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**M C I S   B R I E F I N G S**

The Jerusalem Old City Initiative  
Discussion Document

New Directions for Deliberation  
and Dialogue

Michael Bell, Michael J. Molloy, John Bell  
and Marketa Evans

University of Toronto  
Munk Centre for International Studies



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Munk Centre for International Studies  
University of Toronto  
1 Devonshire Place  
Toronto, Ontario, Canada M5S 3K7  
Telephone: (416) 946-8900  
Facsimile: (416) 946-8915  
E-mail: [munk.centre@utoronto.ca](mailto:munk.centre@utoronto.ca)  
Website: [www.utoronto.ca/mcis](http://www.utoronto.ca/mcis)

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## *Foreword*

Some two years ago, we concluded that an exclusive preoccupation with the Intifada and its consequences was insufficient, if the ultimate goal for Israelis and Palestinians remained a fair-minded, comprehensive peace settlement. Despite the disappointment and bitterness that many experienced during that troubled time, we felt that a fresh examination of core issues was warranted and, indeed, necessary. We are convinced that both parties want a way out of their longstanding conflict, and that neither community's needs can be met by the status quo.

We determined that our varied experiences with the Israeli-Palestinian conundrum might allow us to engage in a positive dialogue with academics, policy experts, officials and civic leaders, as well as with ordinary Israelis and Palestinians, whose lives and future prospects remain at daily risk. We hoped that their collective experience, knowledge and understanding would guide us in the quest for new alternatives regarding the Old City of Jerusalem. Having spoken at length with many people deeply connected to the issues, we have not been disappointed.

We feel certain that attitudes can be changed, if an imaginative process is introduced, based on respect for dignity and equity. With this conviction guiding us, we examined the questions of decision making, practical arrangements on the ground, economic and social development, and sustainable security mechanisms, as well as political and symbolic needs regarding the Old City of Jerusalem. In developing our proposals, we became more certain than ever that the energetic and fair-minded support of the international community was vital in encouraging and ensuring respect for the principles of successful resolution.

We know and understand the view of many that there are risks in dealing with one or another aspect of final status in isolation because they are all ultimately interdependent. But we believe equally that focusing on a single final status issue, or even specific aspects of that issue, is also essential in understanding complexities, nuances and needs. What follows is our best effort. It is aimed at generating a process of discovery, whereby a range of new ideas will, in time, become part of mainstream dialogue and negotiations on final status.

Michael Bell, Michael J. Molloy, John Bell, Marketa Evans  
Toronto, Ontario  
November 2005

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## *Acknowledgements*

The ideas we present in this paper are based in part on our collective study and varied experiences in dealing with the Israeli-Palestinian conflict. More importantly, they incorporate the thoughtful comments and direction we received from the many people who generously shared their time and insight with us over the past two years. They include individual Palestinians and Israelis living within and outside Jerusalem, members of academia, practitioners and policy makers, as well as representatives from concerned local and international organizations. The names of many of those who shared their time, experience and ideas with us are found in Appendix A. We are thankful as well to a large number of officials and public figures who provided advice, but asked not to be identified.

This project would not have been possible without the support of the Canadian Department of Foreign Affairs's Human Security Program, which provided funding to cover the cost of our initial feasibility study and for the publication of this discussion paper. The generous assistance of the International Development Research Centre allowed us to conduct missions to the Middle East and elsewhere, and permitted us to commission original research by local experts. The Canadian International Development Agency provided conference funding for a workshop and for the establishment of a network enabling us to continue work. For the support of these institutions we are most grateful.

We benefited enormously from the support of two fine Canadian educational institutions. Janice Gross Stein allowed us to use the University of Toronto's Munk Centre for International Studies as the project's institutional home during the research phase. The staff of the Munk Centre provided invaluable scholarly advice, research assistance and administrative support. Tom Najem, Head of the Department of Political Science at the University of Windsor, generously agreed to provide the project with a permanent home in the summer of 2005. The views expressed herein do not necessarily reflect the views of any of the many institutions that supported this work.

We were assisted by a number of researchers, who provided us with the data, analysis and creative input on which a good number of our ideas are based. These include Joseph Glass and Rassem Khameisi, who conducted extensive analysis of the economic and social state of the Old City. Gilead Sher, Jonathan Gillis, Amir Kadari and Mazen Qupty explored the legal parameters of an Old City special regime. Issa Kassassiyeh, Nazmi Ju'beh, Pini Meidan-Shani, Arie Amit and

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Moty Cristal all provided insightful analysis and suggestions relating to security mechanisms. We would also like to thank all those who attended the workshop in Minster Lovell in November 2004, organized for us by the ever helpful and always reliable Rosemary Hollis of the Royal Institute of International Affairs.

Sebastien Bouhnick and Ari Barbalat, students at the University of Toronto, contributed ideas, research assistance and analysis that broadened our knowledge and understanding.

We also acknowledge with thanks the kindness, support and advice of the Canadian Embassies in Tel Aviv, Cairo, Amman and Washington, the Canadian High Commission in London and the Canadian Representative Office in Ramallah, whose staff opened doors and provided encouragement.

For editorial support, we turned to Jane Chapman of Ottawa, whose exceptional skill and wide-ranging experience have resulted in a document that is clear and readable. Finally, we note with gratitude the support and contributions of Linda Bell and Jo Molloy, long-suffering foreign service spouses, who adapted (yet again) to their partners' newest interest with enthusiasm and skill, and who contributed uncounted hours to the research and drafting phases of this endeavor.

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### *Executive Summary*

The Old City of Jerusalem is perhaps the most contentious issue in the Arab-Israeli conflict. Its sovereignty, administration and control are questions of great dispute, and its Holy Sites resonate powerfully in the hearts and minds of Muslims, Jews and Christians everywhere. The Old City cannot be divorced from its political, social and economic links to Jerusalem as a whole, nor from its Israeli or Palestinian hinterlands. This includes the issues of security, barriers, settlements and freedom of movement. However, if questions respecting the Old City remain unresolved, a durable peace between Israelis and Palestinians will be impossible.

Over the past half-century, there has been no shortage of proposals regarding the status of Jerusalem and the Holy Sites, but none has been successful. Many begin with a focus on the political imperatives of sovereignty, framing the problem as a case of traditional conflict management — a dispute over territory or political control. We believe that such frameworks lead to proposals that perpetuate exclusivism.

The Jerusalem Old City Initiative adopts a different approach. Its core building block is the needs of Jerusalem's stakeholders, for if those needs are not addressed, continued conflict is certain. Understanding and addressing deeply rooted and authentic needs — both spiritual and practical — is a potentially powerful avenue to building workable solutions. Essential as well is the preparation of publics and policymakers through advocacy and public education.

Within this context, the Jerusalem Old City Initiative proposes a range of creative approaches for moving forward on the Old City. Specifically, it aims to:

- stimulate a wide-ranging research agenda, investigating the religious, social, economic, political, symbolic, security and legal needs of all stakeholders;
- advance practical cooperation and improve conditions on the ground through a needs-based approach that ensures equity and dignity, and that builds durable civil society networks to tackle practical projects;
- provoke rigorous discussion about future governance options for the Old City among Israelis, Palestinians, and fair-minded members of the international community; and
- generate new possibilities and ways of thinking regarding the Old City, through public education and advocacy.

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This document is not designed to be an exhaustive final word on the Jerusalem issue; indeed, it deliberately steers away from advocating off-the-shelf “solutions.” A focus on needs and local engagement led us to adopt a “bottom-up” approach, including in-depth, locally commissioned research.

Our intention is to follow this discussion document with a work plan focusing on the essentials of Old City life and governance. With Israelis and Palestinians in the forefront, members of civil society, academic institutions, think tanks and other non-governmental organizations can work together to identify and pursue arrangements that are integrated and sustainable. The engagement process we propose is a modular one — building on identified needs to promote practical projects, research, discussion and advocacy aimed at addressing those requirements.

In our view, a single governance approach for the Old City is necessary to address key practical and symbolic needs, and the linkages between issues. We are therefore proposing an institutional framework aimed at creating conditions that support equity, security and predictability in day-to-day life. Our intent is also to maintain the integrity of the Old City; the area is too small, densely populated and architecturally linked to be divided and managed by a series of authorities and police forces. Given the level of mistrust between the parties, such complex arrangements are virtually certain to break down, threatening new crises and more violence.

We are therefore suggesting consideration be given to:

- establishing an interim special regime that meets the needs of stakeholders, within the framework of a two-state solution for Israel and Palestine, with Yerushalayim and Al-Quds as their capitals;
- appointing an administrator with executive powers; the administrator would be an internationally respected individual, possibly nominated by the Quartet, but agreed to by the parties;
- forming a governing council, composed of Israelis, Palestinians, and possibly outside representatives drawn from countries acceptable to the parties;
- vesting in the administrator and council responsibility for security, law enforcement, public services, infrastructure, residency, property ownership, the legal regime, zoning and building, and other relevant regulations;

- giving Israeli and Palestinian authorities responsibility for a wide range of issues respecting their nationals, including health, education, family law and religious observance; and
- establishing a single Old City police force composed of internationals, Israelis and Palestinians.

Any arrangement for the Old City must also take into account the Holy Sites as profound symbols of identity. If access to these sites is endangered, or there is no agreement on control, the very identity of one or the other stakeholders is likely to appear threatened, leading to breakdown. In our proposal, the special regime would be responsible for ensuring and maintaining the religious status quo. Existing practices and traditions would be fully respected, including freedom of access.

Agreement between the parties may well be possible by satisfying many critical needs, without prejudice to sovereignty claims. Israelis and Palestinians could have agreed *a priori* on the assignment of sovereignty between them, the main point of contention being the Haram al-Sharif/Temple Mount area. They could thereafter assign to the special regime interim responsibility for specific functions necessary for security and governance. Alternatively, they might decide to postpone the sovereignty issue until conditions of peace permit more productive deliberation.

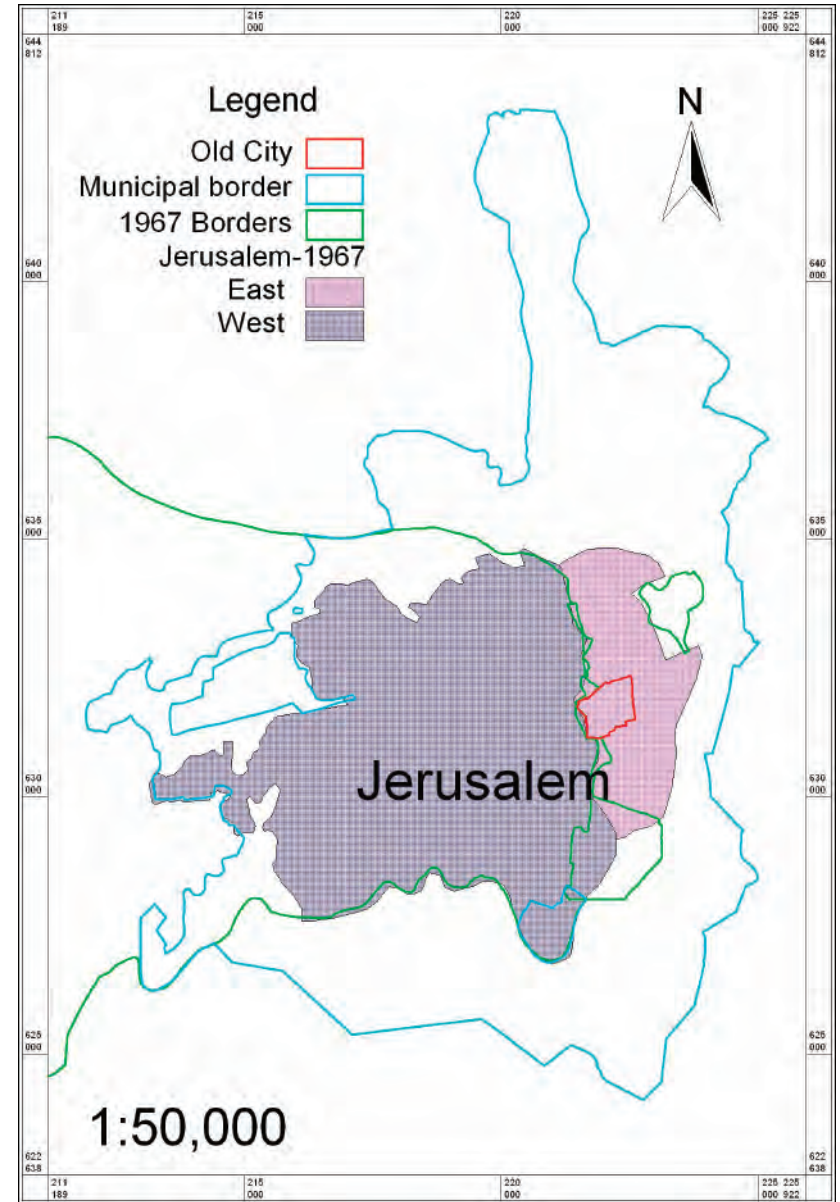
In our view, the international community must be prepared to underwrite development of the Old City and Jerusalem as a major world focal point, once a peace is signed. International agencies could also play a key role by transferring offices to the Jerusalem area to provide economic stabilization and encourage political stability. Such action would also serve as a material and symbolic commitment to a comprehensive peace.

The Old City has a spiritual and economic potential that can only be realized when it is governed in a manner affording security, equity and dignity. In times of relative stability, its attraction to pilgrims and tourists has made it a central economic engine for both Israel and Palestine. With a just, lasting and secure peace, the Old City’s capacity could be expanded enormously. For this process to begin, there is a compelling need for sustained, constructive dialogue and understanding between the peoples of the three great Abrahamic religions. Above all, success will depend on the ability of the Israelis and Palestinians to develop conditions that permit agreement and coexistence in this most symbolic and sacred of cities.

