maintenance of peace in the Arab and in the Jewish States.*

—UNSCOP Report (September 3, 1947)

*The City of Jerusalem shall be established as a corpus separatum under a special international regime.*

—UN General Assembly Resolution 181 (November 29, 1947)

Whether diplomacy and peacemaking are an art, a science, or both, no computer could possibly have devised a more challenging test of statesmanship than Jerusalem. In many ways it is a microcosm of everything that makes the Palestine problem so problematic, the Arab-Israel conflict so conflictual, and relations between Arabs and Jews so interconnected.

And yet, Jerusalem is *sui generis*. It is a state of mind and a city, a matter of principle and a place where people live. This distinctiveness—even more, this duality—lies at the heart of its being at once fascinating and frustrating. On the other hand, its very uniqueness may be the key to unlocking the political enigma that is Jerusalem. A special case argues for a special solution.

#### **Two-Dimensional Jerusalem**

Judaism clings to a bifocal view of Jerusalem—*shel maala* and *shel mata*, the upper and the lower—the heavenly kingdom contrasted with the earthly city. This basic dichotomy serves to introduce the larger central theme of dualism, almost everything about Jerusalem is bipartite. For it is at once magnetic and antipodal.

The very notion of bifurcation applied to Jerusalem may be unsettling for millions of believers who associate Jerusalem with unity and universalism. Yet this symbol of oneness has been transformed into the contemporary icon for division. A divisiveness at times extending even to bipolarization.

There is a spiritual Jerusalem and a temporal, worldly, earth-bound Jerusalem. The ideal and the reality. The contemplative and the controversial. The seat of monotheism; the source for parochial sectarianism. The idealized image of a city of tranquillity and peace, of brotherhood, and religious ecumenicism; a zone of raw hatred, violence and the feared clash of civilizations. Jerusalem “the golden” and the sublime marred by scenes of abject squalor and refuse.

What is *Yerushalayim* or *Tsion* (Zion) for Jews is *Irsalim al-Quds al Sharif* (Jerusalem the holy) to Muslims. An Israeli and an Arab Jerusalem; west Jerusalem and east Jerusalem, the “new city” and the “old city,” a “Moslem quarter” and a “Jewish quarter.” A Jerusalem of history and serenity juxtaposed against a bustling metropolis struggling to be modern and barely coping with urbanization. Perhaps a mecca for tourists and pilgrims but home to its permanent residents, so many of whose waking hours are necessarily spent contending with outdated drainage systems, construction sites, and road repair crews, inadequate parking, shopping malls, and urban congestion.

Today’s Jerusalem offers a study in contrasts, overwhelming the visitor with visual signs of duality and diversity: luxury apartments and sumptuous villas but also slums. A city that is both two-dimensional and two-directional. A vertical Jerusalem whose skyscrapers and building cranes draw attention heavenward, even as its biblical tunnels, ancient cisterns, and burial tombs point downward to Jerusalem the subterranean. And also a horizontal Jerusalem, expansive, summoning humankind to reach out, to soar above the mundane, that coexists uneasily with a bounded Jerusalem pulled ever inward by its Ottoman walls, warren of narrow streets, crowded bazaars, and bumper-to-bumper traffic jams.

Physical and spiritual properties aside, once religious issues assume political overtones it is the political contradictions that truly cause Jerusalem to stand out. Arguably no other issue has as much potential for destroying peace prospects. Or for uplifting them.

The more so since Jerusalem, besides its intrinsic importance for the final status negotiations, doubles as the epitome of a wider problem. Palestine undivided—Holy Land to three faiths—is singular for the great number of religious and historical sites dotting the country.

If partition is fated to be the “cutting edge,” so to speak, the designated surgical instrument in (a) peacemaking and (b) mapmaking, by what key are these holy places to be parceled out? If sites held sacred by one people and faith are assigned to another in the act of drawing dividing lines, how, at a minimum, can freedom of access and worship be vouchsafed? Countrywide? In Jerusalem?

Present-day Jerusalem, rather than constituting a united city, is at once divided and divisive. Whereas cement barriers may have cleaved it from 1948 to 1967, today it is reunited by law but divided by walls more imagined than concrete. The people of Jerusalem (421,000 Jews and 181,000 Palestinians), like the two larger Israeli and Palestinian communities, somehow need to reconcile living together . . . but separate . . . with the need to be separate . . . but together.

As with each of the final status issues, the religious claims to Jerusalem and respective political bargaining positions need to be set out in considering whether the contradictory claims can in fact be reconciled. But even before the substantive options, a preliminary—procedural—question needs to be raised.

