International Seminar
"Israel, Palestine, Jerusalem and the Holy Places. Past, present and future"

Madrid, 2nd June, 2010

Work document nº 6

Centre for Middle Eastern Studies

of the

Foundation for the Social Promotion of Culture

Report prepared by Jumana Trad
with the collaboration of Félix Sánchez and Blanca de Mesa

CONTENTS

EXECUTIVE SUMMARY AND SOME CONCLUSIONS

This seminar took place in the wake of one of the latest dramatic episodes of the long-running war between Israel and Palestine: the death of nine civil society activists who formed part of an international group of 500 people and a flotilla of eight boats which had left Turkey for the Gaza Strip with the aim of breaking the blockade imposed on this small and long-afflicted territory. Instead of making value judgments about the event, we simply want to stress that all the participants in this seminar (Palestinians, Israelis, French, Italians, British, Lebanese, Argentines, Canadians and Spaniards) resolved to carry on without altering the purpose of the seminar. From the CEMOFPSC team's point of view, the smooth running and high standard of the seminar clearly demonstrated the unflinching determination of all those present -Palestinians and Israelis in particular- to engage in the peaceful search for a just solution to the Israeli-Palestinian problem.

This seminar had been devised and planned by the late Israeli Ambassador Samuel Hadas, in collaboration with the Spanish Ambassador Pedro López Aguirrebengoa. Thus, the seminar began with a homage to Ambassador Hadas, during which think tank officials, fellow ambassadors and friends who had known him, worked with him and appreciated his many qualities paid tribute to a man of peace whose fair-mindedness and indefatigable capacity for dialogue characterised a tenacious determination to build the diplomatic relations of his country, Israel, with the rest of the world. Samuel Hadas, Jewish inheritor of the most deep-rooted values of Judaism, devoted to a heartfelt Zionism, passionately committed to truth and justice, constantly analysing the reality of the Middle East and always willing to cast a critical eye over his own country whenever necessary. He was also a great friend of Spain and a tireless, obliging worker, unfailingly polite, warm and friendly with everyone.

The seminar tackled the issue of Jerusalem, three times a Holy City. The "Jerusalem Question" is arguably the most controversial aspect of the Arab-Israeli conflict, the general consensus being that the Holy Places of the three religions have become a focal point for any peace initiative.

With the 1947 partition plan and the Israeli occupation of East Jerusalem in 1967, the question of the future of Jerusalem acquired three main

dimensions, which have become interwoven to create a Gordian knot: the religious dimension (status of the Holy Places), the international cultural dimension (Jerusalem recognised by UNESCO as a World Heritage Site), and the nationalist political-territorial dimension (both the State of Israel and the future State of Palestine claiming the city as its capital).

Resolution 181 of the UN General Assembly in 1947 recommended *corpus separatum* status, but this modality of internationalization for Jerusalem, along with the principle of territorial partition of Palestine, was rejected by Arab nationalism.

The new political reality created in 1948 was controlled by Jordan until it came under Israeli domination in 1967, but recent efforts to resolve the Israeli-Palestinian conflict have followed the principles of multilateralism and international legitimacy, and have distanced themselves from the earlier principle of internationalization of Jerusalem, adopted both by the Vatican and by the UN.

Therefore, the CEMOFPSC was keen to assemble the leading experts on the subject in the hope that the ongoing analysis of the question, once it has seeped through the different layers of society and into the public consciousness, will give rise to a solution of the Israeli-Palestinian conflict and a lasting improvement in the relations among the three monotheistic religions and their respective cultures.

The opening speech traced the geopolitical, historical, territorial and demographic evolution of the city and the management of the Holy Places from the 19th century to the present day, highlighting the changes and the territorial fragmentation imposed during each stage of its history. The conclusion was that Jerusalem is still a fragmented city, with a more pronounced segmentation from the ethnic, religious, economic and political point of view, which raised the question of whether this can be resolved.

The first round table analysed "The Meaning of Jerusalem for the Three Monotheistic Religions". All of them attach importance to the holy nature of the city, although in the case of Christianity there was a deterritorialization of the Holy Places which gave rise to a new meaning: the symbolic (rather than earthly) foreshadowing of "Celestial

Jerusalem". Harem al-Sharif / Temple Mount came to be seen as a source of dispute between Judaism and Islam. The spiritual significance of Jerusalem for Christians is based on two inseparable elements: the places associated with the life, teachings, crucifixion, burial and ascension of Christ, and the locus of the primitive community of Christians who lived in the city. The importance of maintaining its ecumenical and universal nature was also highlighted, this issue often having been a cause of national conflict among the different Christian Churches of East and West. Jerusalem is actually three cities at once: the holy city, the civil city of its inhabitants, and the political city. Negotiating sovereignty for an urban-civil society with citizens of two national states was deemed difficult, but not impossible; on the other hand, negotiating sovereignty over the holy places seems to be doomed to failure from the start. It was concluded that the legitimacy of the significance of the holiness of these places derives from the faith of believers and not from any other authority outside the religious sphere, whether it be national, political or scientific.

During the same round table, the participants emphasised:

1. The importance of respecting the rights acquired and treaties prior to the Partition, particularly in relation to the *Statu Quo* of the Holy Places of the three religions; the importance of separating the religious-cultural component from nationalist political demands and, above all, preventing the religious fundamentalists of the three monotheisms from laying claim to it.

2. The importance of guaranteeing an international agreement that offers security and protects the religious communities, especially the minority ones.

3. The importance of applying the fundamental right of freedom of worship and access to places of worship, respect for and protection of, in particular, the Holy Places, in the event of conflict and as a condition for true religious freedom.

4. The continuing predominance of the religious factor in the Middle East, whereas the West increasingly tends to ignore it. This explains why Kissinger's policy of "constructive ambiguity" and the

"Jerusalem last" theory, both adopted in all the official Israeli-Palestinian negotiation processes supported by the international community, have thwarted the numerous initiatives aimed at finding a solution to the status of Jerusalem and of the Holy Places.

In the second round table, "The Future Status of Jerusalem in the Context of a Peace Agreement between Palestinians and Israelis", three of the most important possible peace initiatives were presented by their main promoters: the 2003 Geneva Initiative and its annexes published last year; the Jerusalem Old City Initiative of the University of Windsor (Canada); and the Prospettive Mediterranee Initiative.

All the speakers highlighted the central importance of the Jerusalem question in their proposals in terms of finding a solution to the conflict, and Jerusalem was compared to a microcosm of conflicts.

For the promoter of the Geneva Initiative, the solution for the Jerusalem question should be based on the parameters laid down by former US President Clinton (2000) and on the Geneva initiative (2003) and its annexes (2009). In other words, the Jewish and Arab neighbourhoods of Jerusalem would be part of Israel and Palestine, respectively, as would the quarters of the Old City, except for the Jewish Quarter and the Wailing Wall, which would be part of Israel.

A multinational group in the Old City would handle disputes and security tensions between the two parties, while a Council made up of representatives of the Jewish, Muslim and Christian religions would act as a consultative body to the parties and promote inter-religious dialogue and understanding in the city. Finally, this initiative concluded that Jerusalem is holy to the followers of the three religions but is not owned by them. It has a cultural and symbolic importance for many non-religious people, and therefore the idea of putting Jerusalem under the sovereignty of God is irrelevant. In any case, it is necessary to bear in mind the complex situation created by the separation wall and the settlements in the city, with all that this entails when it comes to implementing any solution.

For the representative of the Jerusalem Old City Initiative (University of Toronto and University of Windsor), the Old City of Jerusalem within

its historic walls cannot be divided, and neither can the area which includes the Harem al-Sharif / Temple Mount. What is needed is an option beyond the Clinton Parameters that takes into consideration the parties involved in the conflict, the residents of the Old City, the Jerusalemites, the Israelis and Palestinians, the Jews, Muslims and Christians, as well as the political leaders. This initiative recommends the involvement of an effective third party whose authority is recognised by all the parties and by the international community, and which would administer this area and, in particular, any conflicts which may stem from key issues, such as access to the Holy Places, archaeological research, right of ownership and security. It provides for the creation of a single police force and inter-community liaison agents. Some of the potential obstacles to this solution would be: the question of sovereignty, the traditional distrust of the two parties (Israel and Palestine) toward the international community, and the arduous task of inspiring confidence, as well as the problems posed by the areas outside the wall, especially the Mount of Olives.

As regards the last initiative presented, that of Prospettive Mediterranee, emphasis was placed on the importance of capitalizing on the expression and specific meaning of the *statu quo* as a legal system to resolve the disputes between the communities of Jerusalem relating to the shrines and religious buildings defined as Holy Places; in other words, finding an individualized solution for each case of dispute with the aim of invoking certain well-defined rules and regulations concerning spaces and places.

The attendees also agreed that religious sentiments should not force the political negotiation process, which also covers the Jerusalem question, in which it is important to separate the political process from the religious safekeeping of the Holy Places. They also mentioned the need to act urgently; otherwise, any solution just recedes farther into the future. In this respect they stressed the role of the United States, the EU and the Arab States in terms of their efforts to keep the local stakeholders active so that compromises can be reached in the latest negotiations, which began in May 2010. An elegant solution imposed by the international community would be the only way to reach an agreement, after more than two decades of setbacks.

Finally, all those present agreed to continue to reflect on Jerusalem, a question which in itself transcends the particular conflict between Israelis and Palestinians, since it is an international question: Jerusalem affects the whole world. Jerusalem is a unique and global case that requires creative solutions. Peace is desirable and should continue to be the goal, and Jerusalem should not be a problem; it should not continue to be left until last.

1. INTRODUCTION

The seminar tackled the issue of Jerusalem, three times a Holy City. The "Jerusalem Question" is arguably the most controversial aspect of the Arab-Israeli conflict, the general consensus being that the Holy Places of the three religions have become a focal point for any peace initiative.

With the 1947 partition plan and the Israeli occupation of East Jerusalem in 1967, the question of the future of Jerusalem acquired three main dimensions, which have become interwoven to create a Gordian knot: the religious dimension (status of the Holy Places), the international cultural dimension (Jerusalem recognised by UNESCO as a World Heritage Site), and the nationalist political-territorial dimension (both the State of Israel and the future State of Palestine claiming the city as its capital).

Resolution 181 of the UN General Assembly in 1947 recommended *corpus separatum* status, but this modality of internationalization for Jerusalem, along with the principle of territorial partition of Palestine, was rejected by Arab nationalism.

The new political reality created in 1948 was controlled by Jordan until it came under Israeli domination in 1967, but recent efforts to resolve the Israeli-Palestinian conflict have followed the principles of multilateralism and international legitimacy, and have distanced themselves from the earlier principle of internationalization of Jerusalem, adopted both by the Vatican and by the UN.

Therefore, the CEMOFPSC was keen to assemble the leading experts on the subject in the hope that the ongoing analysis of the question, once it has seeped through the different layers of society and into the public consciousness, will give rise to a solution of the Israeli-Palestinian conflict and a lasting improvement in the relations between the three monotheistic religions and their respective cultures.

This 6th CEMOFPSC seminar, entitled "Israel, Palestine, Jerusalem and the Holy Places: Past, Present and Future", took place on June 2, 2010 at the Instituto de Empresa Business School in Madrid and was attended by: **Ms. Pilar Lara**, President of the Foundation for the Social Promotion of Culture (Fundación Promoción Social de la Cultura); **H. E. Mr. Raphael**

Schutz, Ambassador of the State of Israel in Spain; **Mr. Rauf Malki**, General Delegate of the Palestinian National Authority in Spain; **Mr. Santiago Iñiguez**, Dean of the IE Business School and Vice-Chancellor of the IE University; **H. E. Mr. Pedro López Aguirrebengoa**, Spanish Ambassador; **Mr. Diego de Ojeda**, General Director of Casa Sefarad-Israel; **Ms. Elvira Saint-Gerons**, Managing Director of the Three Cultures Foundation (Fundación Tres Culturas); **Prof. Henry Laurens**, Professor at the Collège de France; **Dr. Leonardo Senkman**, Academic Director of the Liwerant Center for the Study of Latin America, Spain, Portugal and their Jewish Communities, and Director of Academic Programs for Latin America at the International Center for University Teaching of Jewish Culture, Hebrew University of Jerusalem; **Mr. Mahdi Abdul-Hadi**, Director of PASSIA (Palestinian Academic Society for the Study of International Affairs); **Mr. Jacobo Israel Garzón**, President of the Spanish Federation of Jewish Communities (Federación Española de Comunidades Judías); **Dr. Yossi Beilin**, Israeli politician, former Knesset member and Justice Minister, leader of the Meretz party, signatory of the 2003 Geneva Accords, and founder of the Economic Cooperation Foundation; **H. E. Mr. Afif Safieh**, former Ambassador of the Palestinian National Authority in the Holy See and the United Kingdom; **Mr. John Bell**, Director of the Middle East and Mediterranean Programme at the Toledo International Centre for Peace; **Dr. Enrico Molinaro**, President of Prospettive Mediterranee and President of the Jerusalem Holy Places Center (JHPC); **H. E. Mr. José María Ferré de la Peña**, Ambassador at Large for Relations with Overseas Muslim Communities and Organizations, and former Spanish consul general in Jerusalem; **Mr. Nadim Shehadi**, Associate Fellow in the Middle East Programme at Chatham House and member of the Advisory Committee of the CEMOFPSC; **Ms. Jumana Trad**, member of the Executive Committee of the CEMOFPSC and Tribunes and Seminars at Casa Árabe-IEAM; **H. E. Mr. Giuseppe Cassini**, Ambassador of the Italian Republic.

2.   SIGNIFICANCE OF THE TOPIC

As it is well known, Jerusalem constitutes a topic of extreme historical, religious, political and socio-cultural complexity, a nerve centre disputed by the three great monotheistic religions of the "People of the Book": Jews, Christians and Muslims. It is a palpable historical fact that, since biblical times, religion has been an important factor in the Middle East, and more specifically in what we know as the Holy Land. It is equally true that, especially since the dawn of the Modern Era, the religious factor has frequently been used by many powers in the European and Mediterranean area as an element of and channel for their respective national interests. This of course has also depended, as in the case of Christianity, on the nature of the various Churches and their connection with the Nation States in which they have exerted most influence.

In his essay entitled "The Meaning of Jerusalem to Jews, Christians and Muslims", Prof. R.J. Zwi Werblowsky states that one of the ways in which people experienced and crystallized their sense of holiness was in their relation to space. There are holy lands, considered holy by virtue of the bond that binds human groups to the earth on which they live. There are also holy places where the divine became manifest, in one way or another, to the eyes of believers, and which were cherished and revered as concrete, tangible and defined testimonies to the reality of the divine, as it had become visible in experiences or traditions of theophanies, revelations, miracles, or the lives of saints. Likewise, there are holy cities that acquired their holiness as a result of historical circumstances, or cities that are holy because either in theory or in actual fact they were constructed so as to reflect cosmic reality ("Celestial Jerusalem").

All the variants converge in Jerusalem. The Jews called it "Jebus", "Salem", "Solyma", "Jeruschalim"; the Romans named it "Hierosalyma" and then "Alia Capitolina", after crushing the Jewish uprising and destroying the Temple in the year 70 D.C., determined as they were to erase all previous vestiges and dedicate it to the Roman gods; the Arabs called it "El Kuds" (holy city) or "Beit-el Mukkades"; and the Turks "Koudsi Cherif" (the Holy City). If "the Earth is a layer of superimposed shrouds", as a French saying claims with dramatic realism, then this certainly applies to Jerusalem, with its convulsive history of territorial

conquests and violent episodes, international political ambitions, nationalisms, religions and cultures. In their interrelations, the numerous parties involved have rarely acted with mutual respect for what necessarily ought to be shared, but more often than not with a narrow-minded vision focused exclusively on their own particular objectives.

Scholars tell us that since it was founded a few hundred years after the arrival of the Canaanites (around 2900 A.C.), and especially from its appearance in History (around 1800 A.C.) until modern times, Jerusalem has been besieged and taken on countless occasions, as many as 40 times in the last 4,000 years according to some, such as Chouraki. Jerusalem occupies a dominant position on the coastal plain and in the Jordan Valley, which have served as corridors for all the major invasions on the north-south axis that runs from Assyria and Babylonia to Egypt. However, its universality stems from the spiritual rather than the political, since except at the time of greatest Jewish power, under the reigns of David and Solomon, who built the Temple and made it their capital, it has nearly always been the headquarters of tributary powers rather than the capital of the great neighbouring empires, or of those who imposed their power in the area: Egypt, Assyria, Persia, Greece, Syria, Rome, Byzantium, Mamluks, Ottoman Turks, etc, all of whom settled there for reasons of strategic control.

On the other hand, Jerusalem's religious role has been far more decisive as a motive for conquest, as occurred with the Maccabees in 190 A.C, the Persians in 629, Umar ibn al-Khattab in 638, or Godfrey of Bouillon in 1099. In many cases, political and religious motives have gone hand in hand, hence the continual changes in its demographic, ethnic, social and religious structure, which in turn have given rise to its characteristic diversity of communities that make up the traditional distribution in the quarters of the Old City. This physiognomy of quarters emerged in the mid 15th century under the Mamluks: Christian, Muslim, Armenian and Jewish. During the Ottoman era, the situation did not undergo any major changes, except for the constant increase in the number of Jews from the mid 19th century onwards, this community having become the most conspicuous by the end of the century.

The Christian Holy Places, "rediscovered" by Saint Helen following the imposition of her rule in the area by the convert Emperor Constantine, provoked the Crusades as a response to the Islamic occupation led by

Caliph Umar (638), and have been the subject of lengthy debates, encyclicals and constantly questioned treatises, especially after the Turkish occupation of Sultan Selim I (1516) and during the subsequent Ottoman Empire. In the 18th century, they gave rise to the Capitulations of the Ottoman Empire, a series of bilateral treaties with the Christian powers that came to form the basis of the legal framework of the *statu quo* of the Holy Places (the last agreement with France being the Treaty of Mytilene, signed in 1903), which would be an important point of the League of Nations' negotiation of the British Mandate (1921).

The issue lay at the source of conflicts such as the Crimean War, and reappeared with the emergence of Zionist ambitions and the Palestine question, with the Balfour Declaration (1918) and during the British Mandate, which led to the Arab-Israeli war of 1948-49, following the failed international plans included in UNGA Resolution 181(II) of 27.11.1947 (Partition of Palestine into two States, one Jewish and one Arab, with economic union) and its envisaged temporary *Corpus Separatum* status for Jerusalem, accepted by Israel at the time of its creation (condition of Res. 181 for international recognition), rejected by the Arabs and, due to the war, by Israel.