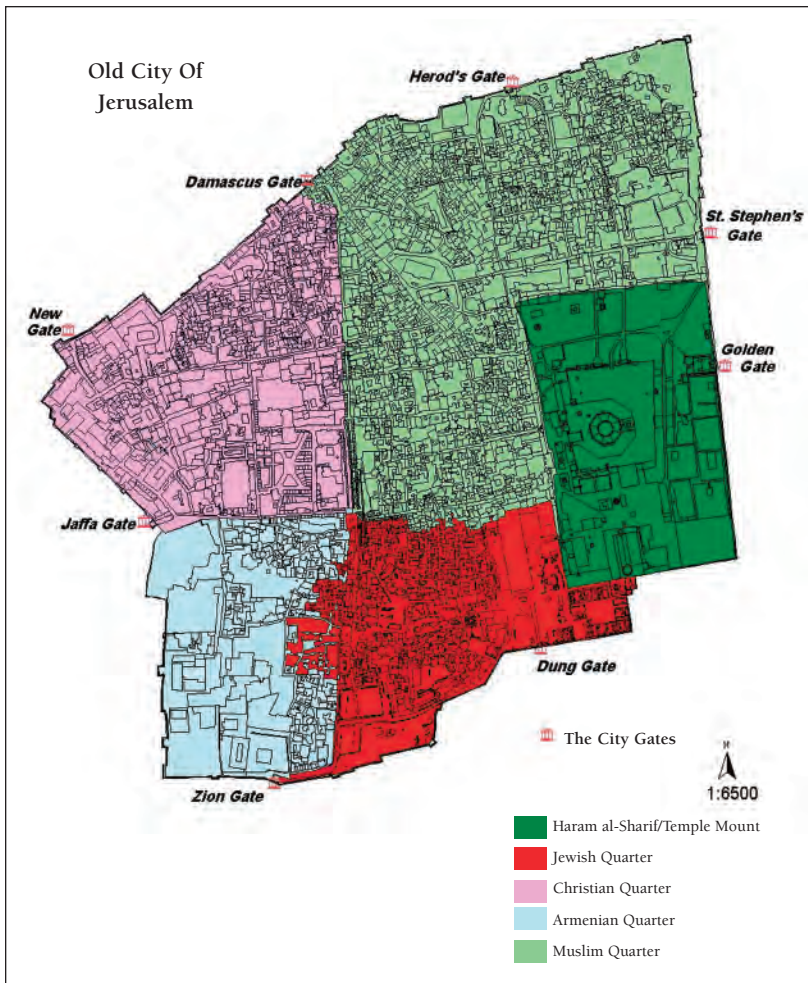




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## I An Old Conflict, A New Approach

After more than a century, the Israeli-Palestinian conflict continues to have profound and frightening consequences. The wounds of violence and injustice are deep. The occupation challenges the collective dignity of Palestinians and creates a humanitarian tragedy. Israelis suffer from widespread terror attacks that create massive insecurity and reinforce a firm belief that tough security measures are a *sine qua non* for survival, and that a Jewish state will never truly be accepted in the Middle East.

Over the years, there have been many attempts to find accommodation, most recently the Camp David negotiations of 2000 and the Oslo Accords that preceded them. But attempts to reach agreement on the core issues of Jerusalem, refugees, settlements and borders have been unsuccessful. In January 2001, the parties came close to agreement at Taba, but suspicion, distrust and mutual demonization had already become pervasive as violence replaced negotiation.

Many of those we spoke to in developing this document described past negotiators as poorly equipped to deal with questions concerning final status. Yet these questions are the grit and sinew of the conflict, and to approach them without comprehensive preparation threatens any possible future peace. Some we interviewed said negotiators did not give sufficient weight to spiritual and emotional dimensions, focusing instead on ownership and sovereign control. Many of those involved at the time accept they could have benefited from more extensive preparation.

With these lessons in mind, we are proposing an approach for agreement on the Old City of Jerusalem that recognizes sovereignty as a fundamental goal, but that takes into account the full range of factors that make progress toward conflict resolution so challenging. Jerusalem, particularly the Old City, is a microcosm of the greater struggle. Conceptual progress on how, within a two-state solution, Israelis and Palestinians can live in their respective capitals of Yerushalayim and Al-Quds, with workable and sustainable arrangements for the Old City and the Holy Sites, could demonstrate the level of mutual compromise, acceptance and confidence essential for a broader peace.

We propose to begin not with political givens, but by identifying the needs of all sides regarding the Holy Sites, as well as the Old City. We believe that this needs-based approach can facilitate broad community,



national and international buy-in and, ultimately, provide a way out of the Jerusalem conundrum by inviting creative approaches to otherwise restrictive sovereignty paradigms. Our aim is to initiate a process whereby stakeholders themselves analyze and clarify the practical and symbolic needs for the Old City.

This “bottom-up” approach begins with identifying the basic needs of Israelis and Palestinians, and moves towards options for governance, security, economic development, human rights, heritage preservation, education, legal frameworks, property ownership, international involvement and through them to the issue of sovereignty. This initial focus on practical issues and political and symbolic needs, rather than sovereignty per se, may assist in “unpacking” the complex attachments to the Old City.

We are not suggesting that negotiations on Jerusalem should begin quickly or that political answers can or even need to be found immediately. But we do believe the concerned parties cannot afford to ignore the need to develop and explore sustainable options that could serve as reference points for eventual negotiations. Because of the complex nature of these issues, the development of methodologies and alternative scenarios should begin sooner rather than later.

The time is ripe. A new, still fragile environment is emerging in the Holy Land. The four years of the Al Aqsa Intifada have recently yielded to the prospect of renewed dialogue and the possibility of meaningful negotiations. Despite violent incidents, as the situation continues to stabilize there is a growing openness to discussion. Yasser Arafat’s successor, the Palestinian President Mahmoud Abbas, has a constructive and determined reform program. Israeli Prime Minister Sharon has effected withdrawal from Gaza and northern parts of the West Bank. For their part, most Israelis and Palestinians appear heartily sick of violence and may be prepared to accommodate each other if trust can be re-established. Many on both sides recognize that the status quo is unacceptable.

Positive movement on the Israeli-Palestinian conflict requires bolstering political will. Now more than ever, the preparation and education of publics, opinion makers and leaders seems imperative if the Camp David and Oslo miscalculations are not to be repeated. We are therefore proposing a process of academic, think tank and civil society engagement. This discussion document is the first step in what we hope will be a larger initiative involving fair-minded international

actors as supporting partners, with the key players, Israelis and Palestinians, in examining options for a special status for the Old City. Its intent is to identify, for further research and discussion, issues essential to the well being of the Old City, and to develop workable options for collaborative action and advocacy. We hope that with the concerted effort and good will of all parties, the issue of Jerusalem may ultimately be resolved.

## **II Why Jerusalem, Why the Old City?**

One of the major stumbling blocks to peace in the Middle East is the status of Jerusalem. In negotiations to date, Jerusalem has been left until last because of its seeming intractability. This was the case at Camp David where many directly involved in the discussions have told us the lack of preparation was corrosive. Yet it is this city, holy to the three great monotheistic faiths, that cries out for a fresh approach.

Jerusalem is the pivot for any agreement precisely because so many regard it as a symbol of their identity. The history of Jews, Muslims and Christians is written in its streets, architecture and Holy Sites. For millennia, believers from all three faiths have sought meaning in its stones. Saint Jerome preached that Christians must: “adore where His feet have stood.” The Prophet Mohammed said that: “He who performs the pilgrimage to Mecca, visits my grave [in Medina] ... and prays for me in Jerusalem — God will not ask him where he failed.” For Jews, the Old City remains the most vibrant focus of identity and pilgrimage. Many Jews believe that the spirit of God has never left the site of the Temple. Over the millennia, they have expressed their yearning with a prayer proclaiming: “Next year in Jerusalem.” With strong attachments like these, it is not surprising that an undercurrent of intolerance regarding Jerusalem has arisen in each of these faiths throughout history. Clashes of identity and heritage have led to uncompromising exclusivity.

Virtually everyone we spoke to agrees that the Old City and its Holy Sites, particularly the Temple Mount/Haram al-Sharif, represent the core of the conflict because no one can feel satisfied unless his or her issues of relation and identity to this site are fulfilled. It is to this site, representing one sixth of the 0.9 square kilometers of the walled city, that both Muslims and Jews have their deepest religious and territorial attachments. The Western Wall, as part of the original Herodian enclosure of the Temple Mount site, is the most powerful locus of

Jewish prayer and pilgrimage. For Muslims, the Haram al-Sharif, is the site from which Mohammed ascended to heaven. This begs the question: why not limit ourselves to developing special arrangements for the Haram al-Sharif/Temple Mount, leaving the rest of the Old City for negotiations between Israelis and Palestinians on the basis of territorial division?

The Haram al-Sharif/Temple Mount is geographically and emotionally linked to its symbolic, political and economic surroundings in the Old City. For this reason, we believe it is incumbent on decision makers to treat the area within the walls as one unit for governance. Singling out the Haram al-Sharif/Temple Mount, for separate agreement, with an actual division of the site by barbed wire and guard posts, would meet neither the physical nor the emotional needs of worshippers, and would damage the soul of the city. To many we spoke with, the other Holy Sites in the Old City, especially the Church of the Holy Sepulcher, and the intertwined and dense nature of life within the walls, make it an inseparable whole.

We believe that the walled city may provide a natural contiguous space within which to develop new arrangements. Practical measures that would work within the confines of the Old City may become unmanageable if extended beyond the walls, especially if under the exclusive national control of one or the other parties. The clear definition of the walled city could facilitate security, governance and the development of arrangements involving a third-party presence. It could provide both sides with clear boundaries for developing mutual interests and new processes within a circumscribed space.

Some maintain that looking at the Old City alone and not the broader Jerusalem conurbation is artificial. They say the walled city cannot be dissociated from the rest, economically, socially or politically. They refer to the many crucial heritage sites outside the city walls, most prominently the Jewish cemetery on the Mount of Olives and the Muslim cemetery outside the Lion's Gate, as well as the many churches, such as those adjoining the Garden of Gethsemane. They also argue that there can be no advances respecting the Old City outside of a comprehensive peace agreement that includes the status of the rest of Jerusalem, because trade-offs within and among core issues will have to be made in the course of negotiations.

We agree that context matters. The important Holy Sites outside the Old City cannot be ignored, and we want to encourage new ideas for

managing them, without infringing national sovereignty over Yerushalayim or Al-Quds. Neither can analysis and ideas regarding the future of the Old City be divorced from the current security-based climate, other critical political compromises, or from the larger city of Jerusalem. Very few live their lives strictly within the confines of the Old City; most have family and social relations beyond the Old City and often venture through the gates to the modern city. Jerusalem's symbolism, as well as its infrastructure, transportation, water, education, health, social services, economic and social ties, and the legions of tourists eager to visit their Holy Sites within and outside the walls, make it inseparable from the rest of the conurbation.

Our focus within the walls is not to separate the issue from its landscape, but to draw attention to sustainable arrangements for this most delicate area. We believe that without agreement on the Old City, the most sensitive religious sites will continue to serve as flashpoints for violence, especially with the rise of militant religious expression around the globe. Progress might well be made on many fronts in the Israeli-Palestinian conflict, including security and settlements, only to be upended by an otherwise small yet volatile event in the Old City.

### **III Sovereignty: The Heart of the Matter?**

Moving ahead without first tackling the issue of sovereignty seems naïve or galling to many Israelis and Palestinians, the former because they control the city, the latter because they want control. Most often for both parties, all other questions seem secondary.

Many of the Palestinians we spoke to were fearful of processes that appear to solidify gains made by Israelis with little concrete result for their community. We heard repeatedly that sovereignty over the Haram al-Sharif and the Old City, possibly excluding the Western Wall and the Jewish Quarter, is fundamental to Palestinian needs: the end, not the starting point of discussion. Any attempt to weaken such sovereignty will fail, we were told, because the notion is linked to the losses of Palestinians since 1948, founded in international law and, above all, tied to their dignity.

On the other hand, we heard that Israelis could well view any process introducing an international presence to assist in the governance of Jerusalem and the Old City as an unacceptable attempt to dilute control over their vital interests. Some we spoke to were not willing to

consider, after millennia of exile, any change in the status quo. We believe that out of historical habit, Muslims and Jews have tended to conflate religious and political exclusivity, which exacerbates the problem of practical and psychological control — for who can give up the Divine?

These opposing opinions, while resonant within their specific communities are, in fact, the basis of the conflict. While they describe clearly the perceived needs of many on each side, they also define failure at resolution because they are exclusionary. Insisting one side or the other have full sovereignty in the Old City, including a monopoly on the use of force, is saying there will be no agreement, stability, predictability, or shared justice.

In theory, a range of other sovereignty arrangements seems possible, including joint, shared or cooperative sovereignty over certain areas, functional sovereignty, or suspension of claims — simply agreement not to agree while establishing a practical division of powers. Past approaches have often proposed a division of sovereignty for the Old City and a patchwork of responsibilities divided up by site or neighborhood. We believe the resulting fragmented arrangements, while perhaps having some theoretical logic, would fuel existing divisions and leave the city prone to serious inter-communal instability. This, in turn, would jeopardize any comprehensive solution reached between Palestinians and Israelis. In fact, there have been second thoughts on this precise issue among some of those who authored the Geneva Accord, even though these texts advocate precisely such measures.

In a sense, the citizens of the Middle East are victims of the nation-state concepts developed in the West. Some feel trapped and agree that the Old City requires a special arrangement to break the deadlock of exclusionism. It may be that the complexities of the region's history, heritage and politics do not lend themselves to a wholesale adoption of such ideas, and that to insist on them at the outset would lead to certain failure. We believe that formal sovereignty can only be tackled effectively when needs, emotions and the requirements for dignity and equity have been met, and both parties are participating actively in their city's governance. A needs-based approach that is comprehensive and concrete may pave the way to new political directions, find openings currently ignored, and assure the security and control to which both sides are entitled.

#### **IV Needs: The Starting Point**

It is our firm view that Jerusalem will remain a source of conflict until its status is resolved to meet the emotional, psychological and material needs of those whose identity is etched into it. Although efforts have been made in this direction, little consideration has been given to the essential role of cultural and symbolic factors in peace building and governance.

With this in mind, we have identified the following needs as a starting point to unpacking the complex issues that currently limit sustainable progress on the Old City:

**Social:** Consideration must be given to the social needs of the estimated 35,000 residents of the Old City. Critical as well are the Old City's links to the remainder of Jerusalem, particularly with respect to basic infrastructure and municipal regulation.

**Property Ownership:** With no systematic form of ownership in the Old City, the question of "rights" becomes problematic, as does the potential for development.

**Economic:** The Old City is the focus for pilgrimages and tourism in Jerusalem, as well as for Israel and a future Palestinian state. The continuing conflict has had a serious negative impact on its economic well being.

**Political:** As both peoples consider Jerusalem to be their capital, there are critical political issues to be resolved.

**Religious, Symbolic and Heritage:** The question of heritage and identity, links to the Holy Sites, and the ensuing needs for preservation, access, security and respect are fundamental concerns for both sides.