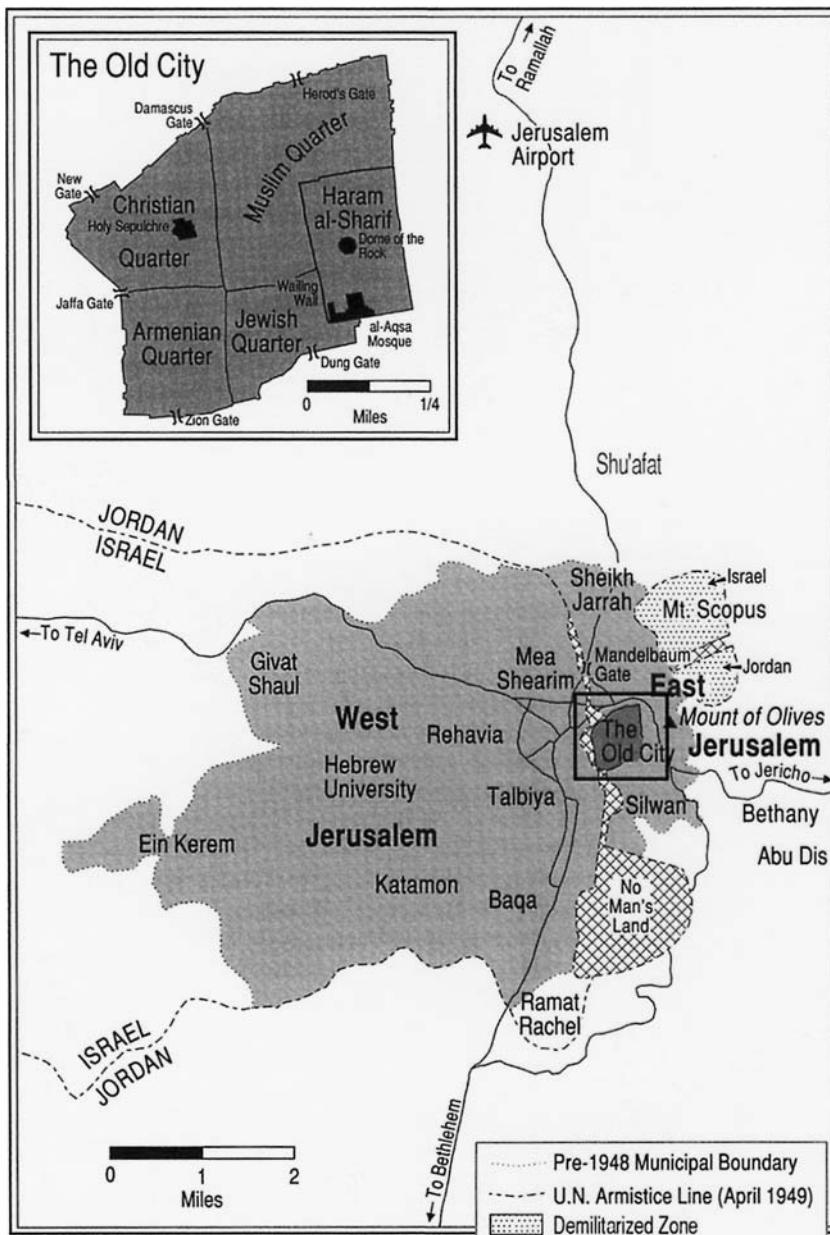
### **Jerusalem First**

As a strategy for untangling the Arab-Israel conflict and getting a direct Israeli-Palestinian dialogue underway, the 1993 initiative has elements of genius. Having said this, there is still reason to query the longer-term wisdom—and utility—of choosing to begin with “Gaza and Jericho first” and working our way up to Jerusalem, in effect saving it for last.

Why poison the atmosphere by prematurely raising the issue? is the argument most often heard in defense of this approach. “Best leave it for later” is enshrined in Middle East conventional wisdom. The premise being that even the future of Jerusalem, commonly regarded as “the hardest nut” of all to “crack,” must yield to pressure when peace will be so near at hand. By that time, with all other outstanding issues agreed upon, surely neither the Arab nor the Jewish side will wish to be seen by world opinion as the enemy of peace or to forfeit the fruits of peace.

Given the fact that both the Israeli and Palestinian sides have made their bedrock positions on Jerusalem unequivocal, there is a calculated, extraordinarily high risk involved, however—to the point of rendering the entire current peace effort a sterile exercise!—in this step-by-step incremental approach that insists upon leaving Jerusalem for last.

Public opinion surveys reveal an overwhelming Israeli bipartisan consensus: against redividing Jerusalem, restoring its pre-1967 status, or yielding to foreign control and in favor of its remaining under Israeli sovereignty as an undivided, open city and capital. Authoritative Palestinian spokesmen are no less assertive in registering an Arab counterclaim to Jerusalem under the principle of full Israeli withdrawal from 1967 territories. The city, including the Islamic holy places, is designated the future capital and seat of government of the state of Palestine.



14. Divided Jerusalem, 1948–1967

In short, constructive ambiguity is nonexistent where Jerusalem is concerned. Official positions have been staked out with exceptional clarity, leaving little room for doubt—or for backing down. Which all but guarantees a diplomatic crisis in the future consistent with Jerusalem’s “splitting” personality.

If in fact Jerusalem is nonnegotiable, what is there to gain from deferring the issue? Wouldn’t it be better to know now? And if it is negotiable, then there is something to be said for promoting it to the top of the agenda in order to benefit from the positive psychological effect such a Jerusalem protocol would inspire. Under the prevailing conventional wisdom each side is encouraged to dig in its heels out of false expectations and misplaced confidence that the more time passes the greater the prospects for getting its way. Especially when both Israelis and Palestinians are bent upon using the present interval to “create facts” in Jerusalem and its environs.

Deferring the inevitable confrontation and equally inevitable hard bargaining only leaves each side that much more determined and also free in the interim to undertake unilateral steps. Local Israeli authorities and residents, just like Palestinian leaders and residents of east Jerusalem, repeatedly ignore the Oslo commitment not to adopt one-sided measures likely to poison the atmosphere or to prejudice the final status settlement while accusing the other side of provocation and bad faith. Of late this contest for control over the city has assumed the appearance of political house-to-house fighting. There is dedication. There is deviousness. And there is the list of casualties, one of them being rational urban planning, another the cause of converting the undeniable fact of interconnectedness into a mechanism for coexistence.