The Holy City was divided between Israel and Jordan, with its two parts cut off from each other, and this was how it remained until the Six Day War, in which the eastern part of Jerusalem was occupied by Israel, whose "Basic Law: Jerusalem Capital of Israel", passed by the 9th Knesset on July 30, 1980, sanctioned its reunification as part of Israel, not recognised internationally and condemned by UN resolutions and other authorities such as the Arab League and the Organization of the Islamic Conference, the position of the latter being established at its summit in Lahore (February 22-24, 1974):

> "Jerusalem is the unique symbol of the encounter of Islam with other divine religious [...] (for this reason) Muslims alone can be the impartial and loyal guardians of Jerusalem: they are the only ones who believe, at the same time, in the three revealed religions which have their roots in Jerusalem".

The question of the future of Jerusalem has thus acquired three main dimensions, which in turn have become superimposed and created a

Gordian knot: the religious dimension (status of the exclusive Holy Places or those shared by the three monotheisms with biblical roots), the international cultural dimension (Jerusalem as UNESCO World Heritage Site), and the political-territorial dimension, which has three planes: international (UN and Regional Organizations); Arab-Israeli and Islamic-Israeli; and Israeli-Palestinian.

1. The future of the Holy Places in the broad sense, as a question of religious freedom, respect for fundamental human rights and the acquired rights of the various religions and communities that coexist there, with the maintenance of their *statu quo* where this specific expression of such historic rights applies. A merely bilateral treatment, as has been the object of regulation in Israeli-Palestinian agreements, or those which Israel has already entered into with third parties (Holy See and Jordan), and which did not make compulsory reference to a statute or agreement based on a supranational principle, could be a source of discrimination and conflict.

2   The future of the Holy City as a whole, in terms of its universal significance as Common Heritage of Mankind, which as such should be protected. This aspect has an international facet which transcends the parties involved in the conflict. It is what the Holy See, for example, regards as a special, internationally guaranteed status, since internationalization along the lines of the Corpus Separatum now seems unrealizable. Israel is firmly opposed to the idea, and neither is it to the liking of the Arab countries, which has led to the consideration of other hypotheses.

3. The political-territorial future of East Jerusalem as an occupied territory: bilateral Israeli-Palestinian aspect, a consequence of the conflict arising from the decolonization of Palestine (two nations, one territory). Some of the many ideas discussed include: dividing the City into two parts, subject to the sovereignty of two States; maintaining the whole of Jerusalem under Israeli control, but with a system of self-government for the Arab community; or the idea of a shared sovereignty over a Jerusalem that would be physically united and could at the same time be the capital of two States.

The three dimensions interact, as has been demonstrated by the successive ill-fated plans and negotiations of the Middle East peace process since 1948, the most significant in recent times being the Madrid Conference of 1991, the framework of the Oslo Accords of 1993 (which included Jerusalem as part of the permanent status questions), and the Camp David and Taba negotiations in 2000-2001, followed by the deadlock of the International Quartet's "Roadmap for Peace" and the Annapolis Conference.

The attempts to leave "the most difficult part" to the end of the peace process have not prevented the parties from continuing with their policies: Israel, with the ongoing colonization of Palestinian territories, which in the case of Jerusalem has resulted in successive political, social, religious and cultural Judaization, with the extension of its physical boundaries to the detriment of a future solution. Israel's Law on the Protection of Holy Places, apparently well-intentioned on paper, has been interpreted differently by its courts on more than one occasion. Paradoxically, only one "international" territorial doubt remains intact in Jerusalem: that of the area called "Government House", formerly the headquarters of the British Mandate and, from 1948, the UNSCOP. Due to its location, it could be part of the area eventually designated to accommodate a Palestinian political capital in Jerusalem.

The question of the Holy Places and their internationalization, or the more recent alternative of an internationally guaranteed status for them within a physically undivided Jerusalem, in any hypothetical political-territorial solution to the Israeli-Palestinian conflict, has given rise to official stances that have gradually evolved, such as those of the Holy See, the European Union (very little remains with regard to the 1980 Venice Declaration), and the United States (which has gradually weakened the position it adopted, for example, in the letters exchanged on the occasion of the 1979 Camp David Agreements between Egypt and Israel, until then aligned with the UN). The question has also generated a vast bibliography and numerous conferences (including those held in Spain, in Toledo and El Escorial in 2000).

Therefore, an analysis of the so-called "Holy Land question" and its historical development cannot be dissociated from the interactions between the political and religious elements at national and Church

level. Sometimes it has been the former that has driven the latter, while on other occasions it has been the other way round. However, if the religious element was crucial in the past, not always as a factor of consolidation and often exacerbating political differences, it still has a profound impact on the present, both from the Jewish perspective –Israel's peculiarity as a secular State arising from a secular Zionist nationalism, but whose existential force stems from the theocratic roots of Judaism–, and from the Islamic point of view –with varied expressions, the umma and a large proportion of Islamic countries having the same background–. If Christianity was gradually "deterritorialized" due to its universality and European political development, the same cannot be said of the concept of Dar El Islam, while Zionism restored Judaism's roots with Eretz Israel. In the West, the concept of exclusive sovereignty, introduced by Bodin, has evolved towards well-known forms of shared sovereignty and supra-nationality. In the case of Arabs and Israelis –each for their own reasons–, we find ourselves at a less developed stage.

Just as Muslim and Jewish participants in these types of meetings tend to focus their arguments on the justification of their respective historical and religious rights with regard to Jerusalem and the Holy Places, the approach of Christian intellectuals –perhaps less blatantly among the Orthodox, due to the nationalist component that is usually found in these Churches– has in recent years increasingly focused on ecumenical matters. In the case of the Catholic Church, this was also the policy of the lengthy pontificate of H. H. John Paul II.

At present, in spite of the more universalist feelings of today's international community and the numerous calls for respect on the part of religious leaders, the coexistence in the Holy Land of the three great monotheisms is not necessarily projected as a unifying force for the definitive solution.

In any case, it is essential to understand and bear in mind the centrality of the Jerusalem question in any permanent and global resolution of the Arab-Israeli conflict. It is also important to realise that it cannot be resolved without finding a global solution to the conflict, given that the Arab and Islamic factor transcends the bilateral Israeli-Palestinian plane and, to a certain extent, even conditions it. Whereas a willingness on the part of all the key parties to accept the need for a fair and reasonable

solution to religious and cultural questions could contribute to the general progress of the peace process, pushing these issues into the background could prove to be seriously detrimental to the long-term stability of any other understanding reached in relation to the other aspects of the conflict.

Therefore, if there is to be any progress towards a resolution of the Jerusalem question, it is essential to carefully frame the basic elements of the problems to be solved, such as: the problem of territorial sovereignty arising from a Palestine decolonization process and Arab-Israeli conflict, that of the governance and administration of the City, and that of control over the Holy Places, both in and outside Jerusalem. The purpose of our seminar, and of the two scheduled round tables, is to elaborate on the work already carried out by others and to draw together, in what could be called an "instrumentum laboris", the main details of the past and present that combine to make up such a delicate and far-reaching topic.

Developments undergone by International Law and politics, together with new approaches regarding the nature and limits of national sovereignty and the circumstances surrounding the existence and demands of world heritage situations and sites that require protection, form a background to the Jerusalem question that goes beyond the treatment of East Jerusalem as an occupied territory in the context of the Israeli-Palestinian conflict, which prevailed from 1967 onwards to the detriment of its other aspects. Postponing the treatment of the Jerusalem question and the related issue of the "Status of the Holy Places", in its original international sense, so as not to hinder the first phase of the Israeli-Palestinian talks –an Israeli imposition accepted by the co-sponsors of the Madrid Conference and subsequently maintained in Oslo and successive frames of reference–, has not prevented the subject from affecting the whole process.

The "abstentionist silence" of those who, such as the Europeans, had been the main drivers of the "international" approach favours greater bilateralization, since faced with the diminishing prospects for an international solution, each party will try not to get left behind and salvage whatever it can bilaterally. The outcome is not necessarily going to be positive, and its destabilizing effects in the long term could

jeopardize other achievements of the peace process. If, on the other hand, a realistic, coherent and global plan were to emerge for Jerusalem and Holy Places, in their international dimension, it could help to settle the merely bilateral Israeli-Palestinian issues.

With regard to the latter, the parties would have to acknowledge, as a minimum common denominator, that:

1. Jewish Jerusalem is the focal point of Israeli national life and that Arab Jerusalem is the same for Palestinian national life, but that the solution should not lie in another physical division of Jerusalem, whose unitary historical and religious physiognomy, already much altered, should be respected and protected;

2. And that, consequently, both should be fully and internationally guaranteed in a special Statute which considers them in their entirety, and which the Israeli and Palestinian authorities should abide by in the territories under their sovereignty, both now and in the future, complying with all existing international regulations and any guidelines that may enter into force in the future, such as the Convention concerning the Protection of World Cultural and Natural Heritage (Paris, 1972), and the Nairobi Recommendations of 26.11.1975, or the UNESCO resolutions.

Among the parties directly or indirectly involved in the Jerusalem question, there continue to exist, sometimes dominantly, conceptual, political and religious tendencies that maintain positions of intransigent exclusiveness with regard to Jerusalem. This is perhaps more evident in the case of Israel and certain sectors of the Jewish Diaspora, especially in the United States, although it also occurs in fundamentalist Islam. However, it is no less true that the last decade has seen the emergence of an increasingly noticeable consensus regarding the idea that Jerusalem cannot be physically divided again and that it should, in some way or another, be shared.

This tendency gained momentum following the Camp David (July 11-25, 2000) and Taba (January 21-27, 2001) negotiations. At Camp David, Jerusalem became one of the main stumbling blocks. The subject had not been prepared properly and it was hoped that Arafat, isolated from

the rest of the Arab and Islamic world, would accept some offers –in themselves liberal and groundbreaking– regarding the future of the City, made by President Clinton with the approval of the Israeli Prime Minister, Ehud Barak. But it was clear that this was a matter that the Palestinian leader could not resolve on his own there and then and without first having obtained sufficient Arab and Islamic consensus and the approval of the relevant institutions, such as the Al Quds Committee chaired by H.M. the King of Morocco. It seems that Arafat himself said to President Clinton: "What do you want, for my life to last five minutes?"

The initial Israeli proposal included a framework of "five concentric circles":

1. First Circle. The Temple Esplanade or Harem al-Sharif: the subsoil would remain under Israeli sovereignty and the Palestinians would have full control above ground, including security: "A reasonable formula" would be reached so that Jews could pray on the Esplanade on certain dates.

2. Second Circle. The Old City: A "special regime" would be established and the Israelis proposed a "Custody" whose content would be defined by the UN Security Council.

3. Third Circle. The "Palestinian Quarters" of the Old City (part of East Jerusalem): The Palestinians would have a "functional autonomy" with "reduced sovereignty" and Israel would retain formal sovereignty.

4. Fourth Circle. The Outlying Palestinian Neighbourhoods: some new municipal boundaries for the City would be submitted to the Knesset (as required by the Jerusalem Law of 1980) to separate these neighbourhoods under the name of *Al Quds* (Abu Dis, etc). This new part would be under Palestinian sovereignty.

5. Fifth Circle. The ring of Israeli settlements: They would be annexed as part of West Jerusalem under Israeli sovereignty.

This proposal was not accepted by the Palestinians for two basic reasons: according to their interpretation of UN Security Council Resolution 242,

they considered the whole of East Jerusalem to be occupied territory; and they felt unable to make a decision about the Esplanade on behalf of the entire Islamic world. As an alternative, Clinton proposed the division of the Old City into two parts: the Jewish and Armenian quarters, including the Wailing Wall, would remain under Israeli sovereignty, while the Christian and Muslim quarters would come under Palestinian sovereignty. The Israelis did not reject this proposal, but the Palestinians did, for the abovementioned reasons and because they considered that the Christian quarters should remained united (Latin, Greek Orthodox and Armenian Patriarchs' Communiqué to Camp David).

On the last night of Camp David, the United States successively proposed:

1. Postponing the Jerusalem question to a later stage of the negotiations.

2. Postponing only the matters relating to the Old City and reaching an agreement on the rest.

3. A temporary solution for Jerusalem.

4. Offering the Palestinians sovereignty over the outlying Palestinian neighbourhoods (Fourth Circle) and autonomy in internal quarters (Third Circle).

5. Full Palestinian sovereignty over their East Jerusalem quarters and a "special regime" for the Old City. These ideas were again rejected by the Palestinians, who also failed to provide alternatives as requested by the United States.

These ideas were rejected again by the Palestinians without contributing with alternatives which were previously requested by the American part.

Between Camp David and Taba there were many further contacts supported by various international stakeholders, especially Egypt and Jordan on the Arab side (H. M. King Hussein put forward the interesting idea that "In Jerusalem sovereignty belongs to God and its administration to men"). The Holy See, the European Union and several

of its members, including Spain, joined the United States and the parties in reflecting on the most contentious issues, namely the Esplanade and the Old City, and in August a reasonable consensus was reached as regards the regime to be applied.

The Taba negotiations were prevented from being conclusive by the well-known political circumstances at the time, but an acquis was left for the future, rejected by the government of Prime Minister Sharon, but always latent in analyses, documents and subsequent negotiation plans, which re-emerged during the latter part of the Olmert period. Although conclusive progress was once again thwarted by the prevailing circumstances, the basic ideas of this *acquis* regarding Jerusalem have remained on the agenda, still rejected by some and accepted as inevitable by others. They will once again have to be the basis of any agreement. Promoting them means promoting the elusive peace in the region pursued for more than half a century.

In conclusion, and regardless of the political-territorial and sovereignty option, a solution to the Jerusalem problem should be framed within a process capable of offering a fair and comprehensive response to all the parties involved in the conflict. Guiding the coexistence of the three religious communities could be a useful starting point for building a broader agreement. In order to create a minimum level of contact and understanding among the various religious faiths, it is necessary to start from a visible sign of the supranational value of Jerusalem. The fundamental aim of the international nature of the abovementioned guarantees should be to ensure maximum stability for the weakest communities, i.e. those located in the geopolitical area dominated by the faithful of another community, lest the wishes of the majority should lead to the imposition by force of detrimental changes to their status.

3. JERUSALEM: AN HISTORICAL ANALYSIS FROM THE 18TH CENTURY TO THE PRESENT DAY

Historic Jerusalem is the Old City, comprising various quarters with a combined surface area of less than 1 km², while modern-day Greater Jerusalem covers 108 km² (West Jerusalem: 38 km², East Jerusalem: 70m²). During the period of Jordanian rule, the city covered an area of 6 km². We should also bear in mind an even larger metropolitan area, with its satellite towns and access roads.

The demographic evolution of Jerusalem is quite extraordinary; if we take the beginning of the contemporary age (around 1800) as a point of reference, Jerusalem had 9,000 inhabitants; in 2006, in a larger geographical area than in 1800, there were 732,000 inhabitants. If Paris or London had experienced the same demographic growth, we would be talking about a population of 50 million, which gives us some idea of the scale of this transformation.

The second point we can see in these statistics, in the second half of the 19th century, is the considerable increase in both the Jewish and Christian populations in Jerusalem. At one stage, in 1910, Christians outnumbered Muslims; the decline in the Jewish population during the First World War can clearly be seen, as can its subsequent recovery. Meanwhile, we can see how the Christian population begins to fall from about 1946 onwards before stabilizing at a relatively low level.

The 19th century is the century of the Christian Holy Places, but to get a fuller picture we must go back in time and trace the extremely complex history of the Holy Places.

When the forces of the Mameluk Sultanate defeat the Crusaders and bring the Crusades to an end, it is the Catholic Church that finds itself in charge of the Christian Holy Places in Jerusalem, through the Custody of the Holy Land, but this situation is going to change with the arrival of the Ottomans. Here we find one of the paradoxes that often occur in history: the establishment of the Ottoman Empire in the Arab lands leads to a re-Byzantinization of the region, since the Patriarchate of Constantinople and the Greek Church are going to re-establish contact with the Eastern Patriarchs, which had been interrupted

following the Muslim conquest in the 12th century. Therefore, during the Ottoman period we witness a power struggle involving the Orthodox Church of Constantinople, which tries to regain control of the Holy Places, the Catholic Church, which has the support of the European powers, and a third thief, if I may put it like that, the Armenian Church, all at a time of great prosperity in Jerusalem, the 12th and 13th centuries.

Therefore, the Holy Places constitute a very important issue from the point of view of international politics in the 17th and 18th centuries, with their inter-Christian struggles. The issue becomes even more contentious in the 19th century, when the Christian communities of the Ottoman Empire are protected by the European powers. In particular, the Catholics are protected by France –Catholic Protectorate of France, although Spain protested against this Catholic protectorate–, while the Orthodox Christians are supported by Russia. In other words, what were already fairly commonplace quarrels among monks in the Holy Places now become issues of international politics, because behind the quarrelling monks stand two great European powers.

The crisis begins in 1846-1847 in Bethlehem. The Ottoman authorities, in a desperate attempt to reduce the number of dangerous incidents, subject the Holy Places to a regulatory status known as the "Statu Quo", but this does not prevent the Crimean War of 1854-1856. However, from the mid-19th century on we have the text of this *Statu Quo* legislation. We also have a set of principles and ideas that are included in the Treaty of Paris of 1856 and the Treaty of Berlin of 1878. In relation to France, we must also add what is known as the Treaty of Mytilene (1901), a series of agreements which specify French privileges in the Ottoman Empire and which remain legally binding for Israel to this day. Following the creation of the State of Israel, this is what is known as the "Chauvel-Fisher" letters of 1949-1956.

In the second half of the 19th century, a contradictory phenomenon occurs in Jerusalem and in Palestine in general. The first problem concerns the Holy Places. The European powers will tend to internationalize the status of Jerusalem. The first internationalization project is proposed by the British in 1840 and will be a recurring issue on the agenda of diplomatic discussions.

At the same time, the Holy Places can cause European wars, and therefore they represent a matter of great importance for the Ottoman Empire. The Ottoman administration creates a new Sanjak, Mutassarifyat and vilayat Mutasarrifyat with its capital Jerusalem. Until now, it has been one of the Sanjak of Bilad el Sham, i.e. of Greater Syria, and its government has answered to the vilayet of Damascus. This new autonomous Mutasarrifat is now directly dependent on central Ottoman power, which means that Jerusalem becomes a provincial capital for the first time. Having acquired provincial capital status, Jerusalem manages common, legal and fiscal affairs for the whole of the southern region (what is now called Palestine), since the northern region, Haifa, still forms part of Bilad el Sham and the vilayat of Beirut. In other words, a legal identity is created, Jerusalem now being the administrative capital of what was the Sanjak of Jerusalem.

This also corresponds to an economic evolution, since the central axis of development was the Jaffa-Jerusalem axis, and Palestine is built, in the second half of the 19th century, upon the dual reality of this axis and Jerusalem's administrative role. Therefore, we can say that we have, on the one hand, a territorialization of Palestine as an administratively Ottoman territory and an economic and human reality and, on the other, a tendency towards the internationalization of Palestine.

