

## Jerusalem Non-Paper June 2010

### Background

Israel forcibly seized control of the entire Gaza Strip and West Bank, including East Jerusalem and No Man's Lands in 1967. It has continuously occupied these territories militarily ever since. One of the first steps that Israel took in 1967 following the beginning of its military occupation was to extend the municipal border of municipal East Jerusalem from a 6 square kilometer area to an approximately 70 square kilometer area and to apply Israeli law, administration and jurisdiction to the new municipal borders, thus illegally annexing these territories. These unilateral annexation measures culminated in the 1980 "Basic Law: Jerusalem," by which Israel sought to declare "Jerusalem complete and united" as the capital of Israel. Israel's concerted efforts to alter the status of Jerusalem, all of which are illegal under international law, have met universal and strenuous international condemnation, including from the United States. A long line of UN resolutions, most notably UNSC resolution 252 of 1968<sup>1</sup> and 478 of 1980<sup>2</sup>, expresses the international consensus and the Palestinian position in this regard.

In September 1993, as part of the Declaration of Principles, the PLO and Israel agreed to negotiate Jerusalem as part of the final status agreement. Israel, however, continued, and indeed increased, its settlement and by-pass road construction in and around East Jerusalem, while simultaneously curtailing Palestinian development and growth in the area. In March 1993, in parallel with the peace process then well underway, Israel imposed a closure on the city designed to prevent the movement of Palestinians to Jerusalem and to separate the city from the remainder of the occupied Palestinian territory. This closure regime culminated in the construction of the Wall, which began in 2002, in and around occupied East Jerusalem. Moreover, Israel continues to force Palestinian institutions to close or leave the city, and prohibits any PLO activities in Jerusalem. This prohibition is in clear violation of international law and the 1993 letter of assurance sent by the Israeli Foreign Minister to the Norwegian Foreign Minister, which formed part of the agreements between Israel and the PLO and which stipulated that Israel shall not hamper Palestinian institutions and activities in East Jerusalem.

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<sup>1</sup> Article 2 "[the Security Council] *Considers* 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".

<sup>2</sup> "[The Security Council] 2. *Affirms* that the enactment of the "basic law" by Israel 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 June 1967, including Jerusalem;

3. *Determines* that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent "basic law" on Jerusalem, are null and void and must be rescinded forthwith;

4. *Affirms also* that this action constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;

5. *Decides* 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 calls upon: (a) All Member States to accept this decision; (b) Those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City;"

## **Palestinian vision for Jerusalem**

The Palestinian vision for Jerusalem is rooted in deep historical, political, cultural, social, religious and economic ties to Jerusalem that span centuries. The PLO position on Jerusalem is based on international law, UN Security Council Resolutions 242, 252, 338 and 478; the principles of the Madrid Conference; and the Arab Peace Initiative. These instruments are the building blocks of any final status agreement for Jerusalem, and they are premised on the principle that Israel must withdraw from all occupied Palestinian territory, including East Jerusalem, and that Israel cannot attain sovereignty through its occupation of the Palestinian territory, or any part thereof, pursuant to the principle of the inadmissibility of acquisition of territory by force.

Pursuant to our vision, East Jerusalem, as defined by its pre-1967 occupation municipal borders, shall be the capital of Palestine, and West Jerusalem shall be the capital of Israel, with each state enjoying full sovereignty over its respective part of the city. East Jerusalem's connections to the remainder of the occupied Palestinian territory will be fully restored and the city will be fully integrated into that territory as part and parcel of the Palestinian state.

As stated in our territory concept paper, the final borders between Israel and Palestine shall be the 1967 borders with any minor modifications, equal in size and value that are in the same geographic area and in accordance with Palestinian guidelines and principles, which may be agreed between the parties. This applies identically to Jerusalem as to the remainder of the occupied Palestinian territory. The applicability of the 1967 border to Jerusalem accords with international law and was acknowledged by former US Secretary of State Rice on 30 July 2008 in a trilateral meeting that took place in Washington D.C with PLO and Israeli representatives, as well as subsequently during the course of the Annapolis negotiations.

Each city will have its own municipality taking responsibility for and managing municipal and daily affairs. The open city concept, however, is an essential element to ensure the prosperity and centrality of the city. Consequently, in the spirit of peaceful coexistence and cooperation, a joint development council, composed of an equal number of representatives from both sides will be established by the parties to oversee cooperation between Israel and Palestine in both parts of Jerusalem, including with respect to planning and zoning, water, waste water and the environment, roads and industrial zones. A central objective of such cooperation shall be to minimize practical impediments to the free movement and access of people, vehicles, services and goods arising from the existence of an international boundary running through the city. Notwithstanding this cooperation, each state shall enjoy full sovereignty over its respective part of Jerusalem.

The PLO considers the Old City to be a single unit enjoying a unique character that will be preserved together with the promotion and development of the area and its inhabitants in accordance to the UNESCO World Cultural Heritage List regulations, in which the Old City is a registered site.

*This paper is for discussion purposes only. Nothing is agreed until everything is agreed.*

The border regime between Palestine and Israel in Jerusalem will correspond to the general border regime arrangements between the two states, while taking into consideration the special character of Jerusalem and the Old City, and with a view to facilitating free and uninhibited movement of persons, vehicles, services and goods between the two parts of the city.

Furthermore, subsequent to the conclusion of a final peace agreement, which must include the issue of Jerusalem, the parties will agree upon transitional arrangements that specify the modalities for implementation of the agreement in Jerusalem. The functional elements, institutional structure and timeline for these transitional arrangements shall be in accord with the general transitional arrangements to be agreed between the parties. Palestinian Jerusalemites shall continue to enjoy for the duration of the transitional period all acquired and accumulated social and economic rights accrued while under Israeli occupation. Moreover, the transitional arrangements for Jerusalem shall be agreed between the Parties in a manner that preserves all social and economic rights acquired and accumulated by Palestinian Jerusalemites while these individuals lived under Israeli control.

In summary, the Palestinian vision for Jerusalem is for a shared city housing the capital of two states and the three great monotheistic religions. It is pivotal to establish East Jerusalem as the capital of Palestine. Without this, there can be no viable Palestinian state, and without a viable Palestinian state, there will be no lasting peace in the Middle East on the basis of the two-state solution.