Government ministries and city hall have adopted large-scale neighborhood housing projects and sweeping schemes for extending municipal boundaries outward to incorporate satellite towns under a “Jerusalem umbrella municipality,” all of which are intended to increase the city’s Jewish majority. Private philanthropists are quietly buying houses in the Muslim quarter of the Old City and in Silwan with the intention of having Jewish settler groups take up residence there, thus deepening the Jewish presence. This same steadfastness and stealth are exhibited on the Arab side. The Muslim *waqf* religious authorities adopt quiet measures consolidating their control over the Temple Mount area. Thus, too, sophisticated aerial equipment revealed that in the first two months of 1998 alone private Arab residents had built twenty-five hundred additions to existing housing or new buildings in east Jerusalem in direct violation of municipal housing and zoning codes.<sup>1</sup>

Some of these actions are surreptitious, others authorized and executed in the light of day. But each is a political statement. Each is meant to serve possession goals. All of them are premeditated and flagrant—aimed at gaining if not the high ground then at least some more ground. Hence the spate of major recent flashpoints that have kept Jerusalem contentious and in the news: the Hasmonean tunnel opening, the Har Homa housing project, Orient House, building without permits and razing illegal dwellings, Silwan, and, indeed, efforts at redefining city limits.

By the unwritten rules of urban political warfare in Jerusalem another few yards and dunams are esteemed as signs of effective Arab or Jewish occupation. They also afford an even better leverage point in preparation for the anticipated hard negotiations, which is really what the issue is all about.

Given this mounting commitment, what assurance is there, really, that both sides will not back down now but will do so later? That they will consent to accept less than demanded for the sake of compromise—and peace?

Indeed, the argument can be turned around. If there is such assurance and if peacemakers are convinced that (a) pragmatic, (b) workable, and (c) acceptable ideas for the governance of Jerusalem can be devised, then perhaps there is greater wisdom in addressing the subject sooner rather than later. Particularly when in fact any number of schemes for dealing with Jerusalem are already on record, some of them quite innovative and readily at hand.

### **Working Within the Confines of Jerusalem**

The problem is not that we lack for solutions. Rather, it is Jerusalem's proven capacity for arousing emotional sentiment of both virulent strains, religious and nationalist-political, precisely when what is called for are calmer heads and pragmatic problem solving. Absent this willingness to get beyond the emotional and the most practical blueprints will end up in the dustbin of Jerusalem's troubled history.

Bearing this in mind, one course nevertheless worth exploring borrows a leaf from the character of Jerusalem itself. Just as the city summons the visitor to peel back successive archaeological strata, perhaps the diplomatic equivalent is to separate the religious layer of issues from the municipal or administrative one, and the municipal from the political.

This, for two practical reasons. Lumping the three layers together hardly encourages clarity but does make solving the one monumental problem truly impossible. Besides, sanctity . . . administration . . . sovereignty . . .

these really are three distinct values, or functions. They clearly need to be met; but not necessarily in the same way, by the same agency, or for the same constituencies.

The holy places must be protected as a sacred trust for worshippers of all faiths. The taxpayers of Jerusalem, Israeli and Palestinian, deserve the full range of efficient municipal services as a matter of civil society and good government. Whereas Arabs and Jews who comprise the two wider national movements are the ones insisting that affective claims to sovereignty in and over Jerusalem be given legal tangible expression. If Jerusalem is true to form, dividing and segregating even as it symbolizes oneness, then let this propensity toward forcing distinctions work for rather than against peace.

Because they are going to prejudice the politically negotiated terms of settlement, a pragmatic “destratified” solution must begin with a realistic assessment of existing conditions.

### ***1. Jerusalem’s Disputed Legal Status***

Palestinians insist Arab Jerusalem has the same status as the rest of the West Bank, indeed, that it is an integral part of the West Bank from which Israel must terminate its post-1967 rule and withdraw, while permitting the city’s Arab residents to vote, for example, in Palestinian Authority elections.

Israel’s position is that Jerusalem has a different status from the West Bank. Following the Six Day War the Knesset enacted legislation unifying east and west Jerusalem under a single citywide administration, while also annexing and placing it under direct Israeli jurisdiction and civil law, in contrast to the West Bank, which was never annexed but kept instead under military rule.<sup>2</sup> In 1980 the Knesset passed the Basic Law: Jerusalem Capital of Israel, reaffirming that “Jerusalem, complete and united, is the capital of Israel.”<sup>3</sup>

Despite attempts at convincing the world that Jerusalem is part of Israel, the international community still regards Jerusalem’s status as provisional and undetermined—as pointedly underscored by the fact that almost all foreign embassies accredited to Israel are located in the Tel-Aviv area.

Neither UN Resolutions 242 and 338 nor the Camp David Accords refer to Jerusalem. However, at Oslo the Rabin government did commit Israel to accepting that Jerusalem’s ultimate status would be one of the subjects to be dealt with as part of the comprehensive negotiations and conceded that east Jerusalemites could vote in elections for the Palestinian self-governing authority.



## **2. *Jerusalem's Reunification***

On paper the two halves of Jerusalem have long since been formally reunited and made seamless. But in reality there is still a “great divide” segregating entire neighborhoods, and separating Jews from Arabs. Israelis are careful to avoid certain sections like Wadi Joz, or proceed with greater caution than before the intifada, and no longer frequent Old City shops as much as they used to. West Jerusalem taxi drivers think twice before accepting fares to east Jerusalem's Arab suburbs.

So do Israeli municipal authorities experience difficulty in exercising effective control over all parts of the city or in enlisting the Arab residents' cooperation. Orient House in east Jerusalem for all intents and purposes serves as a center of operations and patronage in defiance of Israeli authority, with deals struck there rather than at City Hall and many municipal services provided alternatively so as not to be beholden to Israel. In this constant struggle between Israelis and Palestinians for separate authority and greater control even the seemingly most mundane issues from garbage collection to tax collection invariably become quarrelsome. Everything in Jerusalem is contentious, everything bargaining, everything improvisation. Municipal boundaries, for example.

## **3. *The “Gates of Jerusalem”***

As for Jerusalem's city limits, the sky may be the limit! Not surprisingly, there is no single accepted definition or delineation—only mental maps.