We can see a recurrence of this in Jerusalem in the second half of the 19th century, as the new city appears, extends beyond its walls, and the mechanism of expansion consists of the role of the European missionary institutions, which step up their prestige actions to demonstrate the power of their religion and of the States that maintain them. This results in the creation of French, English, German, etc. orphanages, hospitals, churches, etc., and there is real competition, a show of strength that leaves it mark on the local landscape. The architectural traces of this display of late-19th century buildings can still be seen in Jerusalem today.

On the first map we can see how Jerusalem expanded beyond its walls during the second half of the 19th century. Jewish immigration plays an increasingly important role, with the construction of new quarters, but also the creation of outlying Muslim neighbourhoods linked to the administrative role of the city, because the new economic resources depend economically on pilgrimages.

Map 1:

Author:	Dufour, A.-H. (Auguste-Henri), 1798-1865
Title:	Plan of Jerusalem / A. H. Dufour del. [cartographic material]
Date and place of printing:	London: Henry Colburn, 1837.

Under the British Mandate all these phenomena accelerate, because Jerusalem becomes its capital. This time the territory is larger than the Sanjak of Jerusalem, because it has incorporated the northern districts of Haifa, Acre and Nablus, which are annexed to Palestine to form what is known as "modern Palestine".

During the British Mandate, an extraordinary transformation of communications also takes place. There must have been two or three cars in 1914, but under the Mandate four wheels suddenly seem to become the norm… along with the telephone. For the first time, the territory controlled by Jerusalem is less than 24 hours away from Jerusalem, thanks to the car. And the telephone offers immediate access to all the Palestinian territories. This, of course, implies a great centralization of power over Jerusalem, which is the headquarters of the British Mandate's central administration. A new Arab middle class of Mandate civil servants is created, since the Jews barely participate in the Mandate's administration activities for economic reasons; the salaries on offer are too low to interest Jewish emigrants, whereas they do attract the Arab population. Therefore, the Mandate administration, the class below the administration of British civil servants, is largely made up of Arabs. Jerusalem is the city of these Arab functionaries during the Mandate.

The British drew up the first coherent plans for the urban development of the city of Jerusalem and devised the first heritage policies in Jerusalem: division into zones, protected areas, areas of expansion, etc. This is what happens throughout the Middle East during this period. The French make urban development plans in Beirut and in Damascus. This is the norm throughout the region.

So Jerusalem used to be the administrative capital and has now become the political capital of the Mandate. Particularly on the Arab side, it is time to abandon the narrow view according to which "the struggle between the great families of Jerusalem, the *al-Husayni* and the *Nashashibi*, is a struggle between Arab clans, etc.". What actually happens is that the great families of Jerusalem take control of the entire Palestinian political arena, which did not happen before, because cities such as Hebron or Nablus had no reason to recognise the political authority of Jerusalem.

Therefore, due to shifting allegiances towards and away from the al-Husayni family, the opposition to the majority, as was said at the time, the Councilists and the anti-Councilists, the great families take control of Jerusalem's political class and, by extension, the entire Palestinian space, to the extent that in the 1930s everything is clear: the politicians

hailing from Nablus settle in Jerusalem, because that is where the seat of power lies. The same phenomenon occurs throughout the region; the political class of Beirut takes control of Lebanon, and the political class of Damascus takes control of Syria. It is this process that is repeated in every area of the region during the Mandate.

These great families rely on the Arab middle class that is developing under the Mandate Administration, with an increasingly high level of education during the latter half of the British Mandate. Furthermore, the Jewish presence is also reinforced, with the development of the Jewish city, which is slightly alienated in relation to Jerusalem, which is simultaneously Arab and British, at least from the power point of view. The British Mandate governs as if in charge of a Crown colony, which is unacceptable for a Mandate. The supreme power is British and the Administration is largely Arab, and the Jews stick to their economic activities. This situation results in the political struggle for control of the municipality of Jerusalem and the fact that during the entire Mandate period, the mayor of Jerusalem is a Muslim Arab, in spite of the numerous Jewish protests about the representation of the different communities in the municipal council.

In order to understand what happened, it is important to realise that Jewish Jerusalem is an enclave in the Arab and Muslim part. Outside the Jewish city, there are two or three Jewish quarters and the rest is uniformly Arab practically all the way to the coast. This absence of a Jewish population in what would later become the West Bank is linked to Palestine's agricultural structure. There is no time to explain all the whys and wherefores, but there are no empty spaces and, therefore, no possibility of Jewish colonies in the West Bank under the Mandate.

Map 2 of Jerusalem in 1948 is the official map of *Corpus Separatum* Jerusalem, according to the 1947 partition plan. It clearly shows how Jewish Jerusalem is an enclave during the war of 1948. The most important part of the agglomerations that control Jerusalem's outlet towards the coast is an Arab area with Arab villages, and practically every village is a combat zone in 1948, given that the Arab strategy involves cutting off access to Jewish Jerusalem during the war. This is when the Deir Yassin massacre takes place at the hands of the Haganah.

Map 2

Jerusalem and the Corpus Separatum proposed in 1947
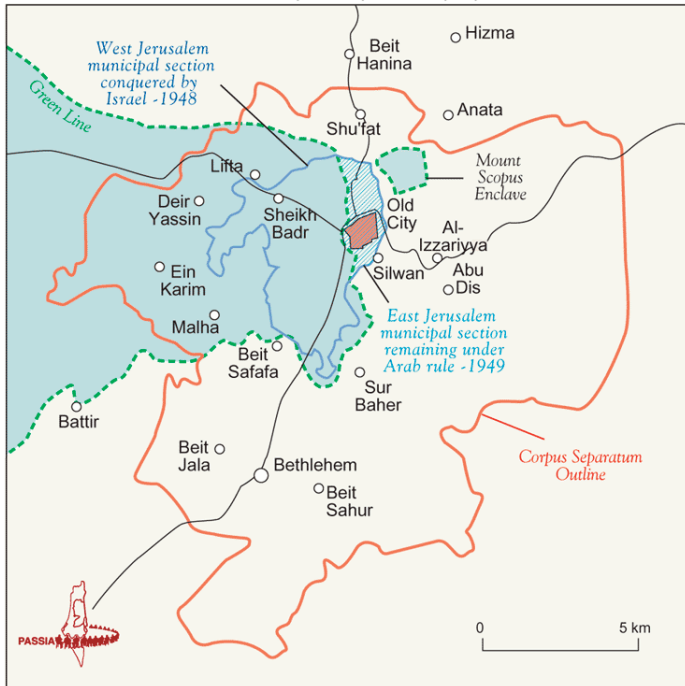
On 29 November 1947, as part of its resolution on Palestine (Resolution 181 (II)A, the General Assembly of the United Nations adopted the proposal that, "The City of Jerusalem shall be established as a *corpus separatum* under a special international regime and shall be administered by the United Nations". Under this plan a referendum was to be held after ten years to seek the views of the City's residents as to whether the international regime should continue, or be modified.

During the first phase of the war up until May 15, 1948, the day on which the Mandate ended and the State of Israel came into being, the Jews have the supremacy on the ground, in Jerusalem. Moreover, they manage to take control of the British premises at the end of the Mandate, which forces the Arab League to intervene from Ramallah by entering Jerusalem, which was not envisaged in the original plans of Jordan, King Abdallah I and Glubb Pasha. It is the Jerusalem question that provokes a head-on clash between Jordan and Israel, which neither had foreseen at the outset. Neither of them thought that Jerusalem could be a problem. This is the essential role that Jerusalem plays.

Throughout 1948 and 1949, the fighting in Jerusalem has been intense, going from house to house, neighbourhood to neighbourhood, causing severe destruction and loss of human lives; for example, around the Notre Dame de France, which was bombarded in May and June 1948.

However, the fighting took place not only within the Old City, but also throughout the expanded sector of Jerusalem, as demonstrated by the attacks of both sides on a very complicated map, with the appearance of a Jewish-Israeli enclave on Mount Scopus, isolated from the rest of Jewish Jerusalem, which leads us to a situation in which, the day after the war, the Old City is divided into the Jordanian sector, large areas of shanty housing, supposedly demilitarized enclaves on both sides of Mount Scopus, plus the fact that Jerusalem, which was central during the British Mandate, is now an impasse on both sides. For the Jews, Jerusalem is nothing but the end of a corridor leading to nowhere (inasmuch as it leads to the Arab sector with which there is no communication); and the same goes for the Arabs, in that Jerusalem is now geographically marginalized. And that it is the problem of Jerusalem. After 1949, what was a political centre has become a totally marginal and secondary centre.

It is a city with a dividing line marked by violence, with walls, gunfire and constant incidents. In the Arab sector, the city's decline is evident, because administrative power is now centralized in Amman and not in Jerusalem. Consequently, the key economic factor is now tourism, especially religious tourism, because most of the Holy Places have become… Excuse me, I was forgetting that under the British Mandate, the League of Nations had provided for an International Commission to handle issues relating to the Holy Places, which the British recklessly sabotaged because they did not want international control. However, they paid a very heavy price when the question of the Holy Places resurfaced during the serious disturbances at the Wailing Wall in 1929.

And the second point is that between 1920 and 1929, without anyone having given due consideration to a matter of such extreme importance, the *Statu Quo* legislation was extended to the Muslim holy places, whereas until then it had only affected the Christian ones.

The Israelis try to make Jerusalem the political capital of the State of Israel by establishing the Knesset there, along with the main government ministries, etc. But this is merely a matter of keeping up appearances, because it is mainly Tel Aviv that develops during the post-war period, to the detriment of Jerusalem. Jewish immigration is also fairly limited, because Jerusalem is a dangerous place, where incidents are frequent and where economic activity is greater in the Arab sector, albeit relatively insignificant, etc.

Therefore, we have a city that is totally isolated until 1967, as can be seen on map 3.

Map 3

Partitioned Jerusalem, 1948 -1967

Source: H.M.Sachar *A History of Israel*, Knopf 1979

© PASSIA
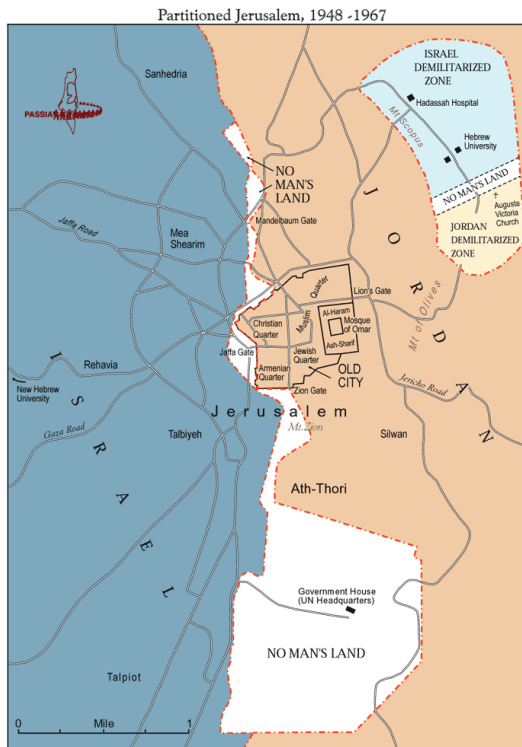
The situation changes radically in June 1967 with the creation of the municipality of Jerusalem, which corresponds to nothing because this had never happened before; Greater Jerusalem comprises the Jewish city and the Jordanian city that can be seen on map 3; it is a huge chunk of the West Bank, which becomes Jerusalem by means of an administrative decision. It is an extremely tense situation, as we have already mentioned. From the beginning of the occupation, the Maghreb quarter of Jerusalem is destroyed to create the esplanade in front of the Wailing Wall. The question of the Jewish quarter of the Old City has been mentioned this morning, in relation to the issue of property rights, because although the quarter was inhabited by Jews until 1948, the landowners were mainly Arabs. It is a question of knowing whether the unified Jerusalem after the 1967 war is actually a city for all, whereas in actual fact, the unification is only administrative, with the creation of new Jewish neighbourhoods in East Jerusalem and the unequal distribution of municipal services among the local populations.

Now we will focus on the period of Teddy Kollek, the mayor of Jerusalem between 1965 and 1993. He was the great public relations maestro who in the name of separate development institutionalized the segregation of the populations, because the Arab population, which in 1993 represented 28% of the total population of Greater Jerusalem, received only 6% of the city's budget.

The policy of laissez faire was applied to the Arab sector. The Arabs had a very peculiar legal status as residents of Jerusalem, which did not make them Israeli citizens. In fact, they did not want to be Israeli citizens, although they did manage to obtain a number of social rights thanks to the extension of Israeli legislation to the Arab population. It is clear that the Arab population has rejected the recognition of the 1967 annexation, hence the conflicts concerning institutions, economic authorities, the electric company, etc.

There is no need to dwell on the First Intifada, the Oslo Process, the Clinton Parameters and the Second Intifada, because I think it is the topic of today's debate. Therefore, it only remains for me to talk about the geographical nature of the City at present. In Jewish Jerusalem, Jerusalem has become the political capital of the State of Israel, which it was not before 1967, because, once again, Jerusalem occupies a

central position and is no longer isolated. It is an extremely divided city, particularly in the Jewish part, where relations between the religious and the secular are very troubled. It is also unquestionably a poor city; in 2004 the budget per inhabitant in Tel Aviv was more than double that of Jerusalem. It is not a very attractive city from an economic point of view; there are no industrial sectors in Jerusalem. It is an administrative city and a tourist destination.

With the presence of the religious population, there is a strong natural growth of the Jewish population in Jerusalem, but with no economic activity. There is also Jewish emigration. From the Jewish population's point of view, Jerusalem does not attract, but instead pushes people away. And like any city –and I'm not referring to the third world, because it is also the case in Europe–, we can observe a unitary reunification of rich and poor. In other words, there are very rich neighbourhoods and very poor ones, and very few that fall in between the two categories, with the added problem of being a holy city, i.e. the differences between rich and poor also correspond to differences between religious people and secular people, the former being poorer than the latter. But as the latter are not happy, they leave, which causes a gradual impoverishment of the Jewish city.

In spite of the various dissuasive measures against the Arab population, the latter is boosted by demographic growth. From 1967 to 2002, the Arab population rose by 223%, as compared with a 232% increase among Jews. Since then, however, the Jewish population in Jerusalem has been falling: 71% in 1995, 66% in 2005, and probably 64% today. This means that the proportion of the Arab population in Jerusalem is rising.

As in all cities, there has been a decline in the city centre, in comparison with other built-up parts of the city. Here we see the evolution of the population by community, with the growth of the population. The natural growth shows us the evolution; there is a Jewish population with a high, and above all stable, natural growth of around 2%, and an Arab population with a strong natural growth, but which is slowing down (from 3.52% to 2.74% between 1980 and 2005). Nevertheless, the overall growth rate for both populations is 2.22%, a very high figure.

The religious differences among the Jewish population are extraordinary. The ultra-orthodox had 6.4 children per woman in 1995, the religious

nationalists 4.4, and the non-religious 2.4. This illustrates the demographic dimension of the conflict between the secular and the religious in Jerusalem.

Here you can see the most recent map, map 4, which shows both the Jewish and Arab suburbs of Jerusalem.

Map 4
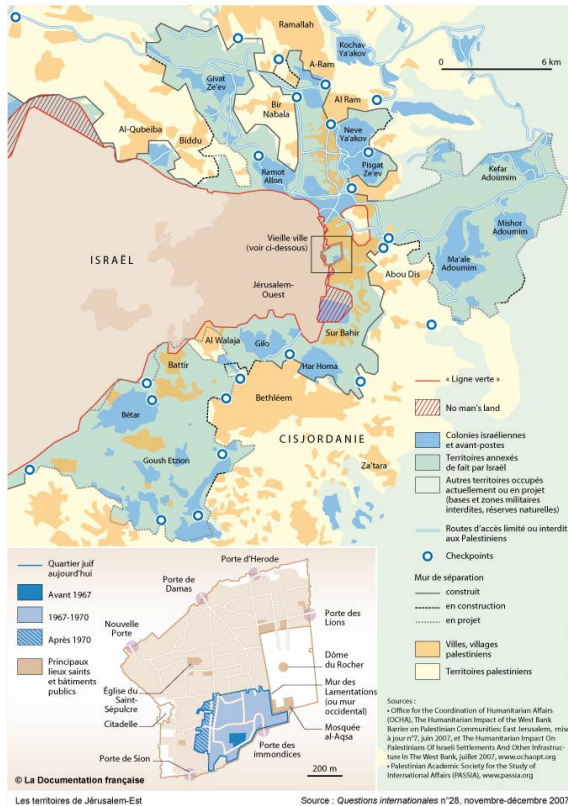
© La Documentation française

As for the separation wall, I imagine it will be discussed at length during the rest of the seminar. On map 4 we can also see the first consequences

of the construction of the wall: Arab Jerusalem is separated from the West Bank, and therefore Arab Jerusalem is no longer an economic and intellectual centre in the West Bank. It is Ramallah that has taken Jerusalem's place and performs the functions that were once Jerusalem's, due to the separation wall. Once again, Jerusalem has gone from a central position to a border position.

At the same time, the wall crosses Greater Jerusalem, thereby isolating certain Arab areas, but this fact reinforces the Arab presence in Jerusalem, because many Arabs in these cut-off neighbourhoods cross over to the other side to maintain Jerusalem resident status, which increases the population in the Arab quarters of Jerusalem.

In conclusion, I'm not going to tell you anything new. We have a fragmented city, in which everything is political, whereas before, everything was religious. We have a segmented city from the ethnic point of view, from the religious point of view and from the economic point of view. I think that in our discussions we perhaps pay insufficient attention to the economic division of the city, which of course is secondary in relation to the religious and ethnic divisions, but which is very important nonetheless. The question I want to ask is whether this can be resolved.

4. MEANING AND SIGNIFICANCE OF JERUSALEM FOR THE THREE RELIGIONS

4.1. Meaning and significance for Judaism

According to the interpretation of the representatives of the Jewish people, Jerusalem cannot be reduced solely to a locus that comprises a limited sacred space whose perimeter would be confined to various holy places; on the contrary, the prevailing argument based on the authority of historical sources, the Scriptures and the liturgy, seeks to demonstrate that the whole city symbolizes a consecrated territory for Judaism. According to the founding myth of Jerusalem, for the Jews the city "would become the symbol and the most sublime expression of the transition from a people to the formation of a nation and a state"[1].

According to this national conception of sacredness, the territorial indivisibility of the holy city would be guaranteed not only by the principle of the national sovereignty of the current Jewish State, but also by the religious claim of Jewish holiness throughout the area known as the "Holy Basin", including the Old City, the Biblical "Ophel" (which covers the site of the two temples), the City of David up to the Mount of Olives.

In his seminal essay on Jerusalem's religious significance for the Jewish people, Zwi Werblovsky states that "Jerusalem is not a city containing holy places or commemorating holy events. The city as such is holy and has, for at least two and a half millennia, served as the symbol of the historic existence of a people hunted, humiliated, massacred, but never despairing of the promise of its ultimate restoration. Jerusalem and Zion have, as I said before, become "the local habitation and the name" for the hope and meaning of Jewish existence"[2].