Clearly, any discussion of needs must take into account the Old City's diverse stakeholders and their varied levels of attachment, and political and religious commitment. These stakeholders include:

- residents of the Old City
- Jerusalemites with access to, and an interest in, the Old City
- Palestinians and Israelis who view the Old City's Holy Sites as fundamental to their identity, or who wish secure access to and control of them
- leaders on both sides, who view the Old City as a key policy and negotiation issue

- Jews and Arabs outside of Israel and Palestine who view the Old City as a crucial part of their religious and cultural identity, as well as the core of the ongoing conflict
- Jews, Muslims and Christians around the world who view the Old City's religious sites as having meaning in their own spiritual lives
- international actors with an interest in stability in the Middle East and, therefore, in resolving the conflict over Jerusalem in an equitable and sustainable manner

Needs vary considerably according to stakeholder. Some, for example an Armenian resident of the Old City, will be concerned with a wide variety of needs, from living conditions, to access to the Holy Sepulcher. On the other end of the spectrum, a citizen of Denmark may have an undefined symbolic interest in the Old City, but is much less likely to be interested in the conditions of residents. The overriding interest of international actors will likely be in the stability of the city's governance arrangements.

Too often in the past, the focus has been on the deemed political requirements of the national protagonists to the detriment of other key needs and stakeholders, whether the wants of residents or global interest in the Holy Sites. Indeed, negotiations have floundered partly because they ignored the needs and interests of greater communities until it was too late, for example, the larger Muslim interest in the city.

On the pages that follow, we review each of the needs identified above, often suggesting possible avenues for moving forward.<sup>1</sup> This analysis is intended as a beginning, not an exhaustive assessment of such needs. We are convinced that with further deliberation and input from all parties concerned, supported by a series of well-considered changes on the ground, the stage will be set for continuing progress.

### A. Social Needs

Despite its small size and population, conditions in the 0.9 square kilometers of the walled Old City are complex. A host of factors contribute, including demographic and spatial challenges, inadequate municipal services and governance structures, a lack of economic opportunity, and a poverty rate as high as 40 percent. Complicating the situation are high rates of drug use, a breakdown of traditional

1. Statistics cited in this section are based on a study by Joseph Glass and Rassem Khameisi that was commissioned for this project.

social mechanisms and networks, and feelings of social and political inequity.

The population of the Old City has grown rapidly over the past three decades. In 2002, it had an estimated 35,000 residents, of which 11.3 percent were Jewish and 88.7 percent were Arab and Armenian. The Old City has about the same population density overall as Manhattan, and in some parts of the Muslim quarter, density is equivalent to that of the Calcutta slums. This can be attributed to a larger than average family size, a fixed number of available housing units, and difficulty in obtaining building permits, a problem that Palestinians believe is due to political motives. We were also told that some Palestinians are reluctant to leave the Old City for fear of losing their property.

As well, since 1995 the city has witnessed an influx of Palestinians with Israeli-issued Jerusalem identity cards returning to live in Jerusalem, so as not to lose these cards and the social services that come with them. This rapid population increase has resulted in housing shortages for lower income groups who cannot afford the high rents and taxes of more affluent areas in East Jerusalem. This, in turn, has intensified demand for accommodation and basic services in the Old City, and resulted in residents making unplanned expansions and additions to existing buildings, without technical guidance or supervision. In many cases, these changes to the physical shape and condition of the buildings have inflicted irreparable damage on their historic and cultural value. As the architecture of the Old City, especially in the Muslim Quarter, was not designed for current densities, there is little privacy or natural light, and open public space for children is limited. The high noise levels from overcrowding cause stress and exacerbate domestic problems.

The recent construction of a barrier around Jerusalem has also triggered a population movement. Thousands of Palestinians who once lived in East Jerusalem and reside today outside the complex of walls and barriers being built to the north, south and east of the city are moving back within the municipal boundaries. They are also driven by the fear of losing the social and economic benefits that come with residency. An estimated 60,000 to 90,000 Palestinians living outside Jerusalem's municipal borders, and outside the wall, carry Israeli identity cards, thus making them eligible for permanent residence in Israel. Their expected migration towards the city center will undoubtedly make the housing shortage in East Jerusalem and the Old City even more severe and prohibitively expensive.

While the Muslim population continues to grow in the Old City, there



is a continuous outflow from the already small Christian community because of overcrowding, lack of economic opportunity and complex inter-religious tensions. Many people attribute the Jewish Quarter's shrinking population to a lack of facilities and amenities. As well, a growing number of secular Israelis are leaving because of the increasingly ultra-orthodox community that dominates the Jewish Quarter. According to our sources, this emigration is numerically offset by the influx of ideologically committed Israelis who seek the "Judaization" of the Old City as a whole. The result has been a small net inflow of Jews into the Old City.

Until a few years ago, basic public services did not exist in many parts of the Old City. Today, even after intensified efforts towards improvements in that direction, the standard and extent of such services is still markedly inferior to other sectors of Jerusalem. Garbage disposal, water and sewage systems, electricity and telephone lines are comparative luxuries. Improvements have been slow, and in some places ineffective, due to economic and political factors.

Full answers to the Old City's social plight must await wide-ranging political changes that provide residents with a sense of dignity, ownership and security regarding their future. Nonetheless, specific issues can be addressed immediately, such as the urgent need for better housing conditions and municipal services, and equity in issuing building permits. Steps like these, in conjunction with improved economic conditions, may bring about positive social change and begin the process of improving community relations and initiating mutual trust, which many argue is essential if the Old City is to be resurrected. Modest gains now can help create the confidence and momentum for further progress.

#### For Consideration:

Based on our discussions with stakeholders, we have identified the following as practical initiatives that could be undertaken in the near term.

- *A comprehensive survey of housing stock and structure* in the Old City for the purpose of renovation and rehabilitation. Although groups such as the Welfare Association have conducted similar studies in the Arab Quarters, a more comprehensive study of the Old City could be undertaken, with results linked to municipal planning projects. This would promote confidence and trust among Palestinians, and provide

much needed data on their needs and concerns. It is likely that any expansion of the current housing stock would have to be carefully controlled in order to conform to the Old City's morphology and heritage.

- *Restoration and rehabilitation* of the Old City through a series of projects designed to improve city life, including enhancement of the city's architectural heritage, giving due respect to all the communities concerned. While many such projects are currently under way (for example, the Palestinian Housing Council's "Project for Restoration and Maintenance of Buildings in the Old City," and the Welfare Association's "Old City Revitalization Plan,") they would benefit greatly from enhanced coordination and funding. An international fund may be useful in this regard.
- *Loans and grants* to Old City residents to help them upgrade existing structures in accordance with international standards, and under a credible professional supervision and inspection regime.
- *An increased number of, and ease of access to, housing permits* for Palestinians outside the Old City, thereby reducing overcrowding within the Old City by giving residents choices in where they will live.
- *The facilitation of micro projects* through improved credit facilities, "soft" loans for business, and training for female entrepreneurs. These projects might include, for example, cottage-type industries, better childcare facilities, youth clubs, libraries and playgrounds.
- *Key infrastructure projects.* For example, the introduction of cable television throughout the Old City could minimize the number of antennae on historic rooftops, thereby helping to meet World Heritage Site requirements. As well, central heating systems would improve conditions in homes that are damp, cold and unhealthy.
- *A services survey* of the entire Old City could establish where services such as garbage disposal, water, sewage, electricity and telephone lines are lacking.
- *A pilot project by a joint team of Israelis and Palestinians to establish principles to underpin joint planning.* These principles would recognize the needs of both sides, as well as the Old City



as a whole, and could serve as the template for further municipal planning. Some work of this sort has been undertaken by the Jerusalem municipality and can be built on; however, there is a need to develop processes that allow Palestinian participation. Given the current level of distrust between Palestinians and the Israeli-dominated municipal government and administration, it may be useful to employ an external party that enjoys the confidence of both communities to facilitate efforts to improve urban planning, enhance public space, and meet the Old City's urgent housing needs.

- *Development of community-level institutions.* The establishment of cultural and social institutions at the community level would assist in social development. For instance, numerous educational programs have been put in place to ameliorate the social and public health conditions of the Old City's Arab population. These programs have begun to make modest improvements, but require ongoing efforts and continued financial support. Many of those we spoke to believe community empowerment is essential in ending the cycle of mistrust, exclusion and poverty.
- A “*clean-up*” campaign, possibly with the support of agreed-upon members of the international community, backed by a sustained, community-based educational program to modify behavior, instill community pride, and ensure that clean-up activities are maintained over the long term. Such a step could have a powerful impact on the attitudes of residents and their sense of self worth.

## B. Property Ownership Needs

Property ownership may well be one of the Old City's most complex issues, as land laws are based on an array of Ottoman, British, Jordanian and Israeli legislation, tradition and practice. Unlike other parts of the Jerusalem conurbation, the Old City has no systematic form of ownership registration. Some “owners” have the right to use and bequeath land through a judicial ruling, key money or a mortgage, without the property being registered in their name. With no clear proof of ownership for many properties, protracted legal disagreements are common.

Divisions and estimates are often disputed, but most agree that over half of Old City property — more than 450 dunams out of a total of

900 — is owned either by the Islamic *waqf* or the churches. Most of the remainder is held by either individual Palestinians or the Israeli government. Many see the high proportion of ownership by religious institutions as a complicating factor in issues of residency, participation and taxation. Transactions between the religious institutions, the Israeli state and private individuals have been fraught with ambiguities and friction.

### Property Complications

The Greek Orthodox Patriarchate is the largest single landowner in the Old City and among the largest 10 landowners in Israel and Palestine. Its properties include the West Jerusalem site of the Knesset and the Church of the Holy Sepulcher in the Old City. Although transactions between Israel and the Patriarchate on property within the pre-1967 borders have been more cordial recently, transactions in the Old City pose a continuing threat to the demographic, commercial and sectarian status quo.

One example of the fractious nature of property ownership in the Old City is the recent controversy over the sale of church-owned property by the Patriarchate. According to media reports, Patriarch Irineos leased two hotels — the Petra and the Imperial — to Israeli-backed Jewish investors for a period of 200 years. Located just inside Jaffa Gate, the Imperial Hotel was a frequent meeting place for Palestinian moderates and members of Israel's “peace camp” during the 1990s. There were allegations that Irineos leased the hotels to demonstrate to the Israeli government that he was not sympathetic to Palestinian interests.

In late April 2005, some 500 protestors carrying Palestinian flags scuffled with Israeli police near the Church of the Holy Sepulcher while Irineos was conducting Good Friday mass. Fifteen people were injured. In response, the governments of Greece, Jordan and the Palestinian Authority launched separate investigations into the Patriarchate's actions; all subsequently called for Irineos' removal. In August 2005, the Holy Synod of Greek Orthodox clergy replaced Irineos with Theophilos, the current Patriarch.

Emotionally, the situation is equally complex. A key issue for Palestinians is restitution of, or compensation for, lost property. In 1948, all Jews were expelled when the Jordanians took control of the

city. Following the 1967 war, the Israelis expropriated 116 dunams for redevelopment of the Jewish Quarter. The most sensitive aspect of the expropriation was the demolition of the Mughrabi area and the expulsion of its residents to create a plaza facing the Western Wall.

These issues are important, not only as symbols or because of “rights” questions, but also because they are a major hindrance to the carefully planned development that must take place if the Old City is to realize its religious, historic, economic, archeological and human potential. As well, any changes in land ownership, particularly transactions that bring non-Israeli properties into Israeli hands, are likely to result in strong emotional reactions among Palestinians. For these reasons, the question of land ownership is key to conflict management in the Old City.

#### For Consideration:

We have identified the following as property ownership options that could usefully be explored:

- A cooperative effort by universities, think tanks and policy experts to explore possible solutions to ownership issues.
- A process to identify claims, facilitated by an impartial third party that has the confidence of both Israelis and Palestinians. While this would undoubtedly be a complicated exercise, reconciliation of claims — including issues related to recent settlements in the Old City — is essential for fair and stable land management.
- Development of compensation schemes for land lost within the Old City.
- Development — with Palestinian input — of a new tenancy law permitting more flexible use of properties, and supporting an urban plan for the Old City that balances the housing needs of residents with economic goals and the need to preserve heritage sites.
- Evaluation of property disputes, and development of a dispute resolution mechanism that sets a standard for future activity, including how parties deal with claims for restitution and restoration — for example, the mosques in the Mughrabi area and the Hurva, and other synagogues in the Jewish Quarter.

### C. Economic Needs

In considering the economics of the Old City, it becomes readily apparent that there is a strong connection between its potential as the core of the Israeli and Palestinian tourism industry, and issues of security and equity. Tourism will thrive when tourists and residents feel secure. But security will not be attainable or sustainable unless Israelis and Palestinians believe their interests, their economic opportunities, and their ability to access services and influence developments are themselves secured.

As the focus of religious pilgrimages and tourism, the Holy Sites and archeological features of the Old City are its economic base. Yet it is difficult to determine their precise economic impact, as neither Israeli nor Palestinian sources provide comprehensive information on economic activities within the Old City. For example, while Israeli authorities maintain statistics on hotel stays, employment and car rentals, they do not keep records of apartment rentals, restaurant sales, or sales of souvenirs, handicrafts and antiques. As well, statistics that are available are often regarded with suspicion, due to the high degree of mistrust between Israelis and Palestinians.

That said, tourism is generally acknowledged as Israel’s second largest industry. According to Israeli statistics, pilgrimages and tourism employ 280,000 people within the territory Israel claims as its sovereign jurisdiction, either directly or indirectly as guides, drivers, site managers, hotel employees and shopkeepers.

Israeli tourism statistics do not provide information on the number of people visiting the Old City. It is clear, however, that most tourism itineraries include several nights in Jerusalem and at least one day visiting the Old City. According to statistics on foreign tourists, 51 percent visit the Western Wall, 41 percent the Jewish Quarter, 23 percent the Mount of Olives, 21 percent the Church of the Holy Sepulcher, and 14 percent the Via Dolorosa. The industry caters to Europeans and North Americans who come as Christian and Jewish pilgrims. Today, few tourists enter the Old City from the West Bank; those who do come overland from Jordan. Muslim tourism to the Old City is negligible because of political and security concerns.

Jerusalem was once a major destination for domestic tourists. Many Israelis spent hours strolling the streets of the bazaars, not only in the Jewish Quarter, but throughout the other Quarters as well. For years, visits were incorporated into educational enrichment programs for Israeli students. Although much of this activity was curtailed by the

outbreak of violence, the Jewish Quarter and the Western Wall remain the focal point of Jewish pilgrimage and prayer, as well as a gathering place for Jewish holidays, celebrations and events of national importance.

According to statistics our research associates were able to gather, Palestinian domestic tourism to Jerusalem has also declined enormously. East Jerusalem, including the Old City, was once the hub of West Bank economic and social life. However, Israeli restrictions on Palestinian movement have drastically reduced these activities, including attendance at Muslim prayer at the Haram al-Sharif. Palestinians believe these restrictions to be largely politically motivated — increasingly so with the construction of a physical barrier around the Jerusalem conurbation.