Debouching from its Jebusite core, the city of David (Silwan), and Temple Mount, and very much depending on the eye of its beholder, this “imagined community” par excellence stretches out to the north and west, reaching as far as the outskirts of Bethlehem to the south and Ma'ale Adumim to the east. Municipal boundaries were redrawn by Israel after 1967 to encompass nearly three times more territory and in order to allow for increasing the Jewish population while minimizing the number of Palestinians, thereby guaranteeing a Jewish majority.<sup>4</sup>

Parenthetically, that the city limits remain ill-defined, and really undefined, may actually give those concerned for “the peace of Jerusalem” a slight advantage in the sense of greater leeway when separating sovereignty from local government and freedom of worship.

## **4. *Fictional Jerusalem***

Beneath the veneer of a unified Jerusalem lies the reality of a city that is and is not part of Israel. To probe deeper into the Jerusalem of 1997 is



to encounter a no-man's-land of gray areas and great uncertainty, of unwritten codes, divisions of labor, and authority. It is only through constant improvisation, crisis management, and veiled cooperation that daily life is somehow made bearable for the city's Israeli and Palestinian co-habitants. In the face of a situation that is barely tolerable, every day that passes without an explosion, and without the city coming apart at its Arab-Jewish seams, borders on the miraculous.

### *5. Preserving the Status Quo*

Citing the Oslo agreement, strict legal constructionists insist both sides refrain from taking any unilateral initiatives in Jerusalem that might prejudice the present status quo and the city's final dispensation. There are at least two flaws with this argument, one being that if the existing situation is so unpleasant, unnatural, and unacceptable to all parties concerned, what merit can there possibly be in consecrating the status quo? More telling still is the second counterargument. Asking to freeze the situation temporarily, but really indefinitely (or at least until May 1999), in a city of over six hundred thousand inhabitants is unrealistic and entirely impossible.<sup>5</sup>

First, there is the natural rhythm of daily life, change, and growth. Second, in this open-ended competition and war by other means, matching Israeli and Palestinian wits, offense is easily taken by seemingly innocuous actions, let alone illegal construction by Arab residents without building permits or foreign Jewish financiers bankrolling the secret purchase of Old City dwellings. Each side is quick to accuse the other of bad faith. Examples (up, down, and sideways):

- in March 1997 a confrontation was precipitated by bulldozers sent to begin work on the Har Homa high-rise project to the south of the city that had severe repercussions both internationally and on the peace process itself;
- shortly before, Israel's opening in September 1996 of an ancient tunnel dating back to the Hasmonean era that runs along the western retaining wall of the Temple Mount in close proximity to the al-Aqsa mosque was denounced by Yasir Arafat as part of "the Judaization of Jerusalem" and sparked a wave of violence;
- in June 1997 Jordanian emissaries were summoned from Amman at Israel's request in an effort to mediate between the Muslim waqf authorities and the Greek Orthodox patriarchate over two disputed rooms joining the al-Khanka Mosque to the church of the Holy Sepulchre.

Be it renovation of a religious site, selling or buying of real estate, or housing projects for young couples, steps seen anywhere else as signs of progress in Jerusalem are treated as flagrant violations of a status quo that is in any case untenable.

Truth be told, none of the political or religious communities congregating in Jerusalem are that terribly interested in reaching out—only in pushing out.

One city . . . but two ethnic communities, two nations, three faiths, any number of religious denominations, and two, possibly three, political contenders. With each clearly intent on expanding its holdings and jurisdiction by every means possible in order to better position itself for the next, and arguably decisive, phase. In short, Jerusalem's decidedly nonstatic status quo is prejudiced above all else—even more than by the city's past history—because of its pending *final* status.

Hardly the optimal preconditions one might wish for in promoting a smoother, neater application of the partitionist principle.

Indeed, one of the more policy-relevant rules of thumb ought to be categorical dismissal of any bizonal formula for Jerusalem. Returning to a physically bisected or dissected city is unaesthetic and impractical in equal measure, bringing more distress than relief—the geopolitically incorrect inference from King Solomon's judgment in the famous case of the disputed infant. No artificial redivision. No status quo. No hegemony and no exclusivity.

Given the three strata of contested religious, municipal, and political jurisdiction, three separate modular structures must be fabricated. Only then is there room for integrating the three tiers into a single Jerusalem peace superstructure. One that will answer the diverse needs of its several constituencies in different yet sensitive ways relevant for each. In the quest for a *reasonable*, as opposed to an *ideal* solution, disaggregation—although aiming ultimately at reunification—is the only viable strategy.

### **Jerusalem's Three Strata**

Religion, urban management, politics . . . sovereignty, society, piety . . . the local, the national, the ecumenical. Where to begin? Even recommending which of the three might best serve as cornerstone for the proposed edifice is in itself fraught with political overtones, as though indicative of a hidden political agenda. Still, the case is made here for putting city government at ground level. Because life is with people, the first priority ought to be making Jerusalem habitable for its permanent Arab and

Jewish residents and then hospitable to the annual stream of pilgrims and visitors.

### ***Good Government***

Local government is meant to administer to the needs of all inhabitants and to provide municipal services ranging from sanitation and community playgrounds to housing and schooling. Quality of life can and should be disentangled and put above national politics. If assured of proper representation, Jerusalemites, whether Arab or Jewish, ought to favor the single municipality proposal as the most efficient in serving their individual, family, and neighborhood interests.

Within the framework of a larger peace it is possible to imagine an entirely different, more relaxed atmosphere in the city that would encourage—and reward—accommodation and cooperation in solving practical problems of concern to the population as a whole.<sup>6</sup> In general terms, two mechanisms applicable to Jerusalem and borrowed from other large multiethnic metropolitan areas like New York City or the Greater London Authority are the borough system of organization and an elected, representative city council as the highest decision-making body. Police enforcement, garbage collection, and park benches impose no arbitrary ethnic, racial, or religious distinctions, in the same way that industrial zoning laws and clean air standards are nondiscriminatory.