The inclusion of the Jewish religious dimension with regard to Temple Mount, as demanded by the Israeli negotiators at Camp David (July

---

[1] Shermaryahu Talmon, "Die Bedeutung Jerusalems inder Bibel", Journal of Ecumenical Studies 8 (1971): 300-16.
[2] R.J. Zwi Werblowsky, "The Meaning of Jerusalem to Jews, Christians, and Muslims", in Yehoshua Ben Arieh and Moshe Davis (eds.) Jerusalem in the Mind of the Western World. 1800-1948, (London, Praeger, 1996), p.19.

2000), immediately provoked the fears of Palestinians, Muslims and Arabs concerning their own indivisible claims of holiness.

For its part, the Jewish narrative of the exclusiveness of the locus around the Wailing Wall and its attempt to nationalize alleged property rights was challenged early on by the famous professor Gershom Scholem, the great scholar of Jewish mysticism and Kabbalah, when in 1929 he was requested to justify its foundations through mystical texts. Scholem roundly refused and was heavily criticised and slandered by his fanatical co-religionists. His argument was that Jewish-Muslim disagreement regarding the Wailing Wall was of a political nature, rather than a religious dispute. As such, it should be settled through political negotiations, and not by delving into ancient texts in order to dredge up precedents that prove the Jewish mystical lineage of the city. Scholem believed that the political nature of the conflict was sufficiently complex without having to make things even more difficult by introducing religious arguments[3].

Regrettably, Scholem's position became increasingly isolated and pushed to the sidelines in the Israeli intellectual sphere from 1948 onwards[4]. Amid the clamour of successive wars and Intifadas, the symbolic violence centering around the exclusive rights to the holy places was transformed into part of the physical violence of a new version of Kulturkampf, involving both the fanatical Jewish groups with their wild dreams of building the Third Temple, and the inseparable creed of the Jihad's Islamic crusade with its plans to liberate the whole of Jerusalem.

Exceptional Palestinian Arab voices, such as Faisal Husseini, publicly dared to accept the principle of indivisibility, reciprocity and non-exclusiveness of the right to share Jerusalem, but his call was the voice of an intellectual and Palestinian nationalist secular leader of Jerusalem.

In 1995, talking about the future of the city, Husseini said: "I dream of the day when a Palestinian will say "Our Jerusalem" and will mean

---

[3] Amos Elon, Jerusalem. City of Mirrors, op.cit. pp.80-81.
[4] For an analysis of the bi-nationalist group Brit Shalom in which G. Scholem participated together with Ernst Simon, Robert Weltsch, Hugo Berman, Hans Kohn, see S.L. Hattis, The Bi-National Idea in Palestine (London, 1971), pp.35-62.

Palestinians and Israelis, and an Israeli will say "Our Jerusalem" and will mean Israelis and Palestinians"[5].

Similar expectations regarding Jerusalem in the sphere of Jewish religious are still harboured by Israeli Zionists with a pacifist political will to share an open and mutually respectful city with the Palestinians. Such is the case of Raphael Jospe, who, in the same publication where Nazmi Ju'beh writes, tries to explain the significance of Jerusalem in religious and national terms on the basis of the principle: "The Jewish religion is national and the emergence of the Jewish nation is religious"[6].

4.2. Meaning and significance for Christianity

If territoriality and land ownership are shared, each in its own way, by Muslims and Jews in the spatial imagination of the holiness of Jerusalem, for Christians celestial Jerusalem is suspended in an ephemeral geography divested of earthliness.

The spiritual significance of Jerusalem for Christians is based on two inseparable elements: the places associated with the life, teachings, crucifixion, burial and ascension of Christ, and the locus of the primitive community of Christians who lived in the city. The Church, as a metaphor of the body of Christ or of the community of its apostles, constitutes the earthly reflection of the spiritual and de-territorialized entity of celestial Jerusalem. And in spite of the fact that Jerusalem would represent the Holy Land associated with the most important events of Christianity, the virtual absence of earthly references in the The name "Jerusalem" in the New Testament does not connote an earthly city, but instead a celestial realm, the ideal archetype of the Mater Ecclesia. It symbolises the end or the consummation of a community where God lives with Himself, hence the fact that, as Marlen Eordegian observes, like several scholars before him, the New Testament imbues Jerusalem with an attribute characterized by the "de-territorialization" of the sacred space. This interpretation sees in the fulfilment of the Lord's promises in Jesus Christ the incarnation of the temple of God (Rev. 21:22). Yet it

---

[5] Cited by Uri Avneri, "Our Jerusalem", Palestine-Israel Journal of Politics, Economics and Culture, V.VIII, No.1, 2001, pp.23-24.
[6] Raphael Jospe, "The significance of Jerusalem. A Jewish Perspective", ibidem.

is not the temple that is established in the centre, but Christ Himself; it is not the Holy City or the Earth that would constitute the realm of the holy, but the new community, allegory of the body of Christ.

However, the land retains the physical topography where Christianity was born, the Holy Places where the life, passion and death of Jesus were played out. The holy geography is the physical medium of the holy story, so that the realia of Judaism culminates in the realia of Christianity. Far removed from the Jewish territorial conception, the religious significance of Christian earthly Jerusalem ceases to be an earthly inheritance in order to allegorize the special path of a spiritual inheritance meant for the whole of mankind, which needs salvation[7]. Paul shares the apocalyptic vision that celestial Jerusalem already exists and "those who live for faith in Christ already live the life of the New Jerusalem, for our citizenship is in heaven, from where we also await the Saviour." (Philippians, 3:20)[8].

From a Christian perspective, the insistence on applying categories of national sovereignty and religious pan-ethnic heritage to the holy places would seriously affect the ecumenical and universal nature of Christianity, as revealed in Jerusalem. But it would also exacerbate the national conflict among the different Eastern Christian Churches. We know that the majority of these Churches have an irrevocable ethno-national nature that has already caused bitter rivalries and conflicts at the heart of Christian worship in the Holy City. The known examples are the Greek Catholic Church, the Greek Orthodox Church, the Russian Orthodox Church, the Churches of Rumania and Bulgaria, the Coptic Church of Egypt, that of Ethiopia, as well as the Jacobite Syrian Christian Church and the Lebanese Maronite Church, all of them ethno-national Churches. Equally notable is the ethno-national nature of the Armenian

---

[7] Marlen Eordegian, "Jerusalem's Religious Significance" (in collaboration with Yitzhak Reiter and Marwan Abu Khalaf), Palestine-Israel Journal of Politics, Economics and Culture, Vol.VIII, No.1, 2001, pp.15-16; Marc H. Tanenbaum and R. J. Zwi Werblowsky (eds) The Jerusalem Colloquium on Religion, Peoplehood, Nation, and Land. Proceedings. Harry Truman Research Institute, the Hebrew University of Jerusalem, Publication No.7, (Jerusalem, 1972), p.152.
[8] See Moshe Ma'oz and Sari Nusseibeh (eds.) "Jerusalem: Points of Friction and Beyond" (The Hague: Kluwer Law International, 2000), pp.157-59.

Church. A national Church such as the Anglican Church, established more than a century ago for imperial reasons, presents ethnic transformations among its parishioners, who have been predominantly Arab for decades.

A peculiar phenomenon for the ethno-national sociology of the Eastern Christian religions manifests itself mainly in the Greek Orthodox Church in Jerusalem, whose rites and rituals survived virtually intact the courtly practices and customs of the Byzantine Empire, which adopted Christianity 17 centuries ago. Among other transformations, it is worth pointing out that today the majority of its parishioners are Palestinian Arabs, and not Greeks, the mass is said in Arabic, it preaches and worships in a city with a Jewish and Muslim religious majority, and to further underline its peculiarity in Jerusalem, the Greek Orthodox Church in the Holy City conducts its rites of worship surrounded by the so-called heretical and schismatic cults of Eastern Christianity which, historically, broke away from the mother Church[9].

Amos Elon reminds us that both Jews and Christians venerate holy places in the belief that they date from the time of King David and Jesus, regardless of the archaeological evidence that proves these places correspond to other ages: "It does not matter that the building which is now worshipped by Jews as the tomb of David, and by Christians as the site of the Last Supper, probably dates from medieval times. These places are defined by faith, not by science; they are consecrated by tradition, by history and by centuries of uninterrupted devotion"[10].

Christianity was deterritorialized from the outset, owing to the evangelical mandate that required the apostles to preach its universality. The first and decisive councils of Jerusalem determined the prominence of Paul in spreading Christianity to the "gentiles". He and Peter settled in Rome. Christianity was not merely an internal revolution of Judaism.

---

[9] Amos Elon, *Jerusalem. City of Mirrors*, op.ct., pp.199-200.
[10] In fact, the site was built by the Crusaders. During the 15th century, Jews and Christians perpetrated a series of bloody incidents in an attempt to control it. Sultan Barsbay evicted both communities and then converted the site into a mosque. The tomb was venerated as a Muslim shrine up until 1948, when the Arabs were ousted by the Jews and the mosque was turned into a synagogue. See Amos Elon, op.cit., pp.207-208.

During the early centuries its evolution was determined by that of the western and eastern Roman empires. This entailed a certain degree of "nationalization" in both, although the Patriarchate of Jerusalem continued to be regarded as "the second head" of Christianity. Deterritorialization continued apace, with Rome and Constantinople officially converted to Christianity as its political-religious poles.

The separation of Christianity into its Roman and Orthodox branches consolidated this trend. After Constantinople was taken, first by the Arabs and then by the Ottomans, the Orthodox Churches gradually became "nationalized": Greek, Russian, Coptic, Armenian, etc. All of them remained present in Jerusalem and the Holy Places, like the Church of Rome, and they fought with the political authorities that backed them, to preserve it or recover it in the face of historical vicissitudes. In Jerusalem and the so-called Holy Land, they acquired more or less importance as "local Churches", depending on the size of their faithful communities and their external political support, the Orthodox presence being historically predominant.

"Earthly Jerusalem" continued to be charged with great emotion and importance as the scene of the life and preaching and passion of Jesus of Nazareth and his Apostles, but for the Christian majority it was the vision of "celestial Jerusalem" that somehow imposed itself. The declared mission of the Crusades was to regain control of "earthly Jerusalem" and its Holy Places, spurred on by the pontificate, but they were also driven by circumstances and internal political interests in Europe. They eventually established Christian kingdoms, but they did not change the situation. The Roman Pontiffs never succumbed to the temptation to move their headquarters to Jerusalem. If they had done so, perhaps the history of the region would have been different. After the Barbarian invasions, the Roman Church, as successor to the Empire, managed to establish itself in its own States, until they were wrenched from its grasp by the nationalism of Garibaldi, although it did hold on to the Vatican City as a symbol of its sovereign independence. Freed from previous political shackles, the Church was able to focus more on the spiritual dimension.

The new Christian branches, arising out of the Lutheran reform, were even more imbued with that "national" component that eventually

characterized them, the most remarkable case in this respect being that of the Church of England. The same occurred later with the Protestant Churches which sprang up in the wake of the independence of the United States and other countries. Their presence in the Holy Land was negligible until the 19th century, when biblical-messianic trends of return and establishment began to spread from the United States and, more specifically, from the area known as the "Bible Belt". They coincided with the renewed impetus of Judaism in the same direction.

4.3. Meaning and significance for Islam

The Zionist narrative of the Jewish holiness of Jerusalem, recurrent in the daily prayers and in the Biblical and Talmudic literature, has made numerous contemporary Israelis forget the vast body of Islamic religious literature in the form of *Hadiths Al Quds*. These elegies constituted a kind of early literature of Muslim Zionism, the first of which were lamentations for the fall of Jerusalem at the hands of the Crusaders, in spite of the fact that the *fadah'il* books of Abu Bakr al-Wasiti and Ibn al-Murajja were written before the Latin Kingdom was established in Jerusalem. The following famous *Hadith* is uttered to this day: "He who lives in Jerusalem for a year, in spite of difficulties and adversities, God will provide him his daily bread in this life and happiness in Paradise". Another *Hadith* says: "To die in Jerusalem is almost like dying in Heaven". As Marwan Abu Khalaf states, this "Muslim Zionist" literature is essential for understanding the profound religious connection between Jerusalem and Islam and the al-Aqsa Mosque[11].

Historically, the profound religious significance of the Muslim holiness of Jerusalem to the Quds-al-Sharif stems from the urban space Beit al-Maqdis (one of the Arab names for Jerusalem) and the Msjid al-Aqsa mosque, which constituted the first *quibla*, the direction in which Muslim believers pray before turning towards Mecca. In parallel, the other decisive moment in the consecration of Jerusalem in the Arab-Muslim narrative was the Islamization of the city following Caliph Umar ibn al-Khattab's conquest. Since then, the city has formed part of dar al Islam (house of Islam), the Muslim *oikúmene*. In contrast to the Jewish sanctity

---

[11] Abu Khalaf, "Jerusalem's Religious Significance" (in collaboration with Yitzhak Reiter, Marlen Eordegian), Palestine-Israel Journal, Vol.VIII: 1, 2001, pp.18-19.

of the site where the two Temples were consecrated until they were destroyed by the Babylonians and the Romans, the Muslims put forward the narrative of the city's Islamization, associated with the nocturnal journey of the Prophet Muhammad and his ascension into heaven (*al-mi'radj haqq*) to receive from Allah the principles of the Muslim faith. The sanctity of the Islamized city would not have prevented the other believers of the Peoples of the Book from praying in accordance with their creeds.

Today, however, it is not sufficient to recall that, for no less than 1,500 years, Islamic Jerusalem would have tolerated the Jews who pray next to the Wailing Wall, or that by virtue of the Pact of Umar (*al-uhda al-umariyya*), freedom of worship would have been guaranteed for the Christian Churches, their followers and their properties in Jerusalem since the days of the Second Caliph. The desecrations and humiliations suffered over the centuries, fully documented and verified during the Jordanian occupation between 1948 and 1967, show the other cruel facet of Islamic rule.

But the centrality of Jerusalem for the main tendency within the Palestinian political leadership is regarded, according to Nazmi Ju'beh, as a symbol of the religious, political and national identity of Palestine, because "it is very true that the city was imbued with an Arab-Islamic character". Nevertheless, this symbol also embodies an attitude of tolerant respect, and Ju'beh explicitly promises not to impose this Arab-Islamic identity on the cultural diversity of the other ethnic-religious groups of al-Quds; its frame of reference is still that subordinated pluralism "that existed during the Islamic age"[12].

---

[12] Nazmi Ju'beh, "The Palestinian Attachment to Jerusalem. Jerusalem is a symbol of Palestinian religious, political and national identity", Palestine-Israel Journal, Vol.2:2, 1995, pp.45-46.

5. THE JERUSALEM QUESTION

5.1. Jerusalem as part of the Israeli-Palestinian conflict: political-religious debate

Jerusalem is actually three cities at once: the holy city, the civil city of its inhabitants, and the political city. Negotiating sovereignty for an urban civil society with citizens of two national states is difficult but not impossible; on the other hand, negotiating sovereignty over the holy places seems to be doomed to failure from the outset[13].

It is now a commonplace to say that, of the various complex problems hindering peace negotiations between Israel and the Palestinian Authority, the religious question of Jerusalem constitutes the most complicated bone of contention of all. In the conceptual framework around the nation-state adopted by the opposing parties for the attempted negotiation concerning Jerusalem, the religious dimension of the holy city is the most affected. The basic reason for this difficulty lies in the fact that, by prioritizing this territorial national sovereignty, this conceptual framework distorts the holy nature of Jerusalem for the three monotheistic religions.

In spite of the attempts to deal with aspects of the sacred history, places, pious sentiments and religious symbols of the city, the national and political interests at stake thwart the indispensable preparation of agreed formulas for the peaceful future of Jerusalem.

Since the days of Oslo I and II, the numerous official plans of both parties in dispute have always coincided in constantly refusing any attempt to divide their respective claims of sovereignty over the Holy Places, especially on the site of Temple Mount / Harem al-Sharif.

Unlike religious conflicts in other violently divided cities, such as the "Troubles" between Catholics and Protestants in Belfast, understanding the singular "holy" nature of Jerusalem for the three religions is the necessary starting point when analysing why national demands threaten

---

[13] See Prof. Menachem Klein in the roundtable "Jerusalem: Symbols, Control, Sovereignty", Palestine-Israel Journal, Vol.VIII:1, 2001. pp.61-63.

the obligation to safeguard the legitimate religious rights of Christians, Muslims and Jews in respect of the Holy Places.

Historically, the national dispute concerning this transnational city, with its demands for national sovereignty over institutions and universal religious symbols, has fragmented and fanaticized the spiritual significance of those who believe in the holiness of Jerusalem.

The theological meanings of holy exclusiveness for each one of the representatives of the three religions are not totally compatible with one another with a view to engaging in a dialogue to make peace possible in Jerusalem.

The legitimacy of the significance of the holiness of those places derives from the faith of believers and not from any other authority outside the religious sphere, be it national, political or scientific.

The main framing parameters of this important, complex and sensitive issue affect, just as they did in the past, the peace process in the region and the relations among the three great monotheisms that have their roots in the Bible: the so-called "People of the Book".

The singularity of Jerusalem, for a large proportion of mankind, means that the Holy City should not be divided again by physical borders and should therefore have spaces and powers that are at least partly shared, and with a respect for acquired rights, particularly as regards the "statu quo" of the Holy Places.

Guiding the coexistence of the three religious faiths is an unavoidable starting point for building a broader agreement, to create a level of contact, understanding and collaboration among them and their respective cultures that preserves and gives meaning to the supranational value of Jerusalem as Common Heritage of Mankind. This requires certain commitments from the parties concerned and some international guarantees that protect and give security to the religious communities, the Holy Places, their *statu quo*, access thereto and worship therein. Otherwise, their stability and that of any peace agreements that may be reached could be jeopardized.

Palestinian nationalism's continuing demands for Arab sovereignty over the holy place of Jerusalem, whose sacredness is shared by millions of Jewish, Christian and Muslim believers, means returning to the situation prior to 1967 based on UNGA resolution 181 (corpus separatum), which conferred a *statu quo* on the Muslim shrine Temple Mount / Harem al-Sharif.

Symmetrically, but inversely to the Jewish aim to consecrate the city, that irredentist demand in the current process of peace negotiations would be tantamount to claiming sovereign possession of a holy territory, whose symbolic availability to Jews, Christians and Muslims throughout the world transcends the principle of state sovereignty. The call for exclusive property rights to that holy space seeks to consecrate, by means of essentially religious symbols, the political nature of the capital of the future Palestinian nation-state.

The intermingling of Islamic sacredness and Palestinian nationalism when it comes to negotiating recognition of its independence in the new nation-state not only jeopardizes the pressing peace negotiations between Israelis and Arabs, but also rejects the principle of the shared and reciprocal legitimacy of the right of all believers to venerate the sanctity of the holy places.