### Tourism In the Old City

With the continuing violence since the beginning of the second Intifada, tourism in the Old City has plummeted, and dependent industries have suffered greatly. One practice in particular affecting Old City merchants involves the cruise ships that stop at the ports of Eilat, Haifa and Ashdod for one-day stopovers. Tourists are bussed to Jerusalem, where they are taken on a hurried tour that most often begins at the Dung Gate in the Jewish Quarter and includes the Western Wall, the Cardo, the Church of the Holy Sepulcher and, sometimes, the Via Dolorosa. Little or no time is allocated for purchasing souvenirs and artifacts, eating in restaurants or taking in the ambience of historic streets and neighborhoods. Most tours avoid the market areas of the Muslim and Christian Quarters, and any small purchases made are by the occasional tourist who strays from the main tour. Jewish tourists on “solidarity missions” or cultural tours such as “Birthright” are taken directly to the Old City and the Jewish Quarter, without time or permission to visit the Muslim, Christian or Armenian Quarters. This was understandable when the Intifada was at its height, although violence seldom penetrated inside the Old City.

Old City bazaars declined strikingly during both Intifadas, with about 200 shops closing during the Al Aqsa disturbances. Some shopkeepers estimate that 50 percent of colleagues lost their businesses because of the decline in visitors; albeit some are now reopening. Many Old City

merchants suggested that the municipality favours their downtown competitors in West Jerusalem, through tax discounts, for example. According to merchants, Israeli tour guides often discourage visitors from making purchases in the Old City. Palestinians complained that Christian and Muslim sites are largely ignored in Israeli public relations efforts, and that Palestinians find it difficult to register as tour guides. At the same time, however, others have observed that many Palestinian websites ignore Jewish sites in an attempt to delegitimize Jewish connections to the Old City.

In addition to political tensions, the increasing popularity of low-end, foreign-produced goods for the growing Arab population has lessened the romantic appeal of the Old City as a Middle Eastern souk. Ancient crafts, old copper, carpets, and antique and spice shops have largely given way to modern, mass-produced items. Low-end boutiques and restaurants have also helped to erode the city’s exotic appeal, although such shops do meet the needs of the residents.

With peace, the Old City could again become a major economic engine, with tourism and pilgrimage as the fuel for economic revitalization. Certainly, progress is difficult in the face of current political tensions. However, while it may not be possible to achieve significant gains immediately, we believe that recognition of common interests can be the impetus for practical steps in this direction.

### For Consideration:

The economic welfare and future of the Old City is very much dependent on resolution of the conflict and the full return of tourism. However, there are possible areas of work that can address the needs of residents, commercial actors on both sides, and national interests with a stake in the area’s development, such as:

- increased coordination between Palestinians and Israelis, and greater understanding of the needs of shop owners, to achieve a more equitable approach to competition for tourism;
- comprehensive and balanced information on Old City sites for tourists;
- joint planning on improving visitor services and minimizing inequities. Studies could be conducted for developing a professionally based and representative “Old City Board of Tourism”;

- establishment of the Old City as a tax free zone;
- reconfiguration of tourist routes for the benefit of all commercial enterprises; and
- an increase in tourist facilities in East Jerusalem, to ensure equity between Palestinians and Israelis.

#### D. Political Needs

The status of Jerusalem, with the Old City at its centre, has been the subject of intense political and legal debate. The official Israeli position is that the entirety of Jerusalem is the united, eternal capital of Israel. Officially, Palestinians assert that according to international law, Israel has no right to any part of East Jerusalem, including the Old City, that the occupation itself is illegal, and that East Jerusalem should be their capital. As deeply held as these positions are by many, the vast majority of Palestinians and Israelis we spoke to recognize that such views are likely to perpetuate the conflict. In either scenario, there would be a winner and a loser, fostering irredentism and the seeds of future conflict.

#### Access to Religious Sites

During Jordan's 1948–1967 rule over East Jerusalem, Jewish access was barred. Although the 1948 armistice stipulated freedom of access to the Holy Sites in East Jerusalem, in practice it was given only to Christians and Muslims. The restriction on Jews may have been a response to them as a perceived security threat in the aftermath of the 1948 war, when members of the Irgun and other irregulars fought Jordanian troops for control of the Jewish Quarter in one of the war's bloodiest confrontations. We were told that Jordanians feared the Jewish Quarter would be used as a staging ground for Jewish terrorist activities, and for infiltrating through the Old City into East Jerusalem. Jordanians were also concerned about the political ramifications of access — specifically, that the area would fall under Israeli control. Whatever perceptions existed, Jordanians razed much of the Jewish Quarter, destroying some fifty synagogues and seminaries. The denial of access to the Western Wall during this period does much to explain the emotional impact of the Israeli victory in 1967, and the subsequent discomfort Israelis feel with Palestinian assertions of exclusive sovereignty over the Old City and the Haram al-Sharif/Temple Mount.

Today, Israeli institutions of state exercise control over the Old City, satisfying the majority of Jewish citizens, who feel their interests are well protected. Palestinians, on the other hand, feel bitter and disenfranchised. Our consultations in the Arab world also revealed that even the most moderate of Muslims believe the Israeli monopoly on decision making and control is humiliating. Some we spoke to, both Israeli and Palestinian, maintained that the political importance of the Haram al-Sharif in the Muslim narrative has increased significantly in recent years, precisely because the Old City is under Israeli rule.

Christians and their churches also have a major stake in Old City governance — specifically, the ability to access and maintain the Christian Holy Sites unimpeded. However, Christian opinion is divided and divisive, we were told, with many evangelical believers satisfied with the status quo. The more established denominations are either passive or committed to the realization of Palestinian political objectives because of the human rights appeal of such goals. Although less outspoken, some Palestinian Christians have said they fear the pressure that a more purely Islamic environment would create for them. Some cited this as the reason Christians are emigrating from the Holy Land, Jerusalem in particular.

There are other sources of contention as well. The Israeli barrier wall around Jerusalem has created a new dimension regarding control of the city. Although the barrier is not directed at the Old City alone, many Palestinians and Israelis view it as a new and concrete definition of Jerusalem space, further consolidating Israeli control. As discussed earlier, the barrier also creates significant problems for West Bank Palestinians wishing to access the Old City and its Holy Sites, weakens the economic, social and political linkages between those inside and outside the barrier, and has contributed to overcrowding as those living in Jerusalem's periphery move to the Old City to avoid being caught outside the barrier. Settlement growth in the Muslim and Christian Quarters populated by Israeli religious nationalists is an additional source of tension. According to figures provided by our research associates, settlers have acquired some 80 properties in Arab Quarters, facilitated by Israeli state subsidies and administrative support. Many believe that if the Jewish presence continues to increase in areas of serious Arab poverty and high density, there is a significant threat of violence. The Aqabat Khalidi area of the Old City, for example, has the highest Palestinian population density, yet our researchers say it is the target for takeovers by radical settlers.

In a poll on peace issues conducted in December 2004, Khalil Shikaki

found that both Israelis and Palestinians had softened on the difficult issues of refugees and borders, but had toughened their stance on the future of Jerusalem and the Old City. These “hardened” positions seem less problematic regarding the rest of Jerusalem, where there appears to be an increasing readiness to give what is “Jewish to Jews and what is Arab to Arabs,” as was discussed at Camp David and Taba. For the first time, some leaders of the Israeli religious nationalist movement have suggested that Arab neighborhoods in East Jerusalem outside the Old City may need some kind of special status outside Israeli control. However, this does not take into account Israel’s continuing expansion in East Jerusalem.

The situation in the Old City and its Holy Sites is much more complex. Israeli negotiators of the Geneva Accord received much criticism for agreeing to the principle of Palestinian sovereignty over the Haram al-Sharif/Temple Mount, and for daring to consider negotiating away such an important symbol of heritage without reference to any public and political process. We encountered widespread and vociferous opposition among Israelis and in the Diaspora respecting such an option. Conversely, the gap between current Israeli control over the Old City and the need for other forms of authority by Palestinians and other stakeholders, such as Muslims around the world, is a source of friction and conflict, especially regarding the Holy Sites. The Old City Tunnel demonstrates what can occur when these interests and needs collide.

### The Old City Tunnel

During the 1970s, Israeli authorities dug a viewing tunnel under Arab-owned property along the northern sections of the western wall of the Haram al-Sharif/Temple Mount. Designed to expose more of the ancient Jewish Temple’s enclosure walls, the construction sparked considerable controversy. The tunnel consists of a long passageway, averaging one meter wide and more than two meters high, that extends from the established Western Wall pilgrimage site. At its far end, the tunnel cuts across an underground canal leading to cisterns from the Roman period, most of which are located beneath Muslim waqf property, the Via Dolorosa, and a wing of the Sisters of Zion Convent in the Muslim Quarter.

In the 1990s, the Israelis created a northern exit to the tunnel complex to simplify the visiting process, and allow more pilgrims

and tourists access to Jewish historical sites. The waqf protested these plans on the basis that construction would compromise historic buildings from the Mameluk period, and the Al Aqsa mosque platform. As well, many Palestinians saw the construction as part of a continuing Israeli plan to dispossess them. When the new exit opened in September 1996, five days of rioting resulted in the deaths of 56 Palestinians and 14 Israelis.

Based on our research, we have summarized the perceived political needs of the Old City as follows:

### Palestinian Needs

- control, authority and title over the Old City, particularly the Haram al-Sharif, and recognition of their legitimacy by other parties;
- among some, a willingness to modify the above requirements to permit Israeli control over the Jewish Quarter and the Western Wall; and
- restitution for lost properties in the Jewish Quarter and Jewish settlements elsewhere in the Old City.

### Israeli Needs

- control, authority and title over the Old City and its surrounds, because of its essential role in Jewish history, heritage and tradition;
- for many, recognition of the long-established Israeli position of Jerusalem as a single entity under their sovereignty; and
- among some, a willingness to ascribe sovereignty in specific instances to the Palestinians, because of demographics and the importance of specific locales in religious narratives.

### Common Needs

- personal safety and security;
- a legitimate and effective security regime;
- an effective governing authority that enjoys broad-based legitimacy;
- governance mechanisms capable of withstanding the challenges imposed by strongly contending interests;



- participation of the respective states in decision-making;
- equitable distribution of services based on needs;
- national markers, such as flags or security personnel, near or on the Holy Sites, in order to demonstrate the status of ownership and establish the security of worshippers, specifically the Western Wall for Israelis and the Haram al-Sharif for Palestinians;
- recognition from other communities, nations and institutions of the legitimate attachment to their respective Holy Sites; and
- free and unimpeded access and dignity in worship, without incitement or interference.

### Political Needs beyond National Aspirations

The Old City is a unique case internationally because of the number and importance of its Holy Sites, and the attachments of competing sides. As well, its religious and symbolic attachments reach out beyond the national goals of Israelis and Palestinians to believers around the globe. In times of difficulty, these views cause the Old City to become a flashpoint for extremism and violence. As indicated below, there a wide range of interests in the Old City

- **Muslims** who view the city as the third holiest site of Islam after Mecca and Medina and, for this reason, believe the Islamic Holy Sites must be under legitimate Muslim control — or, at the very least, not under the control of an occupying power such as Israel. This group also wants free access to its Holy Sites and security guarantees.
- **Jews** who view the city as an essential and central part of their heritage, and for whom the Temple Mount is emblematic of their faith. Many Jews in the Diaspora view Jerusalem, the Old City and the Temple Mount as representing their “soul,” and therefore beyond political compromise.
- **Christians** who view the city as the site of their Saviour’s passion and resurrection, and who want freedom of access and worship with respect to their Holy Sites.
- **Arabs** who view the city as a symbol of their struggle against Israel. Its relevance to their Christian or Muslim heritage, combined with its occupation by Israel, lead them to believe the Old City should be under Palestinian control.

- **Governments, policy makers, and citizens around the world** who believe the city is a critical piece in resolving the Middle East conflict, and who consequently look to a just and comprehensive resolution of the city’s status.

These wider circles of interest in the Old City underscore the need for creative answers beyond classic territorial sovereignty.

Based on the foregoing, it is clear that an effective governing structure for the Old City must meet complex requirements, including:

- legitimacy
- the ability to, in the eyes of residents and stakeholders, meet multiple needs
- security and stability within its boundaries
- both Israeli and Palestinian influence over governance and status
- the ability to withstand tensions generated from outside

### E. Religious, Symbolic and Heritage Needs

The Old City and its Holy Sites are central to the identities of Jews, Muslims and Christians, both individually and collectively. They are at the core of how individuals define themselves, reflecting their concept of self, including their heritage, culture, belief and value systems. In the context of the Israeli-Arab conflict, the result has been an explosive fusion of religious identity, nationalist ambitions and a struggle for power and control. Many of those we interviewed suggested the Camp David peace negotiations broke down because both sides wanted sovereignty over the one Holy Site — the Haram al-Sharif/Temple Mount — which each view as exclusively their own, but which is physically indivisible. This kind of attachment makes Jerusalem immune to United Nations resolutions, legislative dictates or anything suggesting coerced agreement.

Belief systems often overlie practical needs. With this in mind, and recognizing that symbolic issues are often intertwined with political control, we have tried to isolate key elements of what we heard concerning religious symbols. These factors explain to some degree why Palestinians and Israelis, and believers around the world have developed such powerful attachments to the Holy Sites, and conflate them with national and political aspirations and needs.

## Symbols

- Religious symbols galvanize national and tribal sentiments, gathering the committed into impermeable groups.
- They become a litmus test in the face of threats, provide stability in the face of change, and become barometers of success, achievement and power.
- Their loss creates a profound sense of insecurity for individuals and groups, threatens the certainty of faith, and fosters resentment and rejection.
- Fear of loss, threat or tragedy heightens attachment to symbols and structures.

### A Common Charter

Neither the Palestinians nor the Israelis can solve their problems and reach peace in isolation, but denial of their interdependence makes real progress impossible. Even with the best of ideas, understanding the other's needs is a prerequisite to success.

Given this logic, it seems critical to begin an early process aimed at developing mutual understanding, before negotiations begin. A "common charter" could highlight shared needs that transcend ideological and historical narratives. Not limited to high-minded principles, the charter would also include concrete needs regarding security, status, legitimacy, economics, and a healthy environment. Most current approaches incorporate these needs into questions of governance and symbolism, rarely examining them on their own. The charter could also address the Old City's physical and social conditions, as well as provide a "code of ethics" on human rights, collective rights and religious needs.

### For Consideration:

These dynamics play out most dramatically with respect to the Haram al-Sharif/Temple Mount. Control over the site is a talisman for success; lost control signifies failure and humiliation. For this reason, there is a need for processes and arrangements aimed at creating a win-win situation that will address the strong symbolic attachment of both parties to the Old City's Holy Sites, and to the Haram al-Sharif/Temple Mount in particular. These might include, for example:

- a charter respecting the needs of both sides, including religious needs;

- a parallel study of both sides' historical connections to the Haram al-Sharif/Temple Mount;
- proposals setting out new perceptions of inclusion related to religious traditions; and
- public advocacy and education strategies.