This latter reference to zoning laws and air standards provides the opportunity to reemphasize what by this point in the analysis of repartitioning Palestine ought to be axiomatic. All issues are, and will be, amenable to solution if—and once—patterns of collaboration take hold in all Israeli-Palestinian bilateral forums. At the level of municipal councils and departments such cooperation translates into agreed environmental standards, a single standardized test for drivers' licenses, etc. The obverse holds equally true. Absent consensus under a joint city authority for awarding building permits, for example, and the result is stalemate, depriving either side the opportunity for newer housing and communal development. In such cases, and given these choices, the logic of the situation actually argues in favor of tradeoffs, political dealing, and compromise.

### ***Separating “Church” and “State”***

If urban living is the ground floor of peace, and political sovereignty the top floor, then religion occupies Jerusalem's second story. Here, a blueprint is called for that will best assure ease of access to the dozen or more

Christian, Muslim, and Jewish holy places dispersed throughout different parts of the city but with particular density inside the Old City. Whatever form it takes, this prospective religious regime has to effectively guarantee freedom of worship and lend itself to such regularized tasks as financing the upkeep and restoration of these sites.

Under these terms of reference there are essentially four “regimes” to choose from: exclusivity, the status quo (i.e., Israeli exclusive control), internationalization, joint supervision.

*Spiritual Autonomy* Seen strictly in religious terms, the map of Jerusalem depicts a conglomeration of shrines, burial plots, mosques, churches, and synagogues. The logic of this situation thus suggests a deceptively straightforward solution based on the idea of religious autonomy. This would allow Israel to control the Jewish holy places and the Palestinians those sacred to Islam, leaving the local apostolic representatives of the different Christian denominations to exercise supervisory powers over the Via Dolorosa, Gethsemane, and similar east Jerusalem sites in the name of Christendom.

But then the complexities intrude. Among them, shared walls and premises, common hallowed ground, overlapping claims, and, not least, rival claimants among coreligionists. Autonomous sectarian self-rule assumes physical separation of one shrine from another and a single emotional, metaphysical, or spiritual attachment of one faith per each site. Which is precisely not the case in Jerusalem and which makes the model for religious governance of Rome and the Holy See, for example, unsuitable.

Enclosing two seventh-century mosques as well as the remnants of the Second Temple and several extensive archaeological sites, the Temple Mount, or Haram al-Sharif, is altogether illustrative. It confirms all four complicating factors in that it is also holy to both Moslems and Jews, with ultra-Orthodox factions in turn battling the Reform and Conservative movements over the style of religious services at the Western Wall.

Not to be slighted, so too within both Christianity and the Islamic world there are strong internal quarrels regarding not just theological and doctrinal matters but legitimacy and the right to govern the holy places. Fierce custodial fights between the Copts and Armenians and between Roman Catholics and the Greek and Russian Orthodox Churches are very much a part of Jerusalem’s history and lore. Still to fully surface yet sorely contested within the Islamic and Arab “community of believers” is (a) which sect and (b) which country is the most qualified and authentic representative of Muslim claims to Jerusalem. Leading contenders: the Palestinians, of course, but also Jordan’s Hashemite royal house, tracing direct lineage

to the prophet Muhammad, and, to be sure, the Saudi dynasty as Sunni/Wahhabi rulers in Arabia over Mecca, Medina, and the birthplace of Islam. Whose banner eventually flies over the Haram al-Sharif is plainly of far more than symbolic or religious importance; it becomes a matter of politics, power, and prestige. These considerations and complexities suffice to disqualify the simple, but therefore simplistic, solution of an independent and separate ecclesiastic authority for each of the three major religions.

*The (Israeli) Status Quo* If not divided religious jurisdiction, and if only for the sake of helping to avert an unbrotherly inter- and intradenominational free for all, there may be some merit in perpetuating the existing arrangement.

Arguments in favor: first, the second-story religious issue is not that obtuse and so should not be made unduly complicated. The overriding necessity is really only to maintain inviolate the sanctity of Jerusalem. Second, Israel, its successive governments, and Ministry of Religious Affairs has accepted before the whole world this solemn undertaking to ensure before members of all faiths free and safe access. Third, the present system for meeting the needs of the three leading monotheisms and for providing the adherents of each faith with the full inventory of ceremonial and ritual services has now been in effect for over three decades and enjoys wide acceptance. Fourth, Israel's administration has spawned its own extensive institutional and procedural apparatus. In other words, there is already in place an entire structure for consultation with Islamic and Christian clerical authorities, for budget allocation, and for mediating disputes. Fifth, Israeli officials responsible for religious affairs are, in any case, under the closest scrutiny by the UN, the Vatican, Islamic groups, and any number of other governmental and nongovernmental international organizations. Sixth, this arrangement has worked satisfactorily well; under Israel's supervision Jerusalem has enjoyed an era of remarkable religious tolerance, with hundreds of thousands of visitors moving freely within its walls and open gates. All that is required, so the argument concludes, is officially to deputize Israel to continue this enlightened interfaith policy.

This argument, however, overlooks one salient factor. The *de facto* regime was simply improvised in the years after 1967. Neither the Muslim nor the Christian authorities have ever given formal *de jure* approval for Jerusalem and its holy places to be solely in Jewish hands. They may be willing to live and to work with the interim situation but for a variety of historical, theological, and political reasons are unlikely to accept this as a final solution, even in peacetime, or to grant the Jewish state a permanent religious mandate. Rather, each major religious grouping can be

expected to hold out if not for *its* exclusive control then surely for either of two forms of shared religious responsibility.

*Internationalization* It is conceivable that the search for a compromise formula could revive interest in the concept, long forgotten, of Jerusalem as a separate entity, a *corpus separatum*. In calling for a special international regime, the original UN 1947 proposal aimed at covering the city's special character in both religion and politics.