One of the biggest risks of the ongoing *statu quo* for the Palestinian national cause is that the Muslim residents of East Jerusalem become a religious-national minority of Israeli Arabs, fragmented and separated from the west Bank and Gaza, and that their struggle be limited to demanding civil and cultural rights within the sphere of Israeli politics.

If the Palestinian Authority's official proposal to negotiate the creation of a Palestinian State adjacent to the Jewish State and to divide Jerusalem into two sovereign capitals proves unviable, the future of the Arabs in Jerusalem will be to live as an ethno-religious minority in the capital of the State of Israel, while their co-religionists and co-nationals in the West Bank fight for self-determination.

Such a minority Arab sub-community in Jerusalem, despite constituting a third of the total population of the city, which in fact has a bi-national character, will at most be able to enjoy restricted religious-cultural

rights, but within a framework of labour, housing, municipal and social discrimination, according to Meron Benvenisti[14].

The other option whose attempted implementation was fraught with danger was the previously mentioned imposition of exclusive sovereignty over the Holy Places, which would transform the Israeli-Palestinian national conflict into a Muslim-Jewish religious conflict, with tragic consequences for the spiritual life of Jerusalem.

The minorities must not be left unprotected against the power –albeit democratically exerted– of the majorities. The local Christian communities have already suffered visibly, as in the well-known cases of Bethlehem or Nazareth, where in a matter of decades they ceased to be in the majority due to the migratory pressure of the political, religious and socio-economic situation. His Holiness John Paul II warned against the danger of the Holy Places becoming mere museums.

In the seminar organized by the CEMOFPSC, "Religion: the Missing Dimension of Diplomacy and Politics in the Middle East", and held on April 1, 2008, one of the papers presented focused on the role of religion in that scenario, both from the local perspective and from an external, mainly European-Western point of view. The speaker pointed out the frequently negative role it had played, due to the historical interpretation of the religious factor in itself and, above all, its interaction with politics and ideology, the latter sometimes converted into pseudo-religion. As inspiration for a more open analysis and an anti-thesis to the fatalist theory of the late Samuel Huntington about the "clash of civilizations", he mentioned a phrase attributed to St. Augustine: "The truth above all, tolerance when in doubt, charity always". He added that if we substitute the word "tolerance" for "respect for others" and "reciprocity", and the term "charity" for "understanding" and "solidarity", we will have an analytical framework that is more complete, up-to-date and appropriate to a globalized world.

---

[14] Meron Benvenisti, "The Inevitable Bi-National Regime", (Haaretz, 22 January 2010); see his historical version of the Zionist and Palestinian account of bi-nationalism in his book "Sacred Landscape. Buried History of the Holy Land since 1948" (University of California Press, 2002).

During the seminar "Religion: the Missing Dimension of Diplomacy and Politics in the Middle East", another speaker maintained that while religious sentiments in the West have waned considerably, or have gradually been concealed or replaced by the spread of secularism, laicism, relativism, and by the separation between Church and State, in Middle Eastern societies the religious factor is experienced with greater intensity and remains more closely bound up with identity.

Today, unfortunately, as in years gone by, the religious factor is often utilized for political purposes and to mobilize collective feelings in order to justify controversy about other interests and their confrontation. The positive side, a common underlying layer of human, personal and social principles and values, whose development and spread among believers and non-believers bring people closer together and help establish an effective dialogue between civilizations and religions, has advanced but continues to remain in the background.

In the Islamic world, there are those who deal with the issue by focusing on supposedly external factors, such as the Western world's conspiracy theories against Islam, in order to achieve internal goals and undermine the credibility and capacity of its authorities to come up with political solutions; or, on the contrary, the regimes that manipulate the religious factor to justify their actions or their democratic shortcomings. And in the Western world, there are those who use the other side of this coin to justify interventionism and unfair policies in relation to the Middle East. Neither has the Jewish world escaped this dynamic, which Israel has used in its conflict with neighbouring countries and peoples.

When considering the religious factor in the Middle East, it is important to bear in mind its singular historical interrelationship with the European-Western religious factor, as well as the fact that the socio-political and religious culture of Middle Eastern peoples is at a different stage of evolution.

As regards the European position on Jerusalem and the Holy Places, it is also worth remembering that the political-religious element played an important role throughout the reign of the Ottoman Empire, with numerous treaties, while also acquiring a broader international dimension

with the system of capitulations[15] and the changing situation in the 19th century. It also lay at the root of the approaches to the Jerusalem question when the process of decolonization of Palestine got under way[16] following the break-up of the Ottoman Empire. Europe actively participated in the debates that led to the British Mandate in Palestine (the crucial article 13 which aimed to safeguard the religious aspects). It was also important at the end of the Mandate, when the United Nations General Assembly approved Resolution 181 (II) of 29.11.47 ("Future Government of Palestine", more commonly known as Partition), which provided for the creation of two States, one Arab and the other Jewish, as well as an international temporary status for Jerusalem, called "Corpus Separatum". It was never applied, however, due to the Arab-Israeli conflict following the Declaration of Independence of Israel (14.05.48), sparked by Arab nationalism's rejection of the partition of Palestine and Israel and Jordan's occupation of the Holy City during the war of 1948.

It is also necessary to bear in mind that Part III-D of UN General Assembly resolution 181 explicitly stipulates that, after 10 years, all the residents

---

[15] Among others: Agreement between Francis I of France and Aumer I (1604); Firman of 1630 in favor of the Franciscans; Firman of 1634 in favour of the Greek Orthodox; Treaty between Mourad IV and Austria (1637); Treaty of Adrianopolis between Louis XIV and Murad IV (1673); Treaty of Carlowitz with Austria (1699); Firman in favour of France (1690); Treaty of Pasarovith with Austria (1718); Treaty with Louis XV of France (1740); Firman of 1852 in favour of France (basis of the *statu quo* until the end of the Ottoman Empire); Treaty of Berlin (1878); Treaty of Mytilene with France (1901).

[16] Sykes-Picot Tripartite Agreement (France, Great Britain, Russia) of 16.05.1916; the rise of Jewish emigration after the Balfour Declaration (2.11.1918); Anglo-French Declaration (7.11.1918); San Remo Conference (24.4.1920); Treaty of Sèvres (18.08.20); Winston Churchill White Paper (June 1922); approval of the Mandates for Palestine and Syria by the League of Nations (24.07.1922); British White Paper (1930); the British "Peel Commission" Report (22.06.1937); the American Woodhead Commission or "Palestine Partition" Report (Nov. 1938); British White Paper (17.05.1939); Declaration of the Jewish Agency for Palestine; the Zionist Biltmore Program (11.05.1942); Sir William Fitzgerald's Report on Jerusalem (26.08.45); the British "Bevin Declaration" (13.11.1945); Recommendations of the Anglo-American Committee of Enquiry (May 1946); Communication from the Arab Higher Committee (19.01.1946); the terrorist attacks and the UK's decision to transfer the Palestinian problem to the UN in February 1947.

of the city would be able to express their wishes as to possible modifications of that international status by means of a referendum.

Israel's occupation of East Jerusalem in 1967 caused the approach to focus on that fact, bringing its treatment into line with that of all the other occupied Palestinian territories (Resolutions 242 and 336 of the Security Council). The parties' political demand for capital status in Jerusalem further marginalized the international cultural-religious aspect[17]. However, other alternatives are available if the aim is to offer solutions for a non-divided city that safeguards the ecumenical future of Jerusalem.

As stated by the British academic and lawyer Sir Elihu Lauterpacht, former Judge ad hoc of the International Court of Justice: "Not only are the two problems separate; they are also quite distinct in nature from one another. So far as the holy places are concerned, the question is for the most part one of assuring respect for the existing interests of the three religions and of providing the necessary guarantees of freedom of access, worship, and religious administration. Questions of this nature are only marginally an issue between Israel and her neighbours and their solution should not complicate the peace negotiations. As far as the City of Jerusalem itself is concerned, the question is one of establishing an effective administration of the City which can protect the rights of the various elements of its permanent population –Christian, Arab and Jewish– and ensure the governmental stability and physical security which are essential requirements for the city of the Holy Places"[18].

Thus, in the successive European stances on the Peace Process, the political and territorial conflict was given priority while the religious

---

[17] The problem was exacerbated by Israel's unilateral extension of its legislation to East Jerusalem (Law and Administration Ordinance and Municipal Corporation Ordinance) and the Jerusalem: Capital of Israel Law of 1980, reaffirming the unified Jerusalem as its undivided capital. This gave rise to numerous UNGA and SC resolutions condemning such measures and demanding that the status not be altered. In fact, Israel has ignored these resolutions and continued its policy of Judaization of the city, in all spheres, even though it has formally proclaimed its respect for the religious interests of third parties (Protection of the Holy Places Law).

[18] http:/www.mythandfacts.com/NOQ_onlineedition.chapter3/Jerusalem1.

factor was gradually forgotten about, largely due to the attitude and pressure of Zionist and Islamic nationalism[19]. Europe gradually abandoned its secular religious leitmotif in the Holy Land, following in the footsteps of the United States, who nevertheless still acknowledged a similar stance to Europe's in the letters attached to the Camp David Accords of 1979.

Moreover, if Europe has been consistent in regarding East Jerusalem as occupied territory (applicability of Resolutions 242 and 338 of the Security Council), its position on the "international" cultural-religious plane of interest, the one where it genuinely had a historical locus standi, has proved as fluctuating and diverse as the attitude of its Member States to the religious factor and other determinants.

Point 8 of the Venice Declaration (13.6.80), in the light of the Israeli Jerusalem Law and its consequences, included a brief yet sufficient reference to international interests in Jerusalem[20]. A great deal of time and some in genere references to the fact that "the position has not changed" would have to pass until the next, equally succinct mention of the initial proposal, included in point 2 of the Florence Declaration (22.6.96)[21]. Meanwhile, the EU turned a deaf ear to the Holy See's non-paper of 1993, which proposed the inclusion of religious-cultural aspects

---

[19] Although the UN has never formally revoked Resolution 181, and the majority of countries, including European ones, continued with the fiction of the Corpus Separatum, without recognising this occupation, Israel relocated its capital to West Jerusalem and gradually managed to impose its de facto situation (presentation of credentials there, relocation of certain embassies and other international ceremonies, such as signature of conventions, which implied recognition).

[20] "The Nine recognise the special importance of the role played by the question of Jerusalem for all the parties concerned. The Nine stress that they will not accept any unilateral initiative designed to change the status of Jerusalem and that any agreement on the city's status should guarantee freedom of access for everyone to the Holy Places."

[21] "The European Union encourages all parties likewise to reengage themselves in the Peace Process, to respect and implement fully all the agreements already reached and to resume negotiations as soon as possible on the basis of the principles already accepted by all parties under the Madrid and Oslo frameworks. These cover all the issues on which the parties have agreed to negotiate including Jerusalem, noting its importance for the parties and international community, nor last the need to respect the established rights of religious institutions".

on the multilateral side of the peace process[22], and the weakness of its attitude to the issue did not change[23].

In short, the spiritual accent is placed on celestial Jerusalem, while earthly Jerusalem is no more than a reminder of the holy events that once took place there. Christian interests in Jerusalem have to do, above all, with freedom of worship, free access to the Holy Places and a reasonable measure of autonomy and self-government of the Church in its Holy Places, with no territorial aspirations or political claims. At present, neither the Churches per se nor the main European and Western States with Christian roots have any ambitions of sovereignty in the area, certainly not since the colonial period came to an end after the Second World War. They promote values and possess geostrategic, political, socio-cultural and economic interests, which they consider vital and which they strive to maintain and defend with presence and areas of strong influence, sometimes to a debatable extent and with questionable methods, but nothing else. At the same time, their concept of sovereignty has evolved towards formulas that contemplate supranational options in which it is shared.

Judaism and Islam have not progressed in the same way as the Western Christian world in the deterritorialization of their religions and their concept of sovereignty. In the first case, after its prolonged dispersion, 19th century secular Zionism, stronger than its religious equivalent, managed to achieve, after the terrible tragedy of the Holocaust, international solidarity for the recreation of the lost State and Israel became the refuge, head and core of its nationalism, which since then has become more intransigent and radical, due to the political role secured by the minority, nationalist and religious parties. On the Arab

---

[22] It had the consent of Palestine and of Shimon Peres, but was blocked by the United States.
[23] The Declaration on the Middle East Peace Process after the Luxembourg GAC (1.10.96) was a little more explicit, but there is no doubt that this was due more to the political situation and Islamic pressure than to European interests in this sphere. Despite the efforts made by some -including Spain- to include some kind of reminder about Jerusalem and Holy Places in the long Call for Peace at the Amsterdam European Council meeting (17.6.97), it was not possible to do so.

side, we have seen Islamic fundamentalist groups burst onto the scene with even greater force.

In both cases this can perhaps be explained by having become modern States more recently, and therefore still being close to Bodin's absolute concept of sovereignty. This can be perceived, for example, in the paltry achievements of the pan-Arabist tendency, or in the actual institutional structure of the Arab League, even though there are now calls for a more supranational reform, along the lines of the European Union. Furthermore, religion is not only a matter of conscience; it is more interconnected with other elements of identity.

Regarding the plural religious situation in the Middle East, we refer to the second CEMOFPSC notebook: "Religion: Missing Dimension of Diplomacy and Politics in the Middle East".

The three monotheisms have their fundamentalisms. I would say that they have always had them, although in a globalized world some have acquired, for various reasons, more violent connotations. The "culture of contempt" has practically disappeared from relations between Judaism and Christianity, but unfortunately, it seems to have been partly replaced by another "culture of contempt" between Christianity and Islam, and for many reasons we are all aware of, some justified, others not.

A good question is whether we Westerners and, in particular, Europeans, by forgetting our religious roots, are falling into an unreal paradigm: religion reduced to the personal sphere, excluded insofar as possible from the social and, of course, the political sphere. It might be possible here "at home", but the Western exportation of this paradigm, associated with our concept of democracy and our dominant civilization, has ended up being one of the most visible factors of disagreement with Middle Eastern societies and their States, some theoretically non-denominational or multi-denominational, but where religion still plays a fundamental role, and they feel threatened. Israel is formally a Secular State, which masks an institutional, legal and social reality that is still denominational in many respects, or even dominated by denominational interests.

What is important, therefore, and especially so with regard to the sensitive issue focused on in this publication, is to try to separate the

political and religious aspects of the disputes about Jerusalem and the Holy Places, so that they are not manipulated by those who feed and exploit them. In this respect we can take encouragement from the progress that mankind has made in establishing and defending fundamental rights and democratic values, and from a globalization process that, in relation to religious matters and especially since the Second Vatican Council and its "Nostra Aetate Declaration", has given rise to a Christian ecumenicism and greater inter-religious dialogue and understanding.

The framework established at the Madrid Conference in 1991 and its subsequent development, which led to the Oslo Accords between Israelis and Palestinians, has sanctioned the bilateralization of the negotiation process, which tends to also extend to cultural and religious aspects of international interest[24], in spite of the UNESCO Resolutions, and in spite of the Holy See and other religious authorities demanding that they be given a separate treatment, "supra partes", that would lead to an internationally guaranteed special status which the parties would have to respect whatever their understanding of the political-territorial future may be.

The "Jerusalem last" theory has not prevented the parties from acting on the ground for many years, trying to prejudge that future in their favour. The marginalization of the international religious aspect has not helped facilitate the political-territorial rapprochement; instead, the facts prove that the religious factor has reinforced nationalist extremism. The theory of "constructive ambiguity", which Henry Kissinger introduced into the peace process, or absence thereof, has had effects that very few people now regard as anything but disturbing and

---

[24] Art. 32 of the Interim Agreement refers to the "Religious Sites". Although it is not applicable to Jerusalem and sanctions some laudable fundamental principles regarding the holy places of the three monotheistic religions (protection, freedom of access, and freedom of worship), it does so in terms of arrogating those powers without any reference to the *Statu Quo*, historical rights or the international interest that these places represent. Furthermore, both parties arrogate and recognise powers over the Jewish and Muslim holy places. This raises the question of what respective legitimacy they actually had in order to speak on behalf of Judaism and Islam.

negative: each party concerned has interpreted the successive UN resolutions according to its whim, and in the end the agreements reached have not been fulfilled.

In the late 1990s, the Holy See and a group of European countries, representatives of the main branches of Christianity, came together to try to separate the religious elements of Jerusalem from the political-territorial and sovereignty-related aspects. For a couple of years the informal "Rome Group" carried out a continual process of conceptual work that eventually manifested itself in a reasonable and mature document, but it subsequently proved impossible to persuade the parties involved in the conflict and the principal mediator to participate in this informal process of reflection. The latter invoked the Oslo argument of "Jerusalem last" and encouraged the parties, initially with some doubts, to do the same. Then politics intervened, and the initiative, like so many others before it, was left to sleep the sleep of the just.

One of the speakers recounted a similar experience, which occurred at around the same time in another informal group with the parties, whose aim was to lay the foundations of a future bilateral negotiation: "Its work was important in all aspects and some of its ideas, which were genuinely innovative, would emerge at Camp David, Taba and other summits and in subsequent initiatives. But when I tried to introduce some basic references to the religious-cultural element of Jerusalem and the Holy Places, as a matter of mutual international interest, it proved to be impossible. The official spokesmen, particularly one of the Palestinians, had a primarily political-nationalist-territorial vision, and those aspects took precedence at that time. Oddly enough, the person who objected most was a well-known Christian professor".

There have probably been dozens of similar informal initiatives that have also ended up being "the man who never existed", although their remaining traces have come to form part of the collective heritage. The paradox is that shortly after, at Camp David, Jerusalem was precisely one of the major stumbling blocks, arguably the one that did most to prevent conclusive progress. Whether we like it or not, the Islamic factor transcends the Israeli-Palestinian bilateral framework and to a certain extent conditions it. Something similar occurs with Judaism and its Diaspora, sometimes with tougher stances than the Israelis themselves.

Today, however, there is no doubting the central nature that the Jerusalem question has always had and continues to have in relation to any permanent and comprehensive resolution of the conflict. The religious factor could block the rest if it is not given an outlet.

Subsequently, the "Road Map" (2003) of the International Quartet (2001) provided for the opposing parties to reach "a final and comprehensive permanent status agreement that ends the Israel-Palestinian conflict […] and a negotiated resolution on the status of Jerusalem that takes into account the political and religious concerns of both sides, and protects the religious interests of Jews, Christians, and Muslims worldwide". A positive step as regards the inclusion of the religious element, but without any further details and with what I believe is a dangerous statement: it entrusts the entire negotiation, including the religious elements, to the bilateral framework of the two parties, even though any solution they may reach should protect the interests of the three monotheisms. What are they, who defines them, how and by whom are they protected, and is there any international guarantee?