It is important as well to examine how arrangements on the ground at the Haram al-Sharif/Temple Mount can provide sufficient control, without exclusivity, to each of the parties regarding their interests. Several areas of practical effort have been identified as key, including:

- examining the possible role of Muslim guards around the compound to ensure respect for heritage and tradition, or placing security solely in the hands of a single integrated Old City police force;
- examining how unambiguous recognition of the site's importance to Jews can be provided, as it is more likely they will accept Muslim prerogatives if their own narrative is recognized. The reverse is true as well;
- providing options for visits by non-Muslims, conceivably under UNESCO supervision; and
- exploring the possible role of third-party arbitration of disputes over archeological digs, construction and access, while fully respecting the status quo regarding *waqf* responsibilities.

## V The Institutional Framework for Peace

Although needs can be met through a series of independent measures, we believe that a single governance approach is likely the only vehicle that can meet them effectively. We are therefore proposing an institutional framework aimed at creating conditions for trust, equity, security, and predictability in day-to-day life. Our intent has also been to maintain the integrity of the Old City; the area is too small, densely populated and architecturally linked to be divided and managed by a series of authorities and police forces, as proposed in the Geneva Accord, for example.

### A. Governance

We contend that an effective and equitable governing authority is a *sine qua non* of a peaceful and sustainable solution that strives for fair treatment of individuals and communities, and the application of

sound governance principles. For this reason, we urge that consideration be given to an administrative structure for the Old City that would exist under international law, possibly for a specified interim period of 15 years. Governance by this “special regime,” a significant element of which would consist of international staff funded by international resources, could allow time for trust to mature before Palestinians and Israelis assume their full responsibilities and develop the necessary mechanisms to replace it.

Some of the Palestinians we spoke to were concerned that a special regime might turn out to be simply a formula to legitimize Israeli control. Conversely, some of our Israeli contacts felt it might result in their loss of control and ownership of the Old City. However, we believe that the current relationship between the two groups will not support a strictly bilateral arrangement, unless the Old City is divided by barriers. Not only is this option undesirable, it is physically impossible, particularly given the competing claims and attachments of both national groups to the Haram al-Sharif/Temple Mount complex.

Barring a meaningful third-party presence, domination of the Old City by one party or the other, as is currently the case, is inevitable, as is a continuation of the conflict. Many we spoke to share our view that an arrangement styled on the Geneva Accord, with a variety of interacting security forces and a complex dispute settlement mechanism, might satisfy the requirement for fairness in principle, but would be unworkable in practice. Should governance mechanisms break down in the Old City, as we think they would without a system equipped with the tools to ensure peace, order and good government, the sustainability of any agreement would be seriously threatened. The history of Israeli and Palestinian non-compliance respecting their commitments serves as a strong incentive to require no less.

An arrangement such as the one we propose for consideration could form part of a comprehensive settlement based on the Clinton parameters, establishing two sovereign states with Yerushalayim and Al-Quds as their capitals, but going beyond these parameters respecting the Old City. The special regime we envisage would require a governing council, perhaps composed equally of Israelis and Palestinians, possibly reinforced by international representatives. Israeli and Palestinian members would be chosen by national governments in a manner that each would determine.

We recognize that, given the overriding national, communitarian and strategic imperatives, and the small size and populations of the area, government by the residents of the Old City alone would be impractical. The head of the governing council, the administrator, would be an internationally reputed individual, nominated and endorsed by the Quartet (composed of Russia, the European Union, the United Nations and the United States), and acceptable to both parties. The administrator would exercise executive authority within the Old City. The administrator would maintain close working relationships with the religious leadership. In our view, a single, comprehensive mechanism is necessary to ensure effective governance over such a highly contested area.

Ideally, Israelis and Palestinians would have already come to agreement on the eventual assignment of sovereignty and could then delegate to the special regime interim responsibility for specific security and governance functions. However, even if unable to agree on sovereignty for the long term, they could assign the exercise of such functions to the special regime, thereby reserving their claims while allowing other elements of a comprehensive peace to be implemented.

We recognize that it would be difficult now for many on either side to accept a far-reaching paradigm shift to a special regime. However, a process that begins with refining options, followed by vigorous discussion at the level of academics and think tanks, and subsequently broadening to include the public and leaders, could facilitate the required changes.

#### **For Consideration:**

Based on our research and discussions to date, we suggest that further consideration be given to the following governance scenarios:

- The governing council’s legislative and oversight functions would include responsibility for security, law enforcement, specific public services, infrastructure, residency, property ownership, zoning and building, commercial and other relevant regulations, and the legal regime.
- A religious council would play a critical role, giving due recognition to the sanctity of the Old City and promoting religious harmony and fair-minded intercourse on religious issues.

- The Old City administrator would be responsible for governance and enforcement, while a court system would ensure adherence to the rule of law.
- A single Old City police force composed of internationals, Israelis and Palestinians would be responsible for security.
- Israeli and Palestinian national authorities could exercise functions such as health, education, family law and religious observance for their own populations.
- Inhabitants of the Old City would have residence status, but carry the nationality that the Israeli and Palestinian national governments choose to accord.
- Whatever sovereignty provisions are agreed, it is likely the special regime would have responsibility for ensuring and maintaining the religious status quo during the interim period.
- Established practices and traditions would be fully respected, including access to, and worship at, religious sites.
- The closest possible working relationship would need to be maintained between the leadership of the various denominations and the Old City administrator and governing council.
- There could be a moratorium on any excavations within the Old City area because of their sensitivity.
- Any excavations could be conducted under the supervision of an archeological services branch of the special regime, using UNESCO criteria, under the direction of the administrator and with the consent of both Israeli and Palestinian authorities.

Consideration should also be given to one of the imaginative ideas presented to us by Michael Turner, Chairman of the Israel World Heritage Committee. In this scenario, the boundaries of the Jerusalem World Heritage Site would go beyond the Old City walls to encompass the area defined by the furthest extent of the ancient necropolis, which extends into both East and West Jerusalem. As we interpret it, this would mean that UNESCO provisions for the administration of this single world heritage site would potentially extend through three jurisdictions (Israeli, Palestinian and special regime), providing a common planning basis for maintaining and developing the areas

composing ancient Jerusalem in and beyond the Old City. At the same time, each jurisdiction would administer the areas for which it is responsible.

### **Rationale: Meeting the Needs**

This basic framework is intended to meet the needs of stakeholders by providing them with input into decision making, in tandem with equity and the advantages offered by a third-party presence.

- The governing council would meet the needs of both sides for control, title and authority, without exclusivity.
- It would provide legitimacy in the eyes of communities worldwide.
- The third-party role would provide both a facilitator and coordinator able to exercise authority.
- The special regime would maintain the integrity of the Old City, permitting it to be a useful economic engine for all sides.
- The need for security, and freedom of access to Holy Sites, would be met through a single Old City police force, thereby avoiding fragmentation under tension.
- The governing council would provide a special focus on the social and other needs of residents currently less attended to, and work to improve their living conditions.

### **B. A Legal Framework**

The Old City is currently under Israeli jurisdiction. On June 28, 1967, Israel applied Israeli law and jurisdiction over East Jerusalem and the Old City. In 1980, the *Basic Law: Jerusalem as the Capital of Israel*, a mostly symbolic step, was also applied defining Jerusalem as the “complete....united....capital of Israel.” The question of whether these steps amounted to annexation has been one of debate. Until 1999, a simple majority of the Knesset would have been sufficient to annul or amend these laws.

In 1999 and 2000, the Knesset passed laws stipulating that “no authority relating to the Jerusalem region....may be transferred to a foreign political body, whether permanently or for a set period.” This can only be changed if a majority of Knesset passes a new *Basic Law*.

Although Israeli law is applied most often, the legal situation in the Old City remains very complex, as the following examples illustrate:

- Jordanian law is relevant for issues related to the Islamic *waqf*. “Customary law” based on larger family order, including “Sulha,” mediation by Elders and customary religious practices, is used for resolving disputes among Palestinians, who often reject the applicability of Israeli law and the jurisdiction of Israeli courts.
- In 1967, residents of the Old City were offered the option of applying for Israeli citizenship. Although most residents have not exercised this option, they have been given permanent residency status and an Israeli identification card. However, they can lose their status if they depart Israeli jurisdiction and can no longer demonstrate that Israel is the “centre of their life.”
- The steps Israel has taken since 1967 to expropriate land for public use have left much room for ambiguity, resulting in mismanagement and the questionable appropriation of property. According to some we spoke to, the situation is explosive and cannot wait for longer-term solutions.
- Planning and zoning of building construction is chaotic and often unregulated.
- The Holy Sites in the Old City are protected from desecration under a special Israeli law passed in 1967, which also preserves freedom of access and worship. However, two prior legal frameworks are also relevant: the Palestine Order in Council (Holy Places) of 1924 that excludes court jurisdiction over the Sites and the Ottoman firman of 1852 that affirmed the “status quo” of four key Christian Sites, including the Church of the Holy Sepulcher.

### Changes in Law Under Special Status

Special status will require that applicable criminal and civil laws be re-examined. Although we have argued that an *ab initio* focus on sovereignty should be avoided, some maintain that law enforcement requires an issuing authority that in turn makes resolution of the sovereignty issue imperative. It has also been suggested that if special status relies on existing law, as may be the case, these laws rely for their enforcement on the very sovereign jurisdiction that this document argues may best be postponed. For example, some legal experts argue that certain laws related to health, environment and taxation could only be implemented through specific Israeli government ministries.

We are not convinced that Israeli sovereignty is necessary for implementing or enforcing laws. If the two parties formally agree to a new authority for the Old City, new mechanisms could be developed that facilitate the amendment, transfer and adoption of specific legal provisions.

Organizations other than the Israeli Government or the Jerusalem municipality currently provide several services for the Old City. These include electricity for all quarters except the Jewish Quarter, a significant number of educational institutions, and some social services provided by Palestinian organizations and religious groups. Further complicating the situation are the widely diverse groups living in a small area, the numerous visitors, and the range of external organizations already established in the Old City. There are also complex legal questions regarding Israeli and Palestinian residents who would not be living in their sovereign territory if control of the Old City were under a special regime. The requirement for closer commercial cooperation that peace and security would bring also raises the question of what commercial law would apply to joint transactions in the Old City.

The Old City’s complexity, the current application of several national laws, and the presence of other important stakeholders such as the churches, suggest strongly that carefully developed legal arrangements will be needed to ensure smooth functioning. This applies not only to civil and criminal law, but to matters such as health and safety regulations as well. What law or regulations will apply in the Old City? Will they be uniform or vary depending on the area or person served? For some, the Old City’s small size also puts into the question the feasibility of creating a full array of institutions to provide services and authority. In our view, however, this may be the price of a viable peace.

We believe that changes to legal status or the provision of services should be made only when necessary to meet the needs of stakeholders. On the other hand, efficacy may well require a single body of legislation, whatever its origins, which is administered by a single legislative and legal system, both of which are integral parts of the special regime. Without the simplicity of one legal framework applicable to the Old City, including all residents and visitors, any governance scenario may be very difficult to administer.



However, it is for discussion and debate whether services such as health and education could conceivably remain under the authority of the national governments. For example, could a Palestinian resident choose to remain under Israeli health coverage? A complicating issue is that many benefits the Israeli state currently provides to Old City residents are sufficiently attractive that residents could react negatively to any proposed changes. Similarly, the question of whether taxation would be applied according to nationality is fraught with difficulties and must be addressed thoroughly.

It appears to us that clear and simple lines of authority are a prerequisite for success. For this reason, the most practical starting place may be the interim adoption of existing Israeli law to be administered by the special regime. A process of legal evolution would then have to take place under the special regime's governing council. That said, some changes would seem to be required immediately to address specific needs — for example, changes to the *Absentee Law* of 1951 that permits the seizure of absentee property.

#### For Consideration:

The issue of legal status for a special regime is complex and will require extensive study. The questions, options and needs described below are only some of the broad spectrum that can help guide this process.

- **Source of Authority:** The source of authority, power and legal basis for any administration in the Old City other than Israeli or Palestinian rule will have to be defined. A resolution by the United Nations Security Council is one possibility. A charter or constitution for the Old City may also be created to set out the governing structure and form the basis of legal decisions, principles and rights. What is the role of international law in establishing legitimacy and a source of authority in the Old City?
- **Special Status:** Is there a need for a charter or “constitution” that can give expression to the “universal meaning” of the Old City and ensure the creation of an administrative regime that guarantees equity and security.

- **Palestinian Customary Law:** The continued use of customary law by Palestinians suggests the possibility of developing “mediation arbitration institutes” to regularize such activities. The question of the links between Sharia law and other systems should also be examined, i.e., how will Sharia recognize another legal system?
- **Residency:** The issue of residency is complex. One approach could be to declare as residents all those registered under Israeli regulations, as well as anyone who becomes a resident according to future laws and regulations as implemented by the special regime. The issue of Old City residents who are not currently registered with Israeli authorities will have to be examined carefully and sympathetically.

#### C. Security Options

The Old City is small, overcrowded and poor, with differing religions, nationalities, ethnicities, cultures and politics. As a result, law enforcement and ensuring public order and safety are enormous challenges. Any security mechanism must also take full account of Jerusalem as the focal point of individual and group identities, and the sensitivities and mistrust this engenders. Taken together, these physical and symbolic factors make the Old City a soft target, as well as a desirable one, for those seeking to disrupt Muslim-Jewish and Israeli-Palestinian co-existence. Disruptions could range from provocative political action to outright terrorism, which would not only cause death and suffering, but would also threaten existing political agreements and enrage the region's inhabitants, as well as communities worldwide. The great majority of Israelis and Palestinians we spoke to share the view that, without guarantees of a fair-minded security mechanism, no agreement respecting the Old City would be sustainable.

Within the parameters described above, a variety of options exist for the organization and mandate of a security force. Our Israeli and Palestinian colleagues have developed a number of scenarios, each with its attendant advantages and risks. With further study and development, we are convinced these options will stimulate discussion among experts, instill public confidence that effective alternatives are available, and provide decision makers with solid choices in eventual negotiations.

One option that we believe warrants full consideration is the creation of a police and security force composed of internationals, Israelis and Palestinians. A viable force with officers from countries that enjoy the confidence of both Palestinians and Israelis may be the only vehicle that compensates for the lack of trust between the parties. Incidents involving inter-communal problems will require a fair-minded party to take the necessary action, be it arrest, trial or incarceration, to meet the expectations of both sides. An international police force could also serve as a disincentive for the parties to turn national mechanisms into instruments for territorial gain or struggles for power, as occurred, we are told, with the joint Palestinian-Israeli security procedures developed within the failed Oslo framework.