While there is obvious logic in linking the two spheres, "church" and "state," it is equally conceivable, and perhaps more politic, to divorce one from the other; say, a special *religious* regime, but without necessarily attempting to evade the question of ultimate *political* sovereignty. And without necessarily defining here the exact nature or composition of such an international UN control group. Other than to note its virtues: expressing humankind's interest and concern that Jerusalem remain an "open" city—open to people of all races and creeds, avoiding competitive and overlapping religious agencies un beholden to each other, precluding unilateral control by any single state or "church."

*Religious Condominium* These same three ecumenical objectives might be served equally well, if not better, through a variant form of single religious authority and without inserting the UN or, for that matter, any other new intervening bureaucratic institution. Seemingly, a local interfaith consultative body rather than any outside agency might best administer jointly to the more specialized religious needs of their respective congregants and visiting coreligionists. Composed of Muslim *qadis* and the grand mufti of Jerusalem, Christian patriarchs and apostolic nuncios, the Israeli chief rabbis and other communal leaders, this greater Jerusalem religious council would operate under a rotating chairmanship and on the basis of equality similar to the proposed city municipal council. Religious condominium meets the criterion for shared rule and responsibility while occupying the critical second story between local and national jurisdiction. Indeed, a less charged religious atmosphere in Jerusalem might take the edge off the anticipated zero-sum struggle for exclusive *political* control.

### **Whose Jerusalem? Finessing Sovereignty**

Assuming the city's residents and religious can be appeased along the above outlines, there remain the two respective Israeli and Palestinian national elites, each contesting sovereignty. The political problem they pose is easily stated: How can the conflicting claims to sovereignty be recon-

ciled in a way that is acceptable to each party and at the same time preserves Jerusalem's physical and functional unity?<sup>7</sup>

There appear to be in essence really only four alternative "futures," with options A and D representing extreme or "pure" solutions.

*Option A* indicates an all-Israel outcome, with Israeli authorities exercising undivided sovereignty over the entire city.

*Option D* is the mirror image, again positing a single sovereign, but in reverse, with the Palestinian state or authority awarded sole political title and control.

Without prejudice to the respective legal briefs and historical arguments readily marshaled by either claimant, undivided sovereignty granted to one and accepted by the other is, under prevailing political conditions, an absolute nonstarter. Sole mastery over Jerusalem is a brand of exclusionary politics that is not only prejudicial to the larger goal of a peaceful compromise settlement but actually returns us, and the Israeli-Palestinian relationship, back to the dark days of mutual delegitimization. Besides, nothing in the world is going to make either protagonist voluntarily yield its claim. Arafat is on record as declaring, "East Jerusalem is Palestine's historical, spiritual, and commercial heart. To exclude it from a Palestinian state is unthinkable." Equally unthinkable is it for any Israeli government to back down from affirmation of Jerusalem as the "undivided capital" of the Jewish people, especially when Israel continues to house its seat of government and state institutions in the city. Not to belabor the point, option A, like option D, must be disqualified on any of several grounds.

*Option B*, on the other hand, poses a compromise of sorts by recycling the formulas of internationalization and corpus separatum. In effect, what

<p style="text-align: center;">A</p> <p>+100</p> <p style="text-align: center;">Israeli sovereignty</p> <p style="text-align: right;">-100</p>	<p style="text-align: center;">B</p> <p style="text-align: right;">-100</p> <p style="text-align: center;">Internationalization</p> <p style="text-align: right;">-100</p>
<p style="text-align: center;">C</p> <p>+50</p> <p style="text-align: center;">Dual control</p> <p style="text-align: right;">+50</p>	<p style="text-align: center;">D</p> <p style="text-align: right;">-100</p> <p style="text-align: center;">Palestinian sovereignty</p> <p style="text-align: right;">+100</p>



this says is that Jerusalem shall be the capital of neither Israel nor Palestine, with the Jews asked to relocate to Tel-Aviv, the Arabs, to Ramallah or any other West Bank town.

Internationalization, however, offers neither side any real incentive. True, the Palestinians might be tempted for a moment to back such an initiative if only to get Israel out. Yet, other than a certain sense of satisfaction, this would gain them no benefit or standing whatsoever. Considering that it already exercises effective possession, Israel stands to lose even more and can be counted on to fight any such proposal.

A clue to Israel's likely opposition, and possibly to the Palestinians' as well: called upon by the UN to place Jerusalem under a special regime, both Ben-Gurion and Jordan's King Abdullah preferred to divide the city between them rather than yield all claims to a political status. What made the 1948–1967 *de facto* arrangement more amenable than the current Israeli-PLO case, of course, is that the Jordanians, unlike the Palestinians, were perfectly content, for reasons tracing to annexation of the West Bank, to retain Amman as their political seat of government.

Still, there is a certain utility psychologically in confronting both present claimants with their less pleasant options. Plainly, Israel is not going to get its preference, option A, meaning Palestinian, Arab, or universal support for its suzerainty.<sup>8</sup> Similarly, the Palestinians for option D. Hegemonic sovereignty will not work. At the other extreme, "scattered" or small-scale, diffused sovereignty over individual Arab or Jewish neighborhoods, enclaves, and pockets is quite absurd. Neither one has cause really to go out of its way in promoting option B. Which therefore only leaves, almost by default as it were, *option C*.

Dual sovereignty. This formula argues that under existing circumstances the best way, and perhaps the only way, for finessing claims to exclusive sovereignty is by exploring some framework for *sharing* whatever it is that "sovereignty" means and whatever it confers.