It is true that in some areas, particularly in the strictly religious dialogue, there have been substantial conceptual advances, but they have been of little use; what is lacking is a calmer, broader and more far-reaching dialogue on the religious factor at a social and political level.

In relation to the option of completely dividing the city in order to conclude the two-state project with the respective capitals of both independent nation-states, two alternatives come back into contention: implementing the internationalization of Jerusalem, or agreeing on a bi-national status for the civil city and the holy places.

Recent efforts to resolve the Israeli-Palestinian conflict involving approaches guided by the principles of multilateralism and international legitimacy differ from the earlier principle of internationalization of Jerusalem, adopted both by the Vatican and by the UN.

Given the new political reality that has existed since 1948, first under Jordanian domination and, as from 1967, under Israeli domination, the possibility of the internationalization of the holy places should be

separated from the negotiations on political sovereignty and municipal administration in both sectors of the city of Jerusalem.

So it is not surprising that, given the failure of unilateral and/or bilateral negotiation strategies, there has been an increasing tendency in recent years to put faith in the intervention of the international community, to help resolve not only the status of Jerusalem, but also the whole Israeli-Palestinian conflict in all its complexity[25]. These voices are heard in Europe, in Israel, in the Palestinian Authority, and even in some Arab countries.

Going beyond the demands for exclusive sovereignty from the nation-state perspective, a correct approach is applied, from a global/transnational perspective, to the right of million of believers worldwide to have access to the Holy Places as a spiritual locus. Such an approach, in spite of acknowledging the importance of international legal agreements, transcends a contractualist vision to take into account the clash of interests in a conflict between global identities of communities of believers and the state identity of the stakeholders in the current national conflict between Palestinians and Israelis[26].

Internationalization initiatives aimed at resolving the conflict, as proposed by Shlomo Ben Ami, might also encourage a rethink regarding the internationalization of the settlement of the dispute concerning the Holy Places, when the parties involved are not capable of reaching a viable agreement[27].

The second alternative that is gaining impetus is recognising the de facto bi-national status of a city comprising mainly –in demographic, ethnic,

---

[25] One example is the Draft Legal Regime of the Holy Places in the Holy Land-Common Heritage of Mankind, Document of the Grupo de La Laguna, approved on November 29, 2006 in Rome.
[26] Enrico Molinaro, Holy Places of Jerusalem in Middle East Peace Agreements. The Conflict between Global and State Identities, Sussex Academic Press, 2009.
[27] Shlomo Ben-Ami, "Internationalizing the Solution. Multilateralism and International Legitimacy", Palestine-Israel Journal of Politics, Economics and Culture, V.13: 4, 2007, pp.9-14.

religious and cultural terms– Jews and Arabs. The repercussions of such recognition for the holy places would be not only administrative, political and municipal, but also religious.

This alternative goes against the current two-State political conception accepted by Israelis and Palestinians on the basis of the principle of partition of the land in dispute, in order to make viable the coexistence of two sovereign States with their respective capitals in East and West Jerusalem.

Without prejudice to continuing to explore the two-State solution, it is surprising that no thought has been given to which outlines and profiles of a transnational, multi-religious and multicultural status might suit the peaceful coexistence of local and worldwide believers, vis-à-vis the Holy Places of Jerusalem. Some of Meron Benvenisti's essays have drawn the outlines of a bi-national inter-community coexistence between the ethno-religious and national groups in Jerusalem; however, there is still a need to rethink and imagine a multi-religious and multicultural paradigm of a transnational nature for the Holy Places.

This unresolved matter of the sociology and history of comparative religion, centered round the powerful influence of the holiness of Jerusalem, could question the "catastrophic" theory of the "Clash of Civilizations" put forward by pessimists like Huntington. The present historical moment is an ideal time for such reflection, given the current phenomenon of religious trans-nationalism on a global scale, which is also shared by Muslims, Jews and Catholics.

A transnational and multi-religious status in the Holy Places, beyond a theological and/or legal regulatory framework, could constitute an extraordinary laboratory in the present era of globalization and the return of religiosity, in order to assess the value orientations of members of the three great monotheistic religions of East and West regarding values such as democracy, modernity, social justice, culture, identity, belonging, dispersion, tolerance, freedom and equality.

But in addition, collectively determining a special status for the holy places of Jerusalem would constitute a rich incentive to rethink a religious cultural programme of the modern and post-modern civilizations –both European and non-European–, which are

heterogeneously concentrated in Jerusalem, condensing a sui generis paradigm of holy space[28].

In the current era of globalization, the conception of territoriality is going beyond that of a demarcated area with its attributes of possession, sovereignty and ownership to give rise to conceptions of transversality and a logic of multidimensional inclusion[29]. Such a configuration should preside over thoughts about the relationship between globalized communities of religious believers and the holy space of Jerusalem.

The challenge of reaching a peaceful solution in the holy places of Jerusalem also requires thinking about it in terms of universality, without any exclusive aspirations on the part of each religious community.

The resurgence of religion in the contemporary globalized world represents a manifestation of the diversification and transformation of the construction of identity, which is a response to the fragmentation of modern culture and its processes of individualization and, in turn, the need to reconnect with group configurations.

The new globalized culture in relation to the religious needs of the individual has affected the ways in which the world religions, such as Catholicism, offer new responses to the individualism that seeks trans-national networks of mobility and sociability among communities of believers in a global, rather than parochial, space. In contrast to the traditional model of collective, canonical and normative Christian pilgrimage, the current scenario of global networks of believers offers the possibility of a voluntary and individual worldwide religious mobility to undertake religious pilgrimages to the holy places of Christianity, Judaism and Islam[30].

---

[28] See the theoretical reflections of Nina Clara Tiesler, "Muslim Transnationalism and Diaspora in Europe: Migrant Experience and Theoretical Reflection", in Eliezer Ben-Rafael & Yitzhak Sternberg et al (eds.) Transnationalism: Diasporas and the Advent of a New (Dis)order, (London-Boston, Brill, 2009, pp.417-440).

[29] Beatriz Nates Cruz, "Nuevos territorios e innovación digital. Percepción intelectual del tema", in Anthropos, No. 227, Barcelona, 2010, pp.35-53.

[30] Danièle Hervieu-Léger, "Roman Catholicism and the Challenge of Globalization", in Transnationalism. Diaspora and the advent of a new (dis)order, op. cit. pp.445-459.

The Holy Places of Jerusalem can attract these new forms of sociability (not only Catholic ones) based on networks of young people in search of religious experiences. Similarly, the privileged exceptional nature of the sacred space for the three monotheistic religions in this age of globalization poses the spiritual challenge of helping to re-orientate the simultaneous practices of privatization of the religious sensibility and, at the same time, the resurgent reconnection of religious practices in the international public sphere[31].

Paradoxically, our holy city can retake its place at the centre of the new transnational constellation of the religious sphere for the three great monotheistic religions precisely at the moment when Jerusalem al-Quds is becoming the epicentre of the Israeli-Palestinian conflict.

The core of this paradox was one of the main topics discussed during the recent international seminar on "Trans-Nationalism and Contemporary Christian Communities in the Holy Land", held in Jerusalem[32].

Let us hope that the replicas of Jerusalem in churches, mosques and synagogues throughout the world[33] are inspired by the holiness of peace, hope and reconciliation, and not by the idolatry of sovereignty, violence and national pride.

5.2. Jerusalem as part of the Israeli-Palestinian conflict. Political-territorial dimension

---

[31] Shmuel N. Eisenstadt, "New Transnational Communities and Networks: Globalization Changes in Civilizational Frameworks", Ibibdem, pp.32-33.

[32] See the papers of David Neuhaus SJ, "Nationalism and Transnationalism: New Challenges in the Latin Patriarchate of Jerusalem"; Jackie Feldman, "Travelling Objects, Travelling Monies: The Influence and Resonance of Exchange in Contemporary Christian Pilgrimage", in International Conference, Transnationalism and the Contemporary Christian Communities in the Holy Land, Hebrew University of Jerusalem, Centre for the Study of Christianity, Van Leer Jerusalem Institute, Ecumenical Institute for Theological Studies, and Centre de Recherche Français à Jérusalem, June 20, 2010

[33] The replicas of Jerusalem in the world of Latin-American popular culture are an under-researched iconographic phenomenon. For the Brazilian case, see Regina Igel, "The Holy Land in Popular Brazilian Culture", Jerusalem in the Mind of the Western World. 1800-1948, op. cit. pp.83-85

This event took place in the context of what were known at the time as "proximity talks", until they were presented worldwide at the White House meeting between the Palestinian and Israeli delegations.

The proximity talks involving the United States, Israel and the Palestinians respectively, which entered their first round last week, are heavily influenced by the internal and external political dynamics of each one of the direct stakeholders in the conflict: the Palestinians and the Israelis on the one hand, and the United States, the European Union and the Arab States on the other.

The current policy of the United States can be viewed in three layers: firstly, there is the undying American (and European) concern to maintain the official recognition and security of Israel as a State in the Middle East. From the US perspective, this official recognition and legitimation keeps the peace process alive.

The second dimension involves maintaining and securing Fatah, the secular movement led by President Mahmud Abbas (Abu Mazen) as the officially accepted Palestinian partner for negotiating and signing possible agreements on behalf of the Palestinian people. Last but not least, the final layer on the Washington agenda is the desire to "shake" Israeli Prime Minister Netanyahu's right-wing coalition government according to the motto "If we can't change Israel, we can change Netanyahu". This should not come as a surprise, especially given President Obama's lack of a strategy for a permanent solution. At this stage, therefore, the United States only have tactics to deal with the vanity and arrogance of Netanyahu, especially bearing in mind his surreal delusion of power which has been fed by the support of the Jewish lobby in the United States, the growing number of Orthodox Jewish generals in the Israeli military establishment, the half a million settlers in the West Bank, and the weakness of the opposition in the Knesset (both Kadima and the Labour Party).

However, in order not to jeopardize US strategic interests in the Middle East, in terms of oil and the fight against Al-Qaida and Taliban terrorism, the United States must have an active role in order to prevent the Islamists and fundamentalists from capitalizing on the as yet unresolved Palestine question. Therefore, the US generals serving in the region

suggest that the United States should intervene in these proximity talks through public diplomacy with Syria, Lebanon and Iran, in order to strike a balance between the pressure of the Jewish lobby and Netanyahu's obsession with attacking Iran, on the one hand, and the stability of the Arab regimes and the human element of the suffering of the Palestinian people on the other.

The second main stakeholder is the PLO/PA, headed by Mahmoud Abbas, who is in favour of these proximity talks, in the hope of seeing who grasps the "carrots" on offer, first and foremost "isolating" the rival, Hamas. Secondly, the talks should help to maintain the legitimacy and recognition of Mahmoud Abbas' authority as long as the Palestinians are divided geographically and ideologically. Thirdly, the window of hope for a two-State solution within the 1967 borders would remain open among the public; and finally, they would maintain the European donors' support for Prime Minister Salam Fayyad's agenda, which aims to create institutions and fill the political and economic vacuum in the West Bank.

The position of the third stakeholder in these proximity talks –Israel– is complex and difficult to deal with, especially since Prime Netanyahu is clearly challenging Washington to a battle by constantly putting his "noes" on the table as a precondition:

1.   No to freezing construction in the "united Jerusalem";

2.   No to stopping the expansion of settlements in the West Bank;

3.   No to withdrawing to the 1967 borders, especially in the Jordan Valley;

4.   No to lifting the siege on the Gaza Strip (thus transferring the problem to Egypt).

However, the US special envoy, George Mitchell, keeps knocking on Netanyahu's door as a form of political presence and pressure that will undoubtedly have an impact on Israeli public opinion in general and on the moderate sector in the Israeli political arena.

The first round of talks saw the reintroduction of ideas for the transition phase such as land swapping, the deployment of NATO forces to separate

the Palestinians from the Israelis in the West Bank, as well as suggestions to bring Egypt-led Arab troops to Gaza in order to supervise Palestinian security reforms and the reconciliation between Fatah and Hamas.

All the above poses the question of where these talks are heading. The Palestinian side asserts that the purpose of the first round is to clarify the positions of both parties on two issues: (1) the 1967 borders and (2) security "on the day after".

On the border issue, the United States, the EU, the Arab States and the Palestinians (both Fatah and Hamas) all agree that the ultimate formula for a settlement is the two-State solution based on the pre-1967 war borders, i.e. the 1949 armistice lines. Meanwhile, Netanyahu's government promotes the recognition of Israel as a Jewish State, with Jerusalem as its capital and a border based on the Wailing Wall, which would exclude the Jordan Valley (26% of the West Bank) and half a million inhabitants from a future Palestinian entity.

On the issue of security, both the United States and the EU have been very busy investing in education, training and reconstituting the Palestinian security apparatus (West Bank). However, it remains to be seen whether and how its funds are to be increased to further the security reforms and reconciliation in the Gaza Strip. Other related and equally important issues are putting an end to Israel's military occupation and dismantling the settlements.

It is increasingly obvious that Netanyahu, insisting on acceptance of the natural growth of the settlements and the closing of the Jerusalem file (as there is nothing to be agreed upon), is inviting the Palestinians only to, as he puts it, an "economic peace".

As regards Israel's ongoing settlement activities, especially in Jerusalem, and the army's continual atrocities (killing and arresting people and demolishing houses), President Abbas has warned George Mitchell from the outset that if things continue as they are, the negotiations will end before they have even started. Netanyahu, meanwhile, demonstrating once again his talent as a master of tactics and political survival, told Mitchell that he neither promised the United States anything nor gave any assurances, stressing that this would be his position in the absence of direct negotiations.

In other words, while Palestinian expectations of concrete changes on the ground are very likely not to be fulfilled, there is a further demonstration of US public diplomacy and its political and military presence in the region to keep the protagonists active. The proximity talks are hostages to the political dynamics in the region, i.e. the war of words between Damascus and Tel Aviv, the military manoeuvres in Israel and Iran, the attempts of the French and German foreign ministers to stop Syria's support of Hezbollah, and finally, the shuttle diplomacy of the head of Egyptian intelligence Omar Suleiman with Tel Aviv, in a bid to extinguish the fire before it breaks out (recently with the Turkish aid flotilla on its way to Gaza in an attempt to lift the three-year siege on the Palestinian people).

Thus, the current state of affairs in Palestine and the region as a whole could be summed up as crisis containment (instead of conflict resolution); however, a reading between the lines suggests that this is just delaying the inevitable.

We are all aware of the centrality of Jerusalem for the resolution of the conflict. Jerusalem could be the place for an authentic, genuine and desirable dialogue of civilizations, cultures and religions, or it could be the pretext and cause of a global conflict of civilizations and cultures where the Palestinians could be the moderate wing of this global conflict.

In relation to the civil and political city, it is impossible to go back to the situation prior to the 1967 War and to continue with the current illusion of the supposed municipal unification of Jerusalem, imposed unilaterally by the Israeli occupation, with Palestinian opposition and without the international community's recognition. An open city for the citizens of both nation-states, each of which aspires to its respective sovereignties, could generate potential dangers, but this is an inevitable risk that has to be taken in peace negotiations.

According to most of the Palestinian population, the debate about Jerusalem takes places in a general political context, which we will refer to briefly.

Nowadays, there is a gloomy mood, particularly among the Palestinian population, according to the Palestinian perspective. What is the Palestinian perception?

1. They now think that the Nakba –the catastrophe– was not a frozen moment that occurred in 1948, but that it is a process that has continued to this day.

2. They think that the successive Israeli governments of any political persuasion, right and left, have had a consistent policy of trying to gain the largest proportion of the Palestinian geography with the lowest possible amount of Palestinian demography.

3. Unfortunately, at this depressing time, they think that the theoretical years of peacemaking, since Madrid, since Oslo, have not led to the withdrawal of the Israeli occupation, but to an expansion of the Israeli occupation.

4. They think that there is currently a ceasefire in the West Bank and in Gaza, in which case the real obstacle for serious observers is not terrorism, but the territorial dimension, the State of Israel's desire for territory.

5. They know that there is an Arab Peace Plan adopted by 57 countries, which is not an Arab rejection of Israeli existence, but the Israeli rejection of Arab acceptance, because they cannot comply with the territorial dimension. So territory is important.

At present, Jerusalem is a microcosm of the struggle for Palestine. In Jerusalem we have witnessed the same struggle that has changed the demographic composition, where the majority has become a minority and the minority a majority.

Here are three comments on point 2: "Jerusalem: an historical analysis from the 18th century to the present day".

1. We Palestinians question the demographic figures presented therein. On mentioning this to the author himself, he responded very pertinently by saying that the Jewish inhabitants in the late 19th century did not register their details with the Ottoman authorities, but with the European consular missions, and therefore some of them may have registered more than once in more than one consular mission in order to boost the figures.

2. The term *banlieue* is used naively when referring to the illegal settlements, given that it means suburbs and quarters.

3. While reading this point one has the impression that West Jerusalem was always Jewish, whereas history tells us that there were eight Palestinian residential communities in West Jerusalem, which had to move from West Jerusalem to East Jerusalem. There were 64,000 Palestinian Jerusalemites who had to move from West Jerusalem to East Jerusalem, if we count eight Palestinian neighbourhoods: Katamon, Talbiye, Baka, etc., and the four towns that now belong to West Jerusalem: Ein Karem, Deir Yasin, etc.

"Jerusalem nowadays is a very sad place to live, and we Palestinians have seen its forced decline and how it has been enclosed. Those who visit it and love it see that it is mutilated as a city by the wall of shame that snakes through Jerusalem, separating Palestinians from Palestinians, not Palestinians from Israelis. Jerusalem is in decline. Demographically I belong to category 8, but I was studying at university in Europe in 1967, and when the Israelis occupied and annexed it and carried out a demographic census, I was declared non-existent, because my brother and I were studying in Europe. Fortunately, my sister had already returned from Strasbourg. I remember my father, who spoke French and English, but he said in Arabic: "in 1948 we had lost our homes, but in 1967 we lost our children". After the Oslo Process I applied for family reunification but it was turned down; they told me I could go to Ramallah, Jericho or Gaza with my political friends".

"I'm the only ambassador of a political entity who doesn't have the passport of the political entity he represents. I travel all over the world with my Belgian passport, and to go to Jerusalem it's easier to be a Belgian tourist than a would-be Palestinian citizen. Having Palestinian residence and a Palestinian passport, I would have to go through Jordan, cross over to Ramallah and ask for a permit to go to my home town, Jerusalem; but with my Belgian passport I can go straight to Jerusalem from Tel Aviv airport and go to Ramallah and wherever I want. So it's a very sad place, Jerusalem".

"We Palestinians have been unreasonably reasonable; our position is aligned within the international community. I will quote someone, Sir

Malcolm Rifkind, who was the UK Secretary of State for Foreign Affairs, Jewish, conservative, one of the most brilliant minds. During a meeting in 1996, when I was next to him he said: "We in the United Kingdom, like the rest of the international community, believe that Israel is engaged in an illegal military occupation of East Jerusalem, and in de facto control of West Jerusalem. So the status of the city has to be decided in an international process".