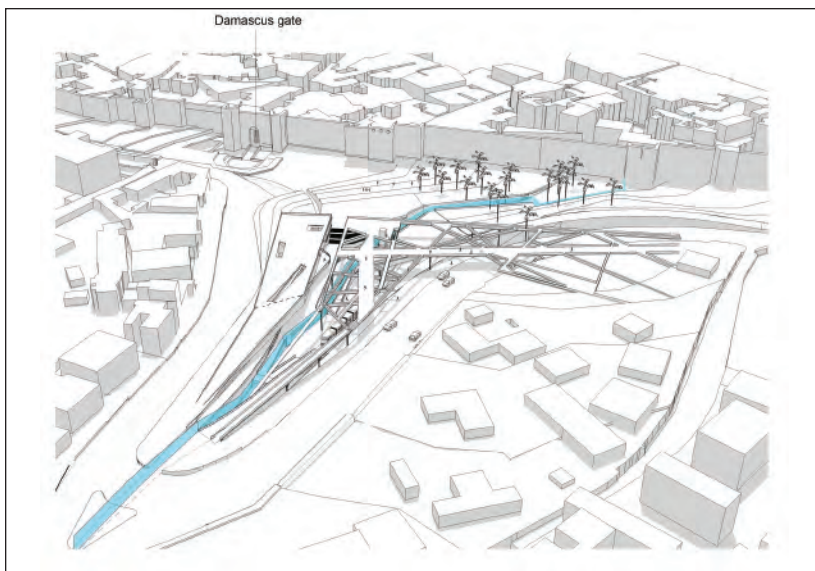
The security force we envisage would almost certainly require the following elements:

- a clear and simple mandate;
- a chief of police appointed by the administrator, with the agreement of Palestinian and Israeli authorities;
- an adequate personnel base;
- monitoring and access control of people and goods at the Old City's gates and walls;
- a ban on weapons within the walls, except those required by the security forces themselves;
- effective, technologically advanced security aids, such as biometric identification systems and other mechanisms;
- community policing, supported by local community liaison officers, to deal with law and order issues among permanent residents;
- a special intervention force, to ensure public order during possible emergencies resulting from the fragile political environment;
- a recruitment process based on specific and internationally recognized policing criteria, with emphasis on experience in peacekeeping, peace enforcement, investigations, intelligence, counter-terrorism and conflict resolution;
- a force based on citizens from countries that have the confidence of both Israelis and Palestinians;

- at its inception, an international contingent based mainly on nationals from a single country, to ensure common and accepted operational procedures, and command and control mechanisms;
- a willingness on the part of force members to commit for a minimum number of years, to ensure familiarity with the environment and build trust among residents;
- an extensive training period involving, at minimum, basic Hebrew and Arabic language skills, cultural studies, stress management, and intensive training in the working environment, including relations with Palestinian and Israeli liaison officers;
- coordination with Israeli and Palestinian police and security organizations on issues such as intelligence; and
- development of working relationships with counterpart Israeli and Palestinian authorities to ensure effective interface between the Old City, Al-Quds and Yerushalayim.

We have given considerable thought to the question of movement into and out of the Old City that is efficient, yet secure. Such a system would seem to require the most sophisticated possible technology to minimize any disruption to the efficient flow of goods and peoples, whether they be Old City residents, Israelis or Palestinians, pilgrims, tourists, religious figures, business persons, practitioners or officials. Enforcement mechanisms would have to meet the highest possible standards. Different entry-exit criteria would likely be necessary for the Old City's various gates, depending on their uses. Certainly, nationals of one country would only be permitted to move to the other, via the Old City, when equipped with the necessary travel documents.

We have had discussions with two local architects respecting the physical configuration of transit points, the Old City gates, that would also ensure respect for the area's historic fabric. They had recently completed a project on a border zone facing the Damascus gate in the former "no man's land" that was designed to ensure physical separation, combined with ease of movement and workable security mechanisms. Their construction blends naturally into the open landscape and urban space of Jerusalem, thereby maintaining the visual perception of the conurbation as a whole, albeit with a border dividing it. In our view, this represents a positive view of separation that deserves much further attention in operationalizing the special regime concept.



"A transportation border zone in Jerusalem." Copyright Kaven Lee Brachah, Yehuda Greenfield and Aya Shapira, the Faculty of Architecture and Town Planning, Technion, Israel

#### D. Role of the International Community

We believe members of the international community have a critical role to play in determining outcomes for the Old City. Non-politicized international facilitation will not only be important in administration, but international attention and engagement will be pivotal in breaking the current deadlock and securing a commitment to improve conditions in the Old City.

Global interest in the Holy Sites will be the international community's motive to engage. The citizens of many countries, particularly the diasporas of the peoples of the Holy Land and believers of the three monotheistic faiths worldwide, are keenly interested in the future of the Old City. Responsible governments and international organizations also have a stake in its future, and may play an important role in the peace-building process. For example, engagement of the Organization of the Islamic Conference may be necessary to legitimize the future status of Jerusalem, support Palestinian decisions respecting the city, and enable new relationships between Israel and the Muslim world. However, nothing should threaten the primary role of the peoples of the Holy Land in determining the future of the Old City.

#### For Consideration:

The international community must be prepared to underwrite any agreement reached between the parties, and provide substantial moral and material support. For example, Arab East Jerusalem currently receives little international aid in comparison to other territories occupied in 1967. As described below, there are many other possibilities for international engagement that would support and help revitalize the Old City and the Jerusalem conurbation:

- Within the context of peace, an international agency or agencies could be transferred to an area of Jerusalem that would benefit Yerushalayim, Al-Quds and the Old City. This could provide economic sustainability for all three, enabling public buy-in by both Israel and Palestine. It would also serve as a material and symbolic commitment to the sustainability of a comprehensive peace. One possibility would be to move the cultural arm of UNESCO to Jerusalem as a reflection of the city's cultural importance, similar to the relocation of other UN agencies to Vienna following the Second World War. Given the likely fragility of post-conflict Jerusalem, there is great merit in considering such stabilizing steps.
- The transfer of foreign embassies from Tel Aviv to Yerushalayim following a peace agreement, and the creation of embassies accredited to the Palestinian state in Al-Quds would provide unambiguous endorsement of a peace agreement.
- An international conference could be held on the economic revitalization of Jerusalem, to reinforce a peace agreement and solidify the status of the Old City within the framework of two states, two capitals and the international presence.
- A sizeable fund could usefully be created to develop the Old City and its surroundings as an even greater historic, religious, archeological and symbolic focal point. As well, the fund could initiate projects aimed at improving inhabitants' quality of life and building bridges between faiths and ethnicities.
- Members of the international community who enjoy the trust of both Palestinians and Israelis could financially assist the existing landscape of civil society concerned with Jerusalem and the Old City.

### The Power of Creative Thinking

Without creative thinking, this initiative will get nowhere. Many tend to doubt there are any ideas that go beyond accepted conventions; as a result, they either resentfully or reluctantly accept the status quo or, depending on their politics, rejoice in it. Demonstrating the power of creative thinking, Dany Seideman, a Jerusalem lawyer, has proposed an idea that should satisfy those who believe in a viable two-state solution, with two capitals in Jerusalem.

In this scenario, which responds to the specific physical needs of Palestinians and Israelis, as well as to their religious, symbolic and heritage requirements, the Palestinian Embassy in Israel could be housed on the premises of the former Palace Hotel in West Jerusalem. The building currently serves as the headquarters of the Israeli Ministry of Trade and Industry. During the British Mandate, the Palace Hotel was erected in the centre of the new city to serve as the Palestinian equivalent of the Jewish-favored King David. It is an impressive structure with a distinct Palestinian provenance, which may symbolically respond to the Palestinian need for a presence in the west of the city, where many of the Palestinian elite lived before Israeli independence.

The Israeli Embassy would be located in the building currently housing the Seven Arches Hotel on the Mount of Olives in the eastern part of the city. This is a prestigious location, even though it lacks the architectural sophistication of the old Palace Hotel building. It is adjacent to the Jewish cemetery on the Mount, which has particular relevance in Jewish ritual and observance. If the cemetery were under the jurisdiction of the Israeli Embassy, Jews worldwide would be reassured it would be protected and maintained. At the same time, the Mamilla Muslim cemetery, which is directly opposite the Palace Hotel, could be restored from its current neglect and the Palestinian Embassy property expanded to embrace it, thereby creating a fair-minded balance.

### VI The Economics of Peace

Peace would have significant economic implications, not just for the Old City, but for the entire Jerusalem conurbation as well. In fact, when considering the economics of peace, no one we spoke with advocated looking at the Old City in isolation — and we have not attempted to do so here.

Our research associates believe that a sustainable peace would have both positive and negative economic impacts on the Old City, and throughout the Jerusalem conurbation and beyond. As described below, the proposals made in this discussion document would have a number of important economic implications.

#### - Job Creation in the Jerusalem Conurbation

General estimates indicate that if our suggestions for engaging the international community were adopted, more than 9,000 jobs would be created. Approximately two thirds of these jobs would go to local residents, with each new job, in turn, fuelling the local economy through the consumption of goods and services. Using a multiplier of two, more than 18,000 jobs would be created in the service sector. Under this scenario, the total number of new jobs for the local population would be close to 24,000, an approximate 10 percent increase in employment. New jobs as a result of construction have not been factored into these estimates, as such a boom could be less predictable in duration.

Without taking into account specific actions to increase international financial support for Jerusalem, we believe that a stable situation in the conurbation would greatly increase tourism, creating an estimated 13,500 new jobs directly and 27,000 new jobs indirectly (again, using a multiplier of two). This represents a 12 to 14 percent increase over the number of people currently employed in Jerusalem. The table below shows the impact on employment of both increased international involvement and a stable environment in Jerusalem.

#### Estimated Direct and Indirect Impact on Employment

Sources of new jobs	Increase in foreign workers	Direct increase in local workers	Increase in local service workers	Total number of local jobs created	Total number of jobs created
<b>A. International Involvement</b>					
New and relocated embassies	3,000	5,000	18,000	23,000	26,000
Old City administration	350	1,500	3,700	5,550	5,900
International organizations	100	150	500	650	750
<i>Subtotal</i>	<i>3,450</i>	<i>6,650</i>	<i>22,200</i>	<i>29,200</i>	<i>32,650</i>
<b>B. Stability in Jerusalem</b>					
Increased tourism		13,500	27,000	40,500	40,500
<b>Total new jobs</b>	<b>3,450</b>	<b>20,150</b>	<b>49,200</b>	<b>69,700</b>	<b>73,150</b>



### - Diplomatic Representation

Currently, some 85 countries have diplomatic representation in Israel, Palestine, or both. With peace, foreign governments would likely replicate their missions in the two capitals in Jerusalem because of the political sensitivities involved, as is the case in Rome with the Vatican and the Quirinale Palace. A solution to the present conflict would also lead the way for other countries to establish representation in either or both countries, including members of the Arab League, other Muslim countries, and perhaps additional countries in Africa, Asia and the Americas. Based on a conservative estimate of about 150 embassies in the Jerusalem conurbation, we anticipate more than 3,000 jobs would be created for foreigners posted there (assuming an average of 20 persons per embassy), which would then result in an additional 5,000 jobs (an average of 33 persons per embassy) for local inhabitants.

### - Old City Administration

With the creation of special status, the Old City would require a separate labour force, both local and foreign, to support its administration. The size of the governance structure would depend on the functions taken up by the administration, which could range from providing all services to the Old City, to somewhat more limited functions, with the municipalities of Yerushalayim and Al-Quds providing specific services to their own nationals, such as health care and education.

Our researchers estimated the size of the administration's work force, based on the assumption that certain services would be outsourced (for example, health and education), while the Old City administration itself would be responsible for others (for example, security, planning, supervision and inspection). In this estimate, a total of 1,750 persons would be employed in the administration — accounting for 20 percent of all public employment. Some 250 foreign workers would work there, either permanently or for an interim period, depending on the terms of their agreement. The remaining 1,500 employees would be local, with 1,000 in existing jobs in the Old City or the Jerusalem municipality, and 500 in jobs newly created as a result of special status arrangements.

### - International Organization Bureau

One scenario suggests the relocation of an international organization to greater Jerusalem as an expression of the international community's

support. The cultural bureau of UNESCO is one organization that seems appropriate for such a role. Under this “minimalist” scenario, 250 employees, consisting of 100 foreign and 150 local workers, would live in Jerusalem. The bureau would be a magnet for activity; with meetings, committee gatherings and conferences held regularly, it is likely that thousands would visit Jerusalem each year, providing further economic spin-offs.

### - Tourism

According to our researchers, tourism in the Holy Land could increase by between three and four million people each year under peaceful conditions. The Israeli Ministry of Tourism calculates that each additional million tourists creates 45,000 jobs. Using 20 percent as a measure of Jerusalem's share of the tourism labour force, and assuming the number of tourists increased from 1.5 million in 2004 to three million, that would mean a total of 13,500 new jobs for the greater Jerusalem area. If the number of tourists were to increase to four million, 22,500 jobs would be created. For the purposes of this discussion document, we have used the more conservative estimate of three million tourists annually, and the corresponding number of 13,500 new jobs.

### - Land and Real Estate

The transfer of embassies and international organizations would create demands on the reservoir of land in Jerusalem and the surrounding area. At present, there is a limited amount of open land available for development within the Israeli-defined municipal boundaries. As well, environmental and local community groups have been engaged in efforts to preserve green space within the city. With the entry of embassies and international organizations there would be even more competition for space. One option for addressing this issue is the creation of embassy areas located within the boundaries of Yerushalayim and Al-Quds.

As Jerusalem is unable to meet the requirements of its population even now, the increased demand for housing in Jerusalem would be felt throughout the market. Property is more expensive than in Tel Aviv, and Jerusalem residents are already moving to less expensive towns and villages on the edges of the conurbation. A combination of higher wages and increased demand would inevitably contribute to inflated housing prices in the city. Planning efforts to address housing issues



would require a great deal of work, as well as imagination, determination, and sensitivity to cultural heritage.

#### - Infrastructure

Although Jerusalem's infrastructure has undergone rapid development, the changes described above would require additional investment, including in the Old City. It is likely that much of the existing infrastructure would need to be redesigned — including, for example:

- *The existing and planned road and rail system.* Currently under development, the system is intended to serve a united city under Israeli rule, and provide Jewish sections of the conurbation with greater access. However, benefits to Arab sections will be limited, and many we spoke with strongly believe these shortcomings have to be addressed. Many also anticipate the need to develop longitudinal highways or freeways that would link Al-Quds with Ramallah in the north, and Bethlehem in the south and beyond.
- *The city's airport.* Closed in 2000 due to tensions in Jerusalem, the airport is located in the Atarot/Kalandia area in the north of the city. Although the challenges of ownership, control and security would have to be resolved first, its reopening could provide healthy competition for the Ben-Gurion International Airport in Israel and Amman's Queen Alia International Airport, further benefiting the Old City, Yerushalayim and Al-Quds.
- *Management of effluents.* Poor water management — exacerbated by population growth and increased consumption — has already created a serious sanitation and environmental hazard. As these pressures would increase in the scenarios we have outlined, Israel and Palestine would need to cooperate on the development of new systems, including for the Old City.
- *Electric grid and water distribution system.* Increased demands would require changes to both of these systems.
- *Security barrier.* Almost everyone we interviewed felt that the Israeli security barrier currently under construction would have to be substantially modified or dismantled entirely, regardless of what arrangements are made respecting the border between the two capitals. At the same time, however, any control

mechanisms that are eventually put in place between the two capitals would need to reflect the obligations of the peace agreement between the two parties.

#### Planning and Development Frameworks

Obviously, considerable advance planning is required to deal with work force and other changes that peace would bring. Following are some of the issues to be addressed in the process.

- The local population would need to be prepared — culturally, psychologically, and technically — for changes in roles and activities.
- Mechanisms must be found to ensure fair and equitable Palestinian participation in the economy.
- Existing detailed plans were developed by the Israelis and are therefore unilateral.
- Current plans are not based on assumptions of the increased population a special regime would bring, the type of population increase expected, or the division of the Jerusalem conurbation between Israel, Palestine and the Old City.
- Planning tools and ordinances would be needed to deal with the numerous complex and interrelated issues affecting the Old City and beyond.
- Infrastructure development, including water supply and sewage, electricity, communication and transportation, would require immediate attention.

#### VII Sovereignty Revisited

A sovereignty “first and only” approach will make agreement between Palestinians and Israelis more, not less, difficult, as it will focus on power and control. We have attempted to demonstrate that the needs of stakeholders can be better addressed through a process of desegregation, examination and creativity. We have also described an overarching framework, a special regime designed to ensure that these needs are managed equitably, effectively and comprehensively.

Our goal has been to expand discussion beyond political and symbolic needs, to address the social, economic, security and symbolic

requirements of all key stakeholders, including residents, Israelis and Palestinians living outside the Old City, Jews, Muslims and Christians outside of Israel and Palestine, and members of the international community. We believe this type of comprehensive and inclusive approach will greatly increase the likelihood of agreement on the Old City.

If stakeholders' needs can indeed be met through a special regime, where does that leave the question of sovereignty? We believe that if the parties ultimately wish to pursue a durable agreement on the Old City, the arrangements they hope to establish through sovereignty will in the end be met by many of the needs-based findings, without precluding sovereignty arrangements when paradigms have changed. Our view is that an exclusionary focus on sovereignty now could have serious negative consequences for the governance of the Old City, and therefore for Israelis, Palestinians, the region and beyond. Exclusion precludes legitimacy, equity and stability.

There will be many who will disagree, however. For some Israelis, "sovereignty" — in the sense of full control — remains nonnegotiable. For their part, many Palestinians believe they must assert sovereignty; some may still be at a stage where full authority is a *sine qua non* for agreement because their own lack of such control means Israeli control. We believe the situation to be even more complex. We have been told that the involvement of other Arab and Muslim states in the Haram al-Sharif solution is necessary for the parties to move ahead, especially the Palestinians. The strong links between sovereignty in the Old City and the status of the Haram al-Sharif/Temple Mount cannot be overstated.

In fact, a sovereignty-first approach may be the most practical and straightforward option for a broader peace agreement because it picks up where Camp David and Taba left off, and where the Geneva Accord has gone. It has the virtue of being more comfortable ground for the two negotiating authorities because it is familiar. Indeed, this approach is necessary for many matters in contention under a two-state paradigm. However, the Old City is the exception because of the parties' mutual attachment to the Haram al-Sharif and the Temple Mount, which compose one and the same entity, and are physically inseparable.

Although we strongly advocate a needs-based approach to resolving the dilemma of the Old City, it is incumbent to define what we believe

to be the most workable sovereignty arrangement, including for the implementation of a special regime. We propose that the parties either agree on sovereignty for the Quarters and Holy Sites, or reserve their decision for future negotiation. If sovereignty is agreed *ab initio*, specific functional elements could then be entrusted to a special regime on an interim basis, after which the sovereign parties would fully undertake sovereign responsibilities, having come to agreement between themselves on the mechanisms for doing so.

With the agreement of Israel and a Palestinian state, the ideas presented above relating to governance and security can be applied to this scenario. They may also be applied in a circumstance where sovereignty is less defined, but interim authority is clearly delegated to the special regime by Israel and a Palestinian state. In this context, we suggest that the special regime temporarily exercise specific functions that would otherwise accrue to Israel and Palestine.

#### For Consideration:

If sovereignty requires resolution a priori, we present the following questions and ideas for consideration.

- Would Palestinians recognize Jewish attachments regarding the Holy Sites under their sovereignty? This may be the key to turning Palestinian sovereignty over the Haram al-Sharif/Temple Mount into a starting point for understanding, cooperation and stability.
- Would some Israelis find it acceptable to have Muslim sovereignty over the Haram al-Sharif, together with a religious council for managing religious affairs? At Taba, it was proposed that the Haram al-Sharif be put under interim international sovereignty of the Security Council Permanent Five, plus Morocco, with the Palestinians as custodians under an overriding Israeli regime.
- Would forgoing a sovereignty agreement on the Haram al-Sharif/Temple Mount permit its management as a Holy Site without direct political links or the provision of extra-territoriality for all Holy Sites in the Old City?

## VIII Moving Forward

The strategies set out in this paper identify possible new directions to meet the needs of Palestinians, Israelis and other concerned parties. Achieving these goals, particularly agreement by the two sides to special arrangements for the Old City, will be a very difficult task. But the core issues will not simply go away; they are too deeply ingrained in individual and collective mindsets. It is our view that policy makers have a responsibility to explore creative options for addressing them. To do otherwise will condemn entire populations and future generations to violence, and social and economic hardship.

We acknowledge that governance structures alone are not sufficient to ground perceptions about the Old City and its Holy Sites. A special regime does not mean the end of fear. Even under peace accords, it is likely that an atmosphere of tension and distrust will continue, at least initially. Strong emotions like these will take decades to reconcile, but we must begin the difficult process of changing mindsets now. How else will it be possible to reach agreement?

### A. Guiding the Way

We believe that the ultimate success of the approach outlined in this discussion document depends on the commitment of Israelis, Palestinians and the international community to a process that:

*Is needs-based and sensitive to the current situation*, in that it:

- reflects sensitivity to historical and religious narratives;
- aims to preserve current practices and arrangements that work - in particular, the religious status quo; and
- attempts to address the needs of stakeholders, thus diminishing the likelihood of conflict due to unmet individual and collective needs, especially political and symbolic needs.

*Values partnerships, engagement and public education*, with emphasis on:

- local partnerships that address the unique needs of both Israeli and Palestinian communities;
- involvement of civil society, academic and educational communities;
- engagement of key external policy makers acceptable to both sides; and

- pursuit of sustained public education about the role of Jerusalem, Jerusalemites, Israelis and Palestinians as custodians of the Old City.

*Is comprehensive, forward-looking, integrated* and:

- works to improve conditions on the ground, while ensuring the principles of equity and dignity are respected;
- works to ensure that worthwhile approaches become templates for future negotiators;
- considers the role of international law and the legal consequences of any options developed;
- devotes due attention to the interests of external stakeholders; and
- diminishes the culture of demonization by recognizing the needs of all sides.

### B. A Modular Process

Working within the broad guidelines set out above, our aim is to launch processes in identified sectors or “modules,” in which both Israelis and Palestinians participate, with international facilitators, in an effort to resolve some of the pressing issues currently facing the Old City.

These modules would address a range of identified needs, including governance, economic, social, educational, symbolic, security, legal, and commercial needs. At minimum, they must involve both political and heritage narratives, the core issue of sharing sacred space, and the “unpacking” of religious and symbolic needs. Success will depend on whether both sides believe they can live out their heritage and traditions, and ensure a promising future for themselves, without the tight box of absolute territorial sovereignty.

Research is one avenue for moving forward, but it is not enough. Indeed, many previous proposals concerning Jerusalem have foundered because they lacked realistic strategies for putting recommendations into effect. We envision a flexible and comprehensive process that weaves together in-depth studies, active projects on the ground, advocacy and communication to disseminate findings and perspectives, and an over-arching framework to coordinate and guide the process.

Each module could proceed at a different speed so that no single module need arrest progress in others. Although each would operate independently, they would often be tied to and influence each other. Work could advance where and when circumstances permit, depending on political sensitivities, resources, interest and the situation on the ground. This kind of flexibility will be particularly important in the early stages of the process, to encourage a sustainable atmosphere of engagement and cooperation.

A critical element of the modules would be the development of “facilitation groups,” initially composed of representatives from international, non-governmental and academic institutions, as well as the private sector. Weighted in favour of Palestinians and Israelis, these groups would undertake research and pursue joint Israeli-Palestinian projects to meet identified needs, support the development of special arrangements for the Old City, and open minds to a variety of non-threatening options. The pragmatic engagement of fair-minded external partners, acceptable to Israelis and Palestinians, who can act as catalysts in developing conceptual frameworks, workable alternatives, and on-the-ground assistance could be critical for success.

We propose development of a work plan based on this discussion document. Once the work plan is agreed to, the initiative could be managed by a secretariat responsible for identifying and coordinating research and projects, activating modules in direct partnership with and between Israelis and Palestinians, fund-raising, maintaining and enlarging networks, and pursuing ongoing advocacy of policy options with publics and decision makers. Often missing in Track II efforts, an information and advocacy process is essential for building critical mass and influence.

#### For Consideration:

That said, a number of dilemmas and tensions present themselves and should be considered in further developing and refining the process:

- *Division or integration?* Is it better to proceed towards hard divisions (as the Geneva Accord suggests) before attempting any

integration or joint activities because the parties are such hardened enemies? Some believe that too much goodwill has been assumed in the past, with dire results, as during the Oslo process.

- *Status quo or a new arrangement?* What projects and studies can be pursued without prejudicing future negotiations? This is a double-edged sword: Palestinians will not wish to legitimize the status quo of Israeli control; Israelis will not agree to steps that assume diminishing authority. Finding the right space and timing for projects will be a complex task. In the tough politics of the Middle East, many will be suspicious about the motives and biases of international engagement, and both sides will likely attempt to sway intervention to their advantage.

Our Palestinian contacts were concerned to avoid another open-ended process like Oslo that, in their view, facilitated Israeli settlement expansion and control over Jerusalem. To mitigate these concerns — and those of the Israelis — the parameters of the Old City initiative proposed here, including its guiding principles, would have to be clearly set out and agreed to.

- *Local versus international?* The issue of which needs are best met by local action and which require degrees of international engagement will have to be clarified as work proceeds.
- *Where to begin?* Which areas should be engaged immediately and which are best left for the longer term? Some argue that it is best to agree first on the end point, for example sovereignty, before beginning the education process on more intangible issues such as narrative. Others will argue as forcefully that there can be no agreement before the appetite for exclusivity is diminished through, for example, developing codes of conduct. The proper balance and effectiveness between these approaches will necessarily come from experience and experimentation.
- *Influencing the public debate?* Leaders on both sides use the symbols of Jerusalem to rally their people and gain public legitimacy. They may be loath to give that up, even with the prospect of greater rewards at hand. Affecting the public debate on the Old City may require engaging international actors to weigh in, increasing public awareness to sway leaders' positions,

lobbying, or even educating leaders directly. The advocacy portion of this initiative must be developed with great care, as agreement and implementation will require much political will, courage and personal strength.

- *How to address two societies?* Any process must take into account that Israeli and Palestinian societies are different and will not respond identically to challenges, proceeding to their answers at differing speeds. Flexibility will be required.

### C. Public Education

Educational institutions and the media can be important pipelines for effecting change and bringing forward new ideas. Many on both sides are mired in mythologies about the other, and lacking in knowledge about Jerusalem, and its inhabitants and symbolism. This affects the positions that political leaders on each side can take, resulting in unbridgeable gulfs between them. If these myths and assumptions are not addressed, leaders and negotiators may once again come to the brink of compromise and step back, or be rebuffed by surges of public opinion.

Many concluded that an active education process about Jerusalem — its history, current urban reality, and meaning to both sides — is essential in ensuring that Palestinians and Israelis will be ready to accept the compromises required for agreement on final status. This requires direct exposure of Israelis to Palestinian Jerusalem, of Palestinians to Jewish religious history and heritage in the Old City, and of Israelis to their own national feelings about the city and its heritage, as well as to the overlapping claims of Muslims and Christians.

International interest in the Old City, including Western and Christian perspectives, is often subsumed within the polarized Israeli-Palestinian debate. The importance of Jerusalem to Christians and to Western civilization may be an issue that both Palestinians and Israelis need to better understand. As well, a process aimed at enhancing awareness of tribalism, which underlies much of the broader conflict and influences decision making and public reaction to events in Jerusalem, may help all parties involved achieve greater mutual understanding.

### D. A First Step

Our research over the past two years has acquainted us with the extensive body of high-quality work by academics and experts on the question of Jerusalem, its Holy Sites and its Old City. What is lacking

is adequate dissemination of this material, a common understanding of the issues, and a framing of needs that can support action.

The experience of Camp David and Taba underscores the price to be paid when negotiations are undertaken without sufficient preparation and without serious efforts to understand the real needs of “the other” when issues central to religious and national identity are at stake. That experience also demonstrates the cardinal importance of education and preparation of the public prior to negotiations — complex, fraught and difficult though this may be.

The Camp David and Taba experiences also demonstrate the difficulty that Track II exercises have had in influencing policy outcomes given the absence of mechanisms to ensure that the insights generated in unofficial circles reach the desks of, and are absorbed by, policy makers, potential negotiators and leaders.

Sooner or later it will be necessary for Israeli and Palestinian negotiators to return to the table in an attempt to resolve final status issues: unilateral action, even so-called “coordinated unilateral action” can move us in the direction of peace, but the hard issues, including the future of the Old City, can only be resolved through negotiation and agreement.

We hope to encourage movement to the negotiating table by creating a network involving Israelis, Palestinians and serious third parties to:

- contribute to the creation and dissemination of knowledge about the Old City of Jerusalem and the issues that need to be addressed if negotiations are to succeed;
- “push the envelope” in proposing creative solutions to the issues that have eluded resolution to date;
- promote public education and engagement designed to advance a more empathetic understanding of the legitimate needs and aspirations of both sides; and
- promote practical projects aimed at improving living conditions within the Old City, and enhancing its potential as a major contributor to Israeli and Palestinian well-being.

The intent of this document is to encourage and facilitate this process. If it provokes both debate and action towards these ends, then the first step in the process will have been taken.



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Wasserstein, Bernard. *Divided Jerusalem: The Struggle for the Holy City*. New Haven: Yale University Press, 2001.

## Persons Consulted

Name	Affiliation
Abdul Hadi, Mahdi F	Head, Palestinian Academic Society for the Study of International Affairs
Aboul Gheit, Ahemed	Minister of Foreign Affairs, Egypt
Abu Al-Assal, Riah	Bishop, Anglican Diocese of Jerusalem and the Holy Land
Abu Asla, Hassan	former Jerusalem city planner
Abu Ghazaleh, Rana	Program Manager, International Peace and Cooperation Center
Abu Hamed, Fuad	Director, Health Clinic, Beit Safafa
Abu Odeh, Adnan S.	former Court Minister to King Hussein of Jordan
Abu Rumeileh, Samih	Director, Kafr Aqab Development Corporation
Abu Sway, Mustafa	Associate Professor of Philosophy and Islamic Studies and Director of the Islamic Research Center, Al-Quds University
Abu Zayyad, Ziad	Member, Palestinian Legislative Council
Adams, Paul	Senior Program Director, National Democratic Institute for International Affairs
Aheimer, Ora	Director, Jerusalem Institute for Israel Studies
Al Darkazally, Anwar	Legal Advisor, Negotiation Affairs Department, Palestine Liberation Organisation
Al Qaq, Zakaria	Al Quds University
Alami, Hani	Community Leader, Anata
Al-Hassan, Hani	former President's Consultant for National Security, Palestinian National Authority; Member, Fatah Central Committee
Al-Ju'beh, Nazmi	Director, Riwaq, Center for Architectural Conservation
Alkopher, Tal Dingott	Halbert Exchange Post Doctoral Fellow, Munk Centre, University of Toronto
Al-Rantawi, Oraib	General Director, Al-Quds Center for Political Studies
Al-Zahawie, Wissam	Secretary General, Multaqa, Arab Thought Forum
Archbishop Aristarchos	General Secretary, Greek Orthodox Patriarchate in Jerusalem
Armstrong, Karen	Author
Ashrawi, Hanan	Secretary General, Miftah, Palestinian Initiative for the Promotion of Global Dialogue and Democracy
Aust, Anthony	Visiting Professor, London School of Economics and at University College, London

## Persons Consulted

Name	Affiliation
Bahdi, Reem	Professor of Law, University of Windsor
Balha, Ahmad	Member, Israel Public Council
Banaji, Yael	Project Director, Economic Cooperation Foundation
Barghouthi, Mustafa	Director, Health, Development, Information and Policy Institute
Barsalou, Judy	Vice President, Grant Program, United States Institute of Peace
Bar-Siman-Tov, Yaacov	Head, Jerusalem Institute for Israel Studies
Baskin, Gershon	Co-Director, Israel/Palestine Center for Research and Information
Beilin, Yossi	former Minister of Justice; former Deputy Foreign Minister of Foreign Affairs; Head of Geneva Accord Initiative, Israel
Bell, William	Senior Advocacy Officer for Palestinian Territories, Christian Aid
Ben Ami, Shlomo	former Foreign Minister of Israel now with the Toledo International Centre for Peace, Spain
Bin Talal, Hassan	Chairman, Royal Committee for Jerusalem Affairs; Moderator, The World Conference on Religion and Peace
Bouhnick, Sebastian	Resident Fellow, Massey College, University of Toronto
Bracha, Karen Lee	Architect
Breger, Marshall	Professor of Law, Columbus School of Law, Catholic University of America
Brighton, Shane	Associate Fellow, New Security Issues Programme, Royal Institute for International Affairs, Chatham House
Buttu, Diana	Legal Advisor, Negotiations Support Unit, Palestine Liberation Organisation
Cameron, Christina	Director General, Historic Sites & Monuments Board of Canada, Parks Canada
Campbell, Colm	Professor of Law, University of Ulster Associate Director, Transitional Justice Institute
Cantin, Gisele	Director, International Affairs, Parks Canada
Chouaib, Mazen	Director, National Council on Canada Arab Relations
Cohen, Moshe	Advisor, Municipality of Jerusalem
Cooper, David	Ministry of Defence, UK

## Persons Consulted

Name	Affiliation
Dumper, Michael	Reader in Middle East Politics, Associate Dean, Faculty of Postgraduate Studies, School of Historical, Political and Sociological Studies, University of Exeter
Eldar, Akiva	Journalist, <i>Ha'aretz</i> Newspaper
Fogel, Shimon	National Director, Canada-Israel Committee
Galili, Lily	Journalist, <i>Ha'aretz</i> Newspaper
Gil, Amos	Executive Director, Ir Amim
Gillis, Jonathan	Lawyer
Glass, Joseph	former Director, Halbert Centre for Canadian Studies, Hebrew University
Gold, Dore	President, Jerusalem Center for Public Affairs
Gold, Miri	Rabbis for Human Rights
Goldberg, David	Director of Research, Canada-Israel Committee
Gonen, Amiram	Director, Florsheimer Institute for Policy Studies
Greenfield, Yehuda	Architect
Halayka, Muhammed	Manager, Jerusalem Department, Palestinian Housing Council
Hamarneh, Mustapha B.	Director, Center for Strategic Studies, University of Jordan
Haniya, Akram	Chief Editor, <i>Al Ayyam Newspaper</i>
Hartman, Donniel	Co-Director, Shalom Hartman Institute
Hassassian, Manuel	Professor of Political Science, University of Bethlehem
Hasson, Shlomo	Deputy Director, Florsheimer Institute for Policy Studies
Hirshfeld, Yair	Director General, Economic Cooperation Foundation
Hollis, Rosemary	Director of Research, Royal Institute for International Affairs
Husseini, Adnan	Director, Islamic Waqf, Jerusalem
Inbar, Efraim	Director, Begin-Sadat Center for Strategic Studies, Bar Ilan University
Inbari, Pinhas	Director, Arnold Neustadter Institute for Peace Implementation
Indyk, Martin	Director, Saban Center, Brookings Institution
Kaary, Shalad	Researcher, International Peace and Cooperation Center
Kassassiyeh, Issa	Jerusalemite
Khouri, Raja	former President, Canadian Arab Federation

## Persons Consulted

Name	Affiliation
Kimhi, Israel	Member, Jerusalem Institute for Israel Studies
Klein, Menachem	Professor of Political Science, Bar Ilan University
Kreimer, Sarah	Associate Director, Ir Amim
Kurtzer, Dan	former American Ambassador to Israel and Egypt
Landy, Keith	former President, Canadian Jewish Congress
Lapidoth, Ruth	Greenblatt Professor Emeritus, Faculty of Law, Hebrew University
Lasensky, Scott	Program Officer, United States Institute of Peace
Leichman, David	Executive Director, Pinat Shorashim Seminar Center
Lord Levy	House of Lords, UK
Makovsky, Alan	Senior Staff Member, Committee on International Relations, US House of Representatives
Makovsky, David	Director, Project on the Middle East Peace Process, Washington Institute for Near East Policy
Malki, Riad	General Director, Panorama, Palestinian Center for the Dissemination of Democracy and Community Development
Mango, Ahmad	Advisor to HRH Prince Hassan Bin Talal
Manoogian, Torkom	Armenian Orthodox Patriarch
Marks, John	President & CEO, Search for Common Ground
McAuslan, Patrick	Professor, Faculty of Law, University of London
Meidan-Shani, Pini	former Foreign Policy Advisor to Prime Minister Ehud Barak
Merhav, Reuven	Senior Fellow, Jerusalem Institute for Israel Studies
Meridor, Dan	former Israeli Minister of Justice.
Michaels, Paul	Director of Communications, Canada-Israel Committee
Montell, Jessica	Executive Director, B'tselem, Israeli Information Center for Human Rights in the Occupied Territories
Mortimer, Andrew	Ministry of Defence, UK
Musa, Amer	Secretary General, The Arab League
Nasrallah, Rami	Head, International Peace and Cooperation Center

## Persons Consulted

Name	Affiliation
Nassar, Issam	Associate Director, Institute for Jerusalem Studies
Pelletreau, Pamela	former Co-Director, Search for Common Ground in the Middle East
Pelletreau, Robert	former American Deputy Assistant Secretary of State; former U.S. Ambassador to Egypt, Tunisia and Bahrain; former Co-Director, Search for Common Ground in the Middle East
Peters, Joel	Academic Director, Centre for the Study of European Politics and Society, Ben Gurion University
Plett, Barbara	former Middle East Correspondent, BBC
Puech, Emile	Ecole Biblique Archeologique Francaise
Pullan, Wendy	Senior Lecturer, Head of Graduate Studies, Cambridge University
Qupty, Mazen	Lawyer, Jerusalem
Rabbani, Mouin	Senior Analyst, Middle East, International Crisis Group
Ramon, Amnon	Member of Jerusalem Institute for Israel Studies
Reilly, James	Professor of Middle East History, Department of Near and Middle Eastern Civilizations, University of Toronto
Reiter, Yitzhak	Director, Truman Forum for Public Debate, Harry S. Truman Research Institute for the Advancement of Peace, Hebrew University
Riskin, Steve	Program Officer, United States Institute of Peace
Rosen, David	International Director of Interreligious Affairs of the American Jewish Committee
Rosen, Sharon	Senior Advisor, Search for Common Ground in the Middle East
Sabbah, Michael	Latin Patriarch, Latin Patriarchate, Jerusalem
Sabri, Ekrima Sa'id	Grand Mufti of Jerusalem
Sambi, Pietro	Apostolic Nuncio, Jerusalem
Sanduka, Yasir	Professor, Beit Berl College
Schwartz, Doubi	Project Director, Economic Cooperation Foundation
Scobbie, Iain	Professor of Law, School of Oriental and African Studies
Seideman, Daniel	Director, Ir Amim
Shachar, Arie	Director, Institute of Urban and Regional Studies, Hebrew University

## Persons Consulted

Name	Affiliation
Sharkawi, Roula	Director of Communications, Canadian Arab Federation
Sher, Gilead	former Chief of Staff to Prime Minister Ehud Barak; lawyer
Shikaki, Khalil	Director, Palestinian Center for Policy and Survey Research
Shlaim, Avi	Professor of International Relations, St. Antony's College, Oxford University
Sidahmed, Abdel Salem	Professor of Political Science, University of Windsor, former Director, Middle East Program, Amnesty International
Silver, Eric	Jerusalem correspondent, <i>The Jewish Chronicle</i> and <i>The Tablet</i>
Silver, Shoel	President, United Israel Appeal Federations Canada, Canada-Israel Committee
Susser, Asher	Head, Moshe Dayan Center for Middle East and African Studies, Tel Aviv University
Tamari, Salim	Director, Institute for Jerusalem Studies
Tesh, John	Fellow, Royal Institute of International Affairs, Chatham House
Timotheous	Bishop, former Secretary General of the Greek Orthodox Patriarchate in Jerusalem
Tantawi, Muhammad Sayyed	Grand Sheikh, Al'Azhar Mosque
Touqan, Shadia	Director, Old City of Jerusalem Revitalization Program, Welfare Association
Touval, Yonatan	Policy Advisor to Yossi Beilin
Turner, Michael	Chairman, Israel World Heritage Committee, Israel National Commission for UNESCO
Usher, Graham	Contributing Editor, <i>Middle East International</i>
Walker, Edward (Ned) S., Jr.	President & CEO, Middle East Institute
Weiman-Kelman, Levi	Rabbis for Human Rights
Weinberg, Herbert	Rabbis for Human Rights
White, Andrew	Canon, Coventry Cathedral; Director of the International Centre for Reconciliation
Yaacov, Garb	Researcher, Florsheimer Institute for Policy Studies
Younan, Michael	Senior Advisor, International Peace and Cooperation Center
Zinn, Barry Michael	Advocate and Notary
Zuheaka, Ehab	Chief Architect & Projects Coordinator, Old City of Jerusalem Revitalization Program, Welfare Association



### Author Biographies

**Michael Bell** is Paul Martin Senior Scholar for International Diplomacy at the University of Windsor. He is concurrently Chair of the Donor Committee of the International Reconstruction Fund Facility for Iraq. He spent 36 years in the Canadian Department of Foreign Affairs, serving as Ambassador to Jordan (1987-90), Egypt (1994-98), and Israel (1990-92 and 1999-2003). He has also been Director of the Department's Middle East Relations Division (1983-87) and Director General for Central and Eastern Europe (1992-94).

**Michael J. Molloy** is a former senior official at the Canadian Department of Foreign Affairs and at Citizenship and Immigration Canada, with 35 years of experience in international affairs. His involvement in Middle East affairs includes his roles as Canada's Ambassador to Jordan (1996-2000), Special Coordinator for the Peace Process at Foreign Affairs (2000-03), and Advisor to the Canadian delegation to the Refugee Working Group in the peace process (1993-96). An expert in global refugee affairs (Czech crisis, Ugandan Asian expulsion, Indochinese refugees), Mr. Molloy has also served as Director General for Refugee Affairs at Immigration Canada (1989-92) and Director General, Citizenship and Immigration Operations in Ontario (1994-96).

**John Bell** is the Middle East Director for "Search for Common Ground," a global conflict resolution NGO. He is also a former Canadian and United Nations diplomat who served as a political officer at Canada's embassy in Cairo (1993-96), a member of Canada's delegation to the Refugee Working Group in the peace process (1992-93), Political Advisor to the Personal Representative of the Secretary-General of the United Nations for southern Lebanon (2000-01), advisor to the Canadian Government during the Iraq crisis (2002-03) and Consultant to the "International Crisis Group" on recent developments in Jerusalem (2004). Mr. Bell also has extensive experience in communications as spokesperson for the Canadian Department of Foreign Affairs (1996-97), and Communications Coordinator for the Signing Conference for the International Treaty to Ban Landmines (1997).

**Marketa Dolezel Evans** is the Executive Director of the Munk Centre for International Studies, University of Toronto and Adjunct Professor in the Department of Political Science, at the same institution. She received her Ph.D. in political science from the University of Toronto in 2002. Her dissertation examined the impact of external forces and domestic institutions on monetary policymaking in Czechoslovakia in the period 1918-1992. Dr. Evans holds a B.A. from the University of Toronto and an M.A. in International Relations from the Paul H. Nitze School of Advanced International Studies, Johns Hopkins University in Washington, D.C. She was employed in the private sector for more than ten years with a major Canadian financial institution, where her areas of specialization were project management, corporate lending and product management.