## Dual Sovereignty

Perhaps we can build upon King Hussein's astute observation: "Jerusalem, the old Holy City, is above sovereignty."<sup>9</sup> A further slight opening for seriously venting the general proposition comes from Faisal Husseini, minister for Jerusalem affairs in the Palestinian Authority. In an interview published in an Arab daily newspaper in mid-1998, Husseini put forth his vision of Jerusalem as home to two capitals, in the east and west halves of the city.<sup>10</sup> Also consistent with this call for originality and boldness in

the conception of sovereignty new definition, there is the strategic and very detailed blueprint circulated in 1998 by the Jerusalem Institute for Israel Studies which, *inter alia*, offers three alternative versions: “functional sovereignty,” “joint sovereignty,” and “qualified sovereignty.”<sup>11</sup>

But in order to go any further with this proposal it is absolutely crucial that clarification be given to the following. Is what Israelis and Palestinians seek sovereignty *over* Jerusalem or *in* Jerusalem? The difference in the two formulations is profound.

If the former, implying mutually exclusive 100 percent either/or control, then after all is said, done, and tried in the cause of Middle East peace, Jerusalem must be conceded as indeed tragically nonnegotiable. However, if the two rival claimants—and it must be both—will limit themselves to sovereignty *in* Jerusalem, then the smallest “window of creativity” is opened for creative statecraft.

Dual sovereignty has two things to its immediate credit: it keeps Jerusalem an undivided city and yet the political capital of two states.

Admittedly, one city serving as the seat of two governments is unusual in the annals of world affairs. This in itself hardly disqualifies the idea, however. The Arab-Israel conflict has long been a laboratory for constructive diplomacy. And, as argued above, a special case like Jerusalem argues for a special solution. Besides, the political and symbolic dimension loses some of its abrasiveness after Jerusalem’s daily needs have been administered to, and its religious sensitivities assuaged.

Dual sovereignty has several things to commend it. In the larger sense, as great powers and nations everywhere are having to learn, seventeenth-century Westphalian standards of statehood making independence total and sovereignty indivisible are today little more than a legal fiction.

In the same category of fiction are claims by Israel to sovereignty over east Jerusalem Arabs whose allegiance, whatever else, does not belong to the Zionist state. Besides, permitting Jerusalem’s Arabs to be part of the interim autonomy scheme has already created a *de facto* change in the status of the eastern part of the city: from an integral part of the State of Israel to an area more closely associated with the Palestinian entity. This in itself already constitutes an important departure from the previous Israeli position.

“Authority,” “control,” “jurisdiction”—these express at best degrees of sovereignty. Attributes, not absolutes. Shared sovereignty for Jerusalem thus has no business being presented at the negotiating table as a humiliating retreat by Israelis and Palestinians from international norms but rather a ringing confirmation of this new reality. In addition to being both

novel and constructive, this approach focuses away from sovereignty in the abstract to its more tangible symbols and trappings. I might add, anticipating some of the criticism, especially from Israeli quarters, there is nothing in the dual-sovereignty formula that contravenes the well-known consensus among Israeli Jews, and world Jewry at large, that insists upon Jerusalem as their “eternal, undivided capital” or, as often alternatively formulated: “the united and eternal capital of Israel.” All barriers, psychological no less than physical, would be removed. Neither would the Palestinians be exclusively sovereign over Jerusalem.

Instead, two flags would wave over different parts of Jerusalem; so would there be two seats of government, with Israeli and Palestinian ministries located not far from each other. This proximity actually ought to enable a closer degree of intergovernment consultation and policy coordination than exists between any other two nations. A united Jerusalem also provides the perfect venue for foreign legations; ambassadors duly accredited to both countries would add a nice touch to the city’s special aura.

Moreover, under this dual sovereignty Jerusalem’s Arab and Jewish residents would be respectively Palestinian and Israeli citizens in the fullest sense, eligible for office and voting in national elections while doubtless having to pay taxes nationally as well as to the municipal authority. There are, to be sure, a myriad of details needing to be fleshed out, among them, How far west the Palestinian sovereign enclave or zone should extend? How far east Israeli sovereignty? The manner and degree by which Israelis and Palestinians might pass through these respective zones? Whether passport and security checks would be mandatory or might be waived? What matters in conceptual modeling terms is that the myriad legal aspects need not be insurmountable. They will need to be worked out by a joint panel of legal experts. But only after political leaders consent to the basic construct.

Indeed, rather than automatically dismissing dual sovereignty out of hand as cute or fanciful, leaders on both sides are counseled to give the notion careful consideration. For Israel, it fulfills minimal declared preconditions: a united city, with Tzion the recognized capital of the Jewish state. While for the Palestinians, too, it provides legitimacy and a legal standing on an equal footing with Israel: a political capital within the accepted confines of Irsalim al-Quds—nothing less. Finally, when compared with alternative “solutions” that are either totally unacceptable or entirely unreachable, shared rule and dual or “soft” sovereignty have got to be preferable to nothing at all. It is really only a matter of time until this re-

alization sinks in, although until then there will be many on each side who continue to refuse to see it that way.

### **Religious Reciprocity in the Promised Land**

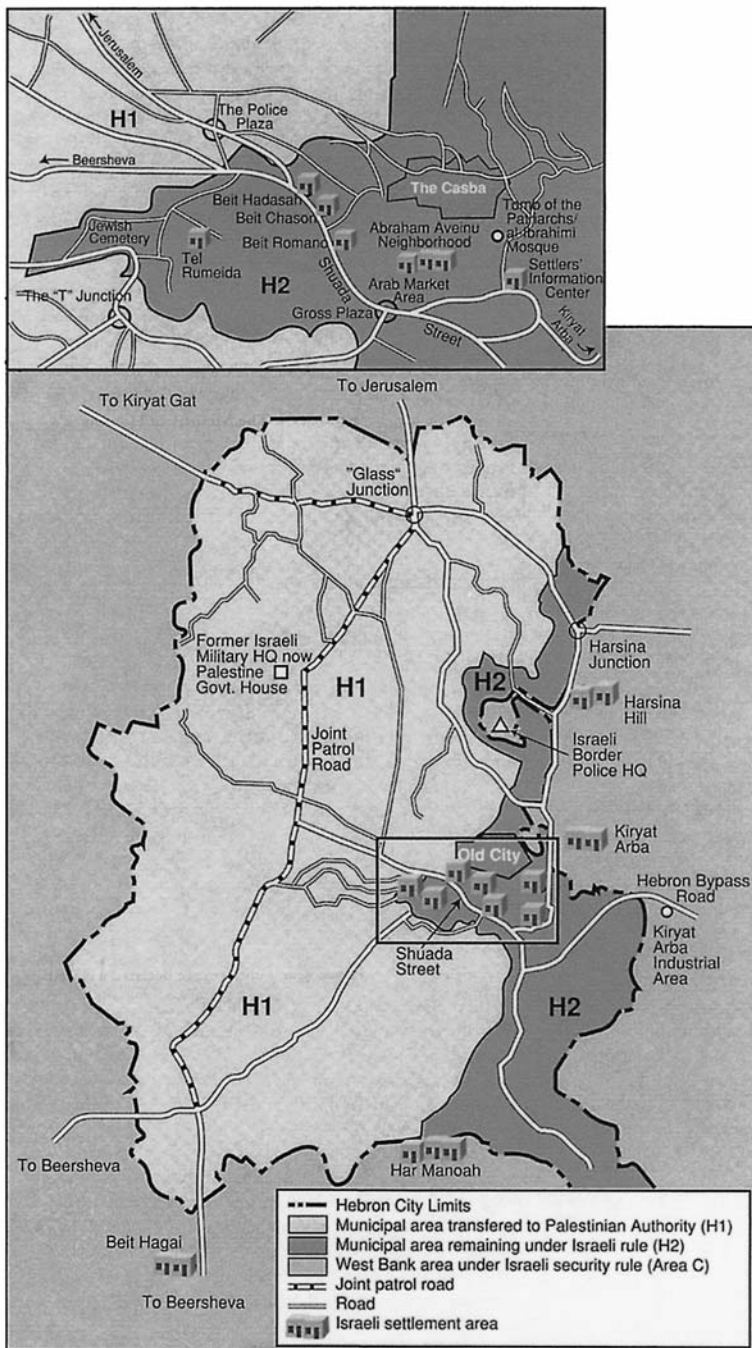
We return to the themes of dualism and interdependence evoked by Jerusalem. For the peace of Jerusalem is of merit in its own right, yet also applicable on a larger scale. What is true for the city holds equally well for the country, the *Holy Land*, as a whole: the high ratio of religious and historical sites per square mile. The landscape of western Palestine is dotted with sites of one kind or another revered by the three great Western religions.

Any partition-based map is going to have to reflect this sensitive issue, as well, and to provide some acceptable formula other than drawing a straight line of division and separation. Final status negotiators must find a way to permit free and easy access to these historical attractions and shrines that will transcend political partition borders.

For example, portions of the West Bank already under Palestinian jurisdiction include a number of venerated Jewish sites: Rachel's Tomb near Bethlehem, the Tomb of the Patriarchs in Hebron, Joseph's Tomb in Nablus, and the historic Shalom al Yisrael synagogue in Jericho. Orthodox Israelis have incorporated this religious motif into their ideological and political stand against any partitioning of the Land of Israel and emphasize the need instead for asserting Jewish control over biblical holy places located across Judea and Samaria.

Any Israeli prime minister has got to be sensitive to the powerful religious parties that traditionally form the backbone of coalition governments as well as the stake of world Jewry in protecting the Jewish heritage. Support, even if only a pledge not to resist by force, by both elements is necessary for the success of any compromise peace initiative and domestic referendum. He or she is therefore going to have to assure the nation's religious interests before signing away title to any of these lands. Preferably through a joint Israeli-Palestinian administration over all special religious and historical sites; at a minimum, sensitive protection of these sites together with assured entrée for Jewish worshippers and visitors.

The Palestinian position rejects Jewish religious claims to the West Bank and offers instead counterclaims far beyond east Jerusalem, from the Ajami mosque in Jaffa to those in Acre and lower Haifa and Christian holy places throughout the Galilee. Muslim world sensitivities are



15. Hebron 1997

readily aroused by any rumor of Jewish disrespect, and offense is taken at the slightest show of unilateral Israeli action in any one of the Muslim shrines, with the Temple Mount and Hebron being singularly combustible flashpoints. These sensitivities must be given equal consideration in negotiating a countrywide religious and historical accord.

Here, too, the Oslo agreement points the way (but not more than that) by pledging free access to religious sites and freedom of worship at the sites themselves. Religious tolerance ought to be beyond debate. So is the argument sound for superimposing a religious regime onto an otherwise inhibiting political partition. An all-western Palestine religious and historical authority centering on the Old City, and built upon the Jerusalem model, but then radiating outward to encompass places of religious or historical significance throughout the Holy Land.

Except that this logic has been sorely disabused by the bitter clashes of September 1996, when, of all places, religious sites became the scene of violence: the controversial Hasmonean tunnel, but even more Joseph's Tomb and Rachel's Tomb, both of them Israeli-manned enclaves within Palestinian-controlled cities. Neither is the daily tension between Jewish and Muslim occupants of Hebron, another religious tinderbox, an advertisement for the goodwill, understanding, and mutual respect that must underpin any joint regime.

Again, this does not mean the longer-term cause is lost. Only that it has been set back, and not for the first time. Still, interfaith cooperation (if not trust quite yet) is too inherent in the situation to be callously discarded, both in the holy city and in the promised land. A reversion to holy war is so unspeakable that it commands a united front against religious extremism on all sides. It is going to require considerable diplomatic tact and religious forbearance not only to repair the damage to Jewish-Muslim relations but also to convert this larger imperative into accepted practice and religious custom.