"What is our position? In spite of being an angry and wounded community, we constantly offer proposals and solutions. I think Jerusalem, tomorrow, could be an undivided city –I don't want to use the word "united", because this word has been perverted by the Israeli annexation, so let's say undivided–, and also the capital of two sovereign political entities. Countries will be able to transfer their embassies in Tel Aviv to West Jerusalem, and countries will be able to open Palestine-accredited embassies in East Jerusalem. I think Jerusalem deserves the two-embassy solution".

Each Jewish, Christian and Muslim religious temple should be managed by the relevant religious authorities with State intervention, and "as a sociologically Christian Palestinian who belongs to the Palestinian political establishment, I'm proud to say this here in front of you, because Spain has had a very important historical role as one of the protectors of minority communities. The Palestinian Authority, the PLO, has always had a perfect and unblemished record when it comes to dealing with Christians, Christian institutions, churches, etc., which is something I can't say about the Israeli side, which tried to interfere in the Orthodox Church, in a bid for mutual recognition in exchange for financial and territorial concessions. I also know that the Vatican is very unhappy with Israel, but it doesn't express this discontent because the Vatican prefers discretion".

In this Israeli-Vatican agreement, the Israelis have not honoured their commitments, such as, for example:

1. Giving an automatic residence permit to thousands of priests and monks. There are thousands of priests and monks in Palestine who cannot go from Bethlehem to Ramallah because they do not have a residence permit and are afraid of being intercepted at the check-points and expelled.

2.   In accordance with the *Statu Quo*, Christian institutions, convents, territories and properties should be exempt from taxes, yet Israel has applied great pressure to ensure that Christians pay taxes, thus contravening the *Statu Quo* and the bilateral agreement between Israel and the Vatican.

3.   The Israeli authorities in the occupied areas are amputating parts of Catholic properties and land. Near the Damascus Gate, the Dominicans are threatened with the expropriation of part of their properties due to the "need" to open new streets and all kinds of other excuses. The Sisters of Charity in Bethany have the wall of shame running through the spacious grounds of their premises, an eight-metre-high wall right in front of their windows. An 80-year-old nun told the newspaper Le Monde: "From now on I'll only see the sun after 11 o´clock in the morning", due to the fact that the wall was built very close to the buildings where they live, within the grounds of their premises. The Israelis leave a lot to be desired when it comes to observing agreements with outside parties, including the Vatican.

What is the path for the future? Recalling International Law and what was said by Malcolm Rifkind, a man of great honesty and a self-respecting –rather than self-hating– Jew. "I think the Holy Places should be administered by the relevant religious authorities, and we shouldn't have a single municipality, because that will threaten demographic growth and the control of demography, causing a demographic race with Israelis concerned about our natural demographic growth, and with us concerned about their immigration policy. I think we need a formula of two municipalities and common municipal committees for affairs of common interest: sanitation, security, clandestinity, tourist traffic, etc. According to this formula we won't worry about the mayor always being Jewish, and they won't worry about our demographic progression. And if the Israelis want to make Jerusalem a Mediterranean city and expand West Jerusalem to the shores of the Mediterranean, I haven't got a problem with that. And if we say that East Jerusalem should stretch to the Red Sea, that shouldn't worry anyone either".

Peace is feasible, peace is desirable, and Jerusalem is an issue that we shouldn't continue to ignore and put off until the future, which seems

increasingly distant, because it's poisoning the political environment we operate in. These days, what is democratically acceptable to the Israelis is not acceptable to the Palestinians, and what is democratically acceptable to the Palestinians is not acceptable to the Israelis.

On the presupposition of International Law, it is clear that annexation of East Jerusalem should be deemed null and void; the illegal settlements should be considered illegal. "Yasser Arafat, who was "murdered" in the Camp David agreements, showed flexibility when he accepted the "swap of land" principle on the condition of equal quantity and equal quality, and when he allowed certain illegal settlements to remain in place, because we know the political difficulties that any Israeli leader faces when confronting the aspirations and ambitions of these settlers. If we calculate in electoral arithmetic terms the number of settlers, their relatives, their friends and their friends' relatives, this adds up to a sufficient critical mass for dissuading any political leader lacking the political audacity to push forward the peace process with the Palestinians".

The flow of the previous peace process left too much for the local leaders to resolve. We are two equal and symmetrical stakeholders, but the Israelis were constantly tempted to dictate to the Palestinians instead of implementing what was desirable. The international community has a responsibility. De Gaulle was in favour of an elegant type of solution imposed by the international community. One of the Palestinian participants went on to say: "And I add my own contribution by saying that this solution is mutually unacceptable, but the concept of what is mutually unacceptable might be much better than what is mutually acceptable. Even in these depressing times, I am always confident that Palestine will rise again, and we in Jerusalem, in Palestine, have had a certain previous experience of resurrection".

Meanwhile, others maintained that the Jerusalem question cannot be resolved. Many people say "Well, yes", but when they get down to the real issue, or when talk turns to the topic of refugees, they say: "Well, I don't know, it's impossible, how can it be done? We have the problem of the Wailing Wall, al Harem al-Sharif, the different quarters in Jerusalem, etc. There are always crazy people on both sides who are never going to let you, because they're going to use violence". The most important thing is that the majority want a solution.

Generally speaking, the majority, ordinary people who want to live, who want to have their children, who want to educate themselves… these people don't want violence. They think the others are to blame for their situation, but ultimately what they want is a solution, and the solution they want is now much nearer. This common denominator is much nearer than it was before, especially in comparison with the last 40, 60, 100 years. There has never been such a tiny difference between the main tendencies in both societies.

And now, if we're talking about the type of solution, perhaps the original 1947 solution wasn't so bad, but let's face it, that's a thing of the past. We could talk and write books about the original idea of the internationalization of Jerusalem, but in reality it's impossible. What is possible? Palestinians and Israelis sharing a political solution.

The dynamics of political activity, the negotiations, are an exercise of speed and dynamism in response to urgent and pressing situations. In these circumstances, there are often large vacuums which, unfortunately, are filled by improvisation. Governments also do this, and before the press conference we often don't know what is going to be said; there is no clear picture of the matter to be dealt with. "As I have been in these situations, and because I know that vacuum exists, at the moment of truth, when they don't know what to do, if they have enough material then they are going to borrow it, and this is something that has happened in the past. And those who borrow that material are the NGOs, different groups such as the CEMOFPSC, etc. They get hold of the books, and it's very boring for them, so they are not read in any other situation; but if they have to reach an agreement they will do, and then they'll say "well, look, this is not such a bad idea" and so they'll do it."

6.   PROPOSED SOLUTIONS TO THE JERUSALEM QUESTION

6.1. The Geneva Accord

This is the reason why it is very important to suggest a solution for Jerusalem, which is a solution agreed by both parties. In Geneva there were people from the middle ground and from the Left, but neither Hamas nor Israeli extremists such as Israel Beteinu were present. There were moderate people from Fatah and the socialist groups, there were Israeli ministers and security people, and that was the solution they came up with, and then the annexes to the Geneva Accords were drawn up, a process which came to an end less than a year ago. The Three Cultures Foundation (Fundación Tres Culturas) has translated all 500 pages of the annexes into Spanish. The important thing is that people know it exists, and when the right time comes it is going to be used and it will fill those vacuums mentioned above; that's the important thing.

The idea is based on the parameters proposed by President Clinton, who suggested that the Arab neighbourhoods would be under Palestinian sovereignty and the Jewish neighbourhoods under Israeli sovereignty, and at Geneva it was said that the same idea was going to be applied to the Old City, in that the Jewish quarter and the Wailing Wall would be under Israeli sovereignty, and the Palestinians would have al Harem al-Sharif together with the Muslim quarter, the Christian quarter and the Armenian quarter.

In a way this is a cruel solution because it divides the city, but if people are normal and willing to live in peace, then this division is not that important; some will move from one place to another, the streets will be painted with colours as in Ireland, so that people will know they are going from one side to the other, but no more than this, and that might happen within the next two, three, four years.

Then there would be a multinational group in the city, from different countries, maybe the quartet, maybe another structure, and this group will always be on hand to resolve the problems and conflicts between the different parties. The Geneva Initiative defines the specific details of the structure of this group, the name it goes by, its rota system, who this group's authorities are, etc.

There would also be, of course, a religious council of Muslims, Christians and Jews who can be consulted, and who would advise politicians on inter-religious issues. These groups would have to promote dialogue between the different parties.

The main reading is article 6 of the Geneva Accord, where something very important is said: "Many people, although I won't say the majority, because it's very difficult to quantify it, but many people who are involved in these conferences are not religious people, be they Muslims, Jews or Christians. For them Jerusalem is not holy, because for non-religious people holiness is something else. For me it's a historic place; it's a part of my culture, and my culture is an accumulation of my history, of Jewish religion, of Jewish culture, of Jewish literature. The last thing I'm willing to accept is that a rabbi is going to represent me, even though Jerusalem is important for the rabbi. Jerusalem is also important for secular Christians and the Palestinians, and here they are not represented by a priest or by an imam, just as I am not represented by a rabbi".

For the rabbi, the imam or the priest, maybe it is a holy matter. Well, they should sit down together and promote dialogue, but they should also stop bothering and trying to represent those who do not perceive the matter as a holy issue; and they should let the politicians talk about Jerusalem, and take into account the importance of Jerusalem for the believers. But the believers ought to know that they should never monopolize this place, because this place is also very important for non-believers, for secular people, who want it to be an attractive, interesting place; they don't want it converted into a source of conflicts, but instead the opposite: a source of solutions.

Geneva Accord text and further information in Annex 9.1. "Geneva Accord: Private Initiative for a Permanent Agreement".

6.2. University of Windsor Proposal: *Jerusalem Old City Initiative*

Speaking in practical terms, the Geneva Accord has taken us a long way towards offering those ideas that could be possible solutions. It is not perfect, and the word "cruel" has been used on several occasions when talking about this initiative. Nevertheless, Geneva represents that

general solution, but in spite of all that, a group of Canadians have decided that the Geneva responses regarding the Old City could be improved, and therefore they have tried to find another solution for the city.

The prime motivation was knowing that the leaders at Camp David in the year 2000 did not have sufficient material with them about Jerusalem; secondly, the belief that the division of the Old City is cruel, very harsh, realistic perhaps, but cruel; and thirdly, the leaders' capacity to make sovereign decisions about the Holy Places within the city, especially with regard to Harem al-Sharif, Temple Mount, could be fraught with difficulty, to the extent that the final response might be mutually unacceptable to both parties.

And the final point that motivated them was that some of the mechanisms that Geneva proposed for the Old City are rather complicated, and so bearing all this in mind, a simpler solution was proposed. Their efforts have focused heavily on finding a solution for those who make the decisions, the politicians, and above all, for the Old City, the area within the walls. This means a special regime for the Old City, whereby Israel and the future Palestinian State could authorise a third party to handle key points and issues of friction in the Old City. The general difference is that this third party would manage places, leaving the inhabitants of the Old City to exercise their national rights and responsibilities. In other words, it basically focuses on the Holy Places.

It should be emphasised that although it sounds like a kind of internationalization, and there would be a third party with authority in the Old City, it would be controlled and managed by Palestine and Israel, i.e. it would be a decision that both parties would have to make. And it would be a way of managing the Old City for Israel and Palestine. Structurally, this proposal suggests that there should be a Governance Board, consisting of representatives of Israel and Palestine and outside members of other countries chosen by both, who would appoint a Chief Administrator to manage the Old City.

As in the Geneva Accord, there is an Advisory Religious Council, and the coordination between the Chief Administrator and the Religious Council would be very close; it needs to be like that for the Holy Places. And

perhaps more importantly, it is suggested that there be a single police force in the Old City, which should be neither Palestinian nor Israeli, but something more neutral, community liaison officers to address the needs and concerns of Israeli or Palestinian citizens, but the police force would be in the hands of a third party; and in this respect there is a slight contrast with Geneva, because the division of the Old City is considered to be inadequate, undesirable, as well as politically very difficult. There are doubts as to whether the two parties will be able to reach a political agreement on this issue, but it is clear that a very good second option is being presented: "I would be delighted if the Old City were actually divided according to Geneva; I think this is the first solution, but really, we Canadians doubt whether this will happen".

Nothing relating to any area outside the Old City has been touched on, but it is definitely possible to take some of the measures, in a watered-down form, and apply them to the holy places outside the Old City, because there are many of them. This is the Canadian proposal, but it is not the work of the Canadian government. It comes from the University of Windsor.

"I would also like to make some observations that go beyond the Old City, beyond the Canadian proposal, as a proposal for the politicians and stakeholders involved in the decision-making process. Even though I think that the Geneva ideas are very good, and that the work they have done is excellent, the Clinton Parameters should be viewed with a certain degree of caution, because things are changing very rapidly in Jerusalem, and very dangerously, and over the next five years, key areas in the Arab part of Jerusalem, and not only the Israeli settlements in the suburbs or outlying areas, but also central areas of Jerusalem, will be changing. I am referring to Sheikh Jarrah, Silwan, etc., and these changes could make it more difficult to apply the Clinton Parameters than in large areas where it is easier to identify, easier to unite. Here we are even talking about building to building, so the complexity of applying the Clinton Parameters cannot be underestimated, and therefore time is against us. The West and the international community need to be aware of this and understand that if the Clinton Parameters and the Geneva option are to be feasible, then time is of the essence".

Further information in Annex 9.2. "University of Windsor Proposal: *Jerusalem Old City Initiative*".

6.3. Mediterranean Perspectives Proposal: *The Jerusalem Holy Places Center*

In relation to Jerusalem, the Latin term *statu quo* has different meanings which need to be clarified in each specific context in order to avoid potential misunderstandings.

In international politics, the different meanings of *Statu Quo* –which literally means to maintain an existing situation– help us to understand various aspects of Jerusalem and its Holy Places. This awareness relates the conflict to a broader international debate in the West, between two models of collective identity: a centripetal State/territorial or State-centric model and a centrifugal/world trans-territorial model.

These two radically different forms of taking on a collective identity correspond to two diametrically opposed concepts in international relations and in the international socio-legal environment.

In the State/territorial model, each individual is aware of his/her collective identity –also expressed by the concept of ethnic group– as a result of unconscious experience, without any conscious intervention whatsoever. This State-centric model stresses the Nation-State identity as a factor of union of the ethno-territorial communities of citizens organized in Nation-States and separated by borders, in the legal-geographical and physical sense of the term.

The Western elites of continental or Franco-German Europe promote this idea and the corresponding horizontal society of States, without a higher regulatory authority.

In the second model, the global and trans-territorial model, collective identity –expressed under the concept of demos (from the Greek: people)– arises as a consequence of a conscious perception, the result of the way one perceives the world, understands social reality and accepts its rules.

Here the identity boundary of a community is purely ideal, symbolic and based on abstract trans-territorial values and ideologies, which are defined as internal cognitive boundaries, in which society and people are aware of their position in the world.

This second, centrifugal model, developed especially by Anglo-Saxon elites, involves different institutions where trans-territorial entities –for example, a hierarchical and verticalized global authority– control the governmental power of territorial states.

Each of the two abovementioned elites competes with the other in trying to influence Western political-institutional debate and the neighbouring areas with its identity paradigm in order to legitimize its respective power. The elite does not identify itself with a State or an ethno-cultural group, but instead forms solid and unexpected strategic alliances that go beyond traditional political coalitions in order to protect its own long-term interests.

Bearing in mind the abovementioned two models that deal with collective identity, it is worth analysing three different meanings of the term *statu quo* in relation to Jerusalem and its Holy Places:

1. The *statu quo* of the Holy Places in a restricted sense. The Latin term (with capitals) refers to a temporary legal regime applied to the competing demands of the respective rights and interests concerning various important sites for Christian worship in the Jerusalem area (and also Bethlehem). The corresponding conflicts refer to the relations among religious communities on a worldwide scale; those in favour of the global/trans-territorial model generally highlight the disputes about this type of *statu quo*.

2. The cultural/religious *statu quo* (without capitals). This term broadly defines the cultural and religious dimensions of the city, including the relations among the recognised religious communities and the territorial authorities. The groups that support the global/trans-territorial model tend to be exasperated by this type of claim, related to the dispute between radical religious observers and moderate observers or lay people in the Israeli and Palestinian community. On the contrary, the political elites that support the abovementioned State/territorial model tend to integrate and strengthen the ethnic-religious homogeneity of the national identity to which they belong.

3. The political/territorial *statu quo* (without capitals). This term defines the political balance of power *in situ* between the Israeli

side and the Arab side after the 1967 war, awaiting a definitive solution regarding the administration of the city to be negotiated by the relevant parties. This type of *statu quo* refers to the relations between the two main Israeli and Arab identity groups, as well as to the corresponding leaders in favour of a State/territorial model.

In this article 1.1 the term *statu quo* (the *Statu Quo* in a restricted sense) will be used to express a specific meaning related to a legal system which is applied to disputes among the communities of Jerusalem concerning the shrines and religious buildings conventionally defined with the term "Holy Places" (also in capitals).

The logical relationship between the *Statu Quo* and the Holy Places helps to identify those sites as being different from other religious places in the area. As surprising as it may seem, neither Ottoman Law nor other legal systems applied thereafter in the area –Bristish Mandate, Jordanian Law or Israeli Law– includes a regulatory definition of "Holy Place" which might clarify the precise meaning of this term.

Various conflicting claims about rights of ownership and worship in the Holy Places made by different Christian communities changed the balance of power between them and their respective Western protectors. As a result, the Ottoman authorities issued a series of firman (from the Persian: imperial decrees issued by the Sublime Ottoman Porte) during their long administration of the city from 1517 to 1917.

In February 1852, Sultan Abdul Mejid tried to impose, through an important *firman* aimed at the then Governor of Jerusalem, Ahmed Hafiz Pasha, a lasting truce among the different communities in order to distribute space and time in relation to celebrations and ownership in the Holy Places in dispute: the Church of the Holy Sepulchre, with all its outbuildings, Deir al Sultán, the Chapel of the Ascension, the Tomb of the Virgin Mary near Gethsemany, and the Church of the Nativity in Bethlehem. This decree clearly confirms the existing situation on the ground, which had already been recognised by an earlier firman issued in 1757, owing to one of several previous confrontations among Christians.

The body of procedural, general and abstract rules of the *Statu Quo*, which are relatively coherent and organized, is a legal system in itself

and is applicable to the relations among the communities of Jerusalem with a recognised interest in the Holy Places. The British administration in Jerusalem during the Mandate (1917-1948), which followed the long period of Ottoman rule (1517-1917), tried to extend the application of the procedural rules of the legal regime of the inter-Christian *Statu Quo* to the Wailing Wall and to Rachel's Tomb, "whose ownership is in dispute between Muslims and Jews".

This body of complex and weighty rules governing the rights and privileges of the Christian communities who worship in the Holy Places has in fact been meticulously observed until now. This probably depends on the inability of the communities concerned to find an adequate and fair solution to their respective disputes regarding the basis of a mutual agreement and to reach a legal arrangement in relation to the ordinary procedural rules.

Various provisions of diplomatic agreements have helped to give international legal value to this special procedural arrangement, crystallized by the different communities in the Holy Places. Among recent examples, the most important is article IX of the Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, signed on October 25, 1994.

According to article IX, devoted to places of historical and religious significance and inter-religious relations, each party must guarantee freedom of access to these places. This provision stresses that the importance of these places depends not only on their religious value, but also on the specific historic-national significance they represent for the two parties, in keeping with the abovementioned State-centric approach.

The following section of article IX states that, in accordance with the Washington Declaration signed previously by Israel and Jordan, Israel must respect the Hashemite Kingdom's special role in protecting Muslim Holy Places in Jerusalem. In this context, Israel agrees to give priority to Jordan's historic role in these shrines during permenent status negotiations.

The third part of the same article includes the parties' pledge to promote interfaith relations among the three monotheistic religions,

with the aim of working towards religious understanding, moral commitment, freedom of religious worship, tolerance and peace. The terminology of this provision recalls the language and approach of the abovementioned model of global trans-territorial identity.

The provisions mentioned above indirectly confirm the *statu quo* in the Holy Places. In contrast, the Fundamental Agreement between Israel and the Holy See (art. 4, para. 1) and the Basic Agreement between the Holy See and the PLO (para. 8 sec. «e» of the Preamble and art. 4) explicitly mention this Latin term written in capital letters, in its most specific sense relating to the legal system of the Holy Places.

Article 4, section 1 of the Fundamental Agreement mentions the State of Israel's continuing commitment to maintain and respect the *Statu Quo* in the Christian Holy Places to which it applies and the respective rights of the Christian communities thereunder. The Holy See reaffirms the Catholic Church's continuing commitment to respect the aforementioned *Statu Quo* and the said rights. Likewise, article 4 of the Basic Agreement between the Holy See and the PLO states that the legal regime of the *Statu Quo* will be maintained and observed in those Christian Holy Places where it applies.

Section 8 of the Preamble to the same Basic Agreement calls for a special (internationally guaranteed) statute for Jerusalem to safeguard freedom of religion and conscience for all, equality before the law of the three monotheistic religions and their institutions and followers in the city, the proper identity and sacred nature of the city and its universally significant, religious and cultural heritage, the Holy Places, the freedom of access to them and of worship in them. The abovementioned section «e» of this Preamble includes a reference –identical to the one included in article 4 of the same Agreement– to the legal regime of *Statu Quo* in those Holy Places where it applies. In this provision, however, the adjective "Christian" in relation to the Holy Places was dispensed with.

This terminological difference could be explained as additional, albeit indirect, evidence of the gradual extension of the principles of the legal regime of *Statu Quo* to the Jewish and Muslim Holy Places. The proposed interpretation seems to be confirmed by the general context of the provisions included in the Preamble which, as the abovementioned

provisions underlined, refer both to *Statu Quo* in the strict sense (in capitals) and to the *Statu Quo* in the cultural-religious sense, which will be analysed in the next section.

The Camp David negotiations involving Arafat, Barak and Clinton in 2000 encountered a stumbling block in the most delicate and controversial issue of Arab-Israeli peace negotiations: the Holy Places of Jerusalem.

In coordination with the members of the Quartet on the Middle East (European Union, United States, Russia and United Nations), a further series of informal meetings concerning some apsects of the complex question of Jerusalem and its Holy Places could be established. In the final phase of these informal meetings, when the specific details of the technical work are at the disposal of the negotiators, the public opinion of the parties concerned could also contribute to the political decisions.

These meetings can help to clarify terminology and to analyse the advantages and disadvantages of each political option, to the benefit of all, as well as to help promote the resumption of direct negotiations between the parties on the necessary mutual concessions, trying to positively influence Arab and Israeli public opinion with a view to reaching a permanent settlement of the conflict.

Whereas only the representatives of the Israeli and Palestinian governments could carry out such negotiations directly, an external contribution could help to clarify certain terminological aspects or define possible technical-legal opportunities offered by diplomacy and international law.

The new political situation following the recent Israeli elections in February 2009 confirm the validity of the proposal outlined above, due to the fact that the organization of meetings among experts to define technical and legal aspects of the conflict could precede and promote the resumption of negotiations between the parties.

In this volatile phase, the Jerusalem Holy Places Center proposal and the closed-door meetings could initially focus on the economic, financial and fiscal aspects of the administration of the Holy Places. This approach seems to be compatible with the policy announced by the Israeli Prime

Minister, Benjamin Netanyahu. From this economic and fiscal point of view, the development of the bilateral negotiations between Israel and the Holy See show how difficult and complex this problem is.

As for the other stakeholders in the conflict, Mahmud Abbas (Abu Mazen), President of the Palestinian Authority and President of the PLO, reiterated on several occasions through the diplomatic channel with the Israeli government that, in spite of Hamas' victory in the parliamentary elections, the PLO is still the only Palestinian entity officially in charge of diplomatic negotiations.

The PLO is the political body that has signed all previous agreements with Israel, due to the fact that the Palestinian Authority, which was created by virtue of the Oslo Accords, is not a subject of international law.

In conclusion, it is necessary to re-emphasise the complexity of this issue. Whatever the proposal for acheiving permanent results may be, it must take into account that the question of Jerusalem and its Holy Places is a senstitive issue for millions of people both in and outside the area.

This realization seems to be steadily growing among the negotiators. The Holy Places are also a symbolic frontier between two opposing models of collective identity that compete in the Western political arena. Only by taking into account the political interests and the identity at stake can one try to deal with the issue, putting the ideological or emotional aspects to one side in order to focus exclusively on the practical and legal aspects that may prove less complicated than they seem today.

6.3.1. Some technical-legal aspects of the *statu quo* of the Holy Places of Jerusalem

How can we create a situation in which the Palestinians have sovereignty over Harem al-Sharif, *Har Habait* in Hebrew, and the Israelis have sovereignty below ground? Precedents exist in International Law: the Mont Blanc Tunnel between Italy and France, which belongs to Italy below ground and to France above ground, is an example of this; or a

bilateral agreement about a car park between the Vatican and Italy, which means that it is possible to have a vertical sovereignty in accordance with the international law, because sovereignty basically means three things:

1. It means ownership, which we can conceive of as a balance in which the demands of the both parties are represented in order to decide who is entitled to a certain territory.

2. The meaning of independence, as in when we say that country is sovereign over a certain territory.

3. Or then we have the actual meaning of the content of power, which is called jurisdiction. This could be symbolized with a tank, because the symbol of political authority nowadays is the army.

So are we discussing sovereignty in the sense of independence? Obviously not; no-one denies the independence of Israel or the independence of the PLO today, or of the Palestinian State in the future. Are we discussing sovereignty in the sense of ownership? Let's take, for example, St. Peter's Square in Rome. Who does it belong to? Who owns it? The Holy See. But who has the power to govern there? The Italian State, according to the 1929 bilateral agreement. In other words, it is possible to make a distinction between formal-abstract ownership and actual power. So let's discuss actual power, which again is divided into functional jurisdictions, according to the Oslo definition: territorial jurisdiction, which is the line that divides the area under the responsibility of the different parties, and personal jurisdiction, which in legal terms is called *ratione materiae, ratione logica, ratione personarum*, according to the terminology of the Oslo Accords. So it is possible to divide up the question of sovereignty even further in terms of jurisdiction. Therefore, it is possible to consider different aspects of the problem and offer them to the different parties.

The former legal advisor to the Italian Minister for Foreign Affairs suggested that it is even possible –and here this idea applies to the possibility of having two capitals in Jerusalem– to have a capital abroad, in the sense that the functional jurisdiction of the governmental power of the city could even go beyond the territorial boundary of the State,

and vice versa, so as we can see, there are many political options for the parties.

So what we basically did was to work not only on the relations among communities –this is what is known as *statu quo*– but also on clarifying the meaning of the *statu quo*, which in that case, according to the basic agreement with the PLO of February 2000 and the fundamental agreement between the Holy See and Israel of 1993, is written in capitals; this has to do only with the relations among the religious communities in themselves, and nothing to do with power, political States, or ecclesiastical law. This has to do only with the specific legal regime that deals with the religious communities in themselves. It is a way to avoid conflicts such as those that occasionally occur between religious communities, and to find a forum where we can have a judicial jurisdiction to handle and arbitrate these conflicts. So the main problem is the relationship between the State and its different religious communities.

Once we have the definition of these terms: sovereignty, *statu quo*, etc. –written not in capitals, but in small letters, so that it is clear we are talking about another *statu quo*– firstly it will be easier to understand each other, and then it will allow us to work towards a solution. Five years of work involved drawing up a list of principles already accepted by the parties, a two-page list not about the *iure condendo*, what the situation will be in the future, etc., but what the current situation is, where there are no challenges; documents prepared by the PLO, by Israel, by the UN, always confirm principles such as freedom of religion, partial immunity jurisdictions, partial tax exemptions, etc., so this document, to avoid a last-minute hurry with all the governments involved, could be very useful and serve the community or the negotiators. For this reason we have created the Jerusalem Holy Places Center. This work should be of use for the different initiatives and the different sectors.

6.4. Jerusalem: Common Heritage of Mankind: Two Initiatives for the Protection of the Holy Places

Firstly, it is important to emphasise the effort that UNESCO has always devoted to culture in its broadest sense as a path to peace and the

protection of the Cultural Heritage of Mankind (CHM). To this end it has issued a number of specific resolutions, including several devoted specifically to Jerusalem.

As far as peace is concerned, it is worth highlighting the Report adopted at the end of the Barcelona Conference (December 12-18, 1994), on "The Role of Religion in the Promotion of a Culture of Peace". The effort, which began in 1992 with a series of contacts with religious entities and centres that work for peace, was a consequence of successive United Nations General Assembly resolutions (res. 36/55 of 25 November 1981 proclaiming the "Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief"; reaffirmed by res. 50/183 of 22 December 1885) and the decision adopted in the 26th session of the UNESCO General Conference. The organization's centre in Catalonia, with the support of the Regional Government, called a first meeting in April 1993. The Declaration of the following year was widely disseminated at institutional level by UNESCO and, as a result, numerous religious entities, NGOs and academic institutions contributed to the effort with specific activities.

As regards culture, the work carried out by the Fundación Cultura y Paz and the Grupo de La Laguna, presided over by Federico Mayor Zaragoza, former UNESCO Secretary-General and Co-President of the Alliance of Civilizations. The Document approved at the Rome meeting on November 29, 2006 includes a conceptually interesting "Draft Legal Regime of the Holy Places in the Holy Land-Common Heritage of Mankind", which analyses international advances in defining and regulating this heritage since the UNESCO Declaration of November 1966, the third paragraph of whose first article states that "in their rich variety and diversity, and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind", a term previously used in the Hague Convention for the Protection of Cultural Property in the event of Armed Conflict (14.5.1954).

However, there has been nothing that specifically describes as such the fundamental Human Rights, freedom of religion and the Holy Places, although this term has been used in Conventions devoted to, for example, the Antarctic (Treaty of Washington, 1.12.1959); outer space and celestial bodies (United Nations "Outer Space Treaty", London,

Moscow, Washington, 27.1.1967); the World Cultural and Natural Heritage (UNESCO Convention, 16.11.1972); the marine resources situated beyond the limits of national jurisdiction (United Nations Convention on the Law of the Sea, Montego Bay, 10.12.1982); the biological resources of the high seas (Convention on the Law of the Sea, Montego Bay, 10.12.1982); or the Statute of the International Criminal Court, Rome, 17.7.1998.

The Report of the aforementioned Foundation coherently draws attention to this vacuum, clearly stating that: "In all their dimensions, both spiritual and religious as well as historical and cultural, the Holy Places correspond perfectly to the fundamental ideas that constitute the basis of the concept of Cultural Heritage of Mankind: the community, solidarity and responsibility of all before these properties considered essential for the whole of human civilization lead directly to the concept of Cultural Heritage of Mankind, which, for its main founder, the Maltese Arvid Pardo, should provide "the key to the future", a future of peace and harmony. This idea is especially applicable in the case of the Holy Land". The Report of the 1972 UNESCO Convention applies to some Holy Places, recognised as part of that cultural heritage (the case of Jerusalem), but only from this perspective and not as part of a regime deriving from freedom of religion and the protection of places of worship.

The idea of regarding the Holy Places as common heritage of mankind was first put forward at the International Symposium on "The Heritage of Mankind and Human Rights", held in December 2000 in the city of La Laguna in Tenerife, Canary Islands (Spain), on the occasion of the first anniversary of the city's inclusion on the UNESCO World Heritage List (1972 Convention). In their Declaration of December 7, 2000, the Symposium participants expressed their desire to "urgently explore the possibility of considering, once the outstanding questions of sovereignty have been set aside, that the places of the city of Jerusalem that have value for the world's religions and faiths be recognised as forming part of the common heritage of mankind".

On the initiative of the International Human Rights Law Institute of the College of Law of De Paul University, a consultation relating to the "Jerusalem Holy Sites" project took place on March 21-22, 2002 in

Chicago. With the participation of representatives of the Christian, Jewish and Muslim religions, the idea of converting the Holy Places of Jerusalem into part of the common heritage of mankind was analysed and welcomed. Subsequent meetings were held to finalize the project, with the intention of sending the final Document to the members of the International Quartet.

The project contains a scheme that provides for the supervision, through the Security Council and an "International Authority" designated by the former, of a list of Christian Holy Places in the Holy Land which meet certain conditions, and to which the proposed guarantees would be applied. The list could include, should the parties so decide and request, Holy Places of other religions. It could also eventually include other Holy Places located in third countries, should the States where they are located so request.

For the time being, neither this initiative nor any other seems to have had any consequence as regards the International Quartet and its "Road Map", whose wording, as has already been pointed out, reduces the issue to the bilateralness of the negotiation, without referring specifically to the rights of the three religions that must be protected.

The Statement of the Middle East Quartet issued in Moscow on March 19, 2010 states that "The Quartet recognizes that Jerusalem is a deeply important issue for Israelis and Palestinians, and for Jews, Muslims and Christians, and believes that through good-faith negotiations, the parties can mutually agree on an outcome that realizes the aspirations of both parties for Jerusalem, and safeguards its status for people around the world", another vague formulation that leaves the religious question undefined and hanging in the air.

7.   QUESTIONS TO REFLECT ON

An observation aimed at the politicians and others involved in the decision-making process: Even though the Geneva ideas are very good, and the work that has been done is excellent, the Clinton Parameters should now be viewed with a certain degree of caution, because things are changing very rapidly in Jerusalem, and very dangerously, and over the next five years, key areas in the Arab part of Jerusalem, and not only the Israeli settlements in the suburbs or outlying areas, but also central areas of Jerusalem, will be changing: Sheikh Jarrah, Silwan, etc. These changes could make it more difficult to apply the Clinton Parameters. Here we are even talking about building to building, so the complexity of applying the Clinton Parameters cannot be underestimated, and therefore time is against us. The West and the international community need to be aware of this and understand that if the Clinton Parameters and the Geneva option are to be feasible, then time is of the essence.

Regarding the proposal of an undivided city: There is still a great deal of work to be done for the politicians and others involved in the decision-making process, but they will not do this work until they have somewhere to go; they need a point at which to arrive. The Palestinians and the Israelis have some very different basic ideas about whether Jerusalem is a frontier, a border city, or whether it should be closely linked to other societies, and between Israel and Palestine. If it is a border city, which is what the Geneva Accord says ("there shall be a border regime between the two states"), this has numerous implications regarding the nature of mobility flows, municipal links, etc. There are solutions for these types of issues, but after all Jerusalem is a living city, and the implications of introducing a border within the city need to be considered very carefully. Furthermore, if it is an undivided city, where is the border? Here there is more work to do: is it a kind of belt around Jerusalem? Is this possible? Is it acceptable? Does this mean that there is no border, i.e. that someone from Tel Aviv can go to Nablus through Jerusalem? What do all these things mean?

The symbolic, religious and political aspects of the city have been discussed at length. There is an answer to all these aspects, but in the end the city is a city, albeit interrupted by political division and political

responses. Perhaps insufficient attention has been given to how the city could be linked municipally. Should there be a virtual division or a physical division?

During the busy period of the Camp David negotiations there was also a feeling of time running out, which is perhaps perceived even more acutely today, and even then it was a very strange feeling, because political decisions have to made on the spot; but what happens with the technical and legal aspects, with the political options that have to form the basis of any permanent solution of the situation?

For one reason or another, Jerusalem was considered a frontier, not of powers, but of identities, in the sense that it is a frontier between a solution based on Nation-State proposals and a solution that attributed more importance to world religions, global civilizations. These two aspects create alliances with the Palestinian and Israeli leadership. These aspects transcend the ethnic, religious and cultural lines we find in the West.

Identity is probably the most important issue in the Middle East, because that model spread from Napoleon to Egypt; there was no nation-state in the Middle East before Napoleon, and the other model was slowly introduced by the colonial office, the British mandate, and previously through the American University of Beirut, and various contacts with the British world due to their interests in the area.

This situation, from an anthropological point of view, used to be different. We had the *umma* –the community of believers– and the Millet system, which was not a nation-state, a global community; it was a homogeneous ethno-linguistic community, proof of which can be found in the Old City of Jerusalem, where we can see that there is a Christian area, a Muslim area and a Jewish area; and then we see the Armenian quarter, the community of Armenians, and we might ask ourselves, why are they not in the Christian quarter? Because it is a vestige of the Millet system, because their community has its own language, its own courts with jurisdiction over cases regarding personal status, its own traditions, its own roots, memories, history; not only its religion. Identity does not consist only of religion, or national memory; it is far more complex than all that, which is why we have an Armenian district.

Hence the conundrum facing the Camp David participants as they tried to decide whether the Armenian quarter should be situated within the future Palestinian State, or within Israel.

There is a terrible *donus fatigue* –which is diplomat fatigue– surrounding the whole issue of the Israeli-Palestinian conflict, and Jerusalem in particular, but there is a new generation that is rising up and telling the world: we're interested, we can, we're making a move.

There is also a problem with what in diplomatic terms are called confidence-building measures, which really are at a very low level, and therefore, events of this type need to be seen in terms of raising the level of these measures.

It is not a question of knowing what the solution is, but what the problem is, because in a situation like Jerusalem, viewed as a microcosm of problems, there are many variables. From the Israeli point of view, there are internal conflicts; we have internal Palestinian conflicts, external stakeholders…, so we have that interrelation or interdependence between what to do with Jerusalem, what to do with the refugees, what to do with the State, etc. So in the end we have a very complex web to which everyone has contributed, but which no-one has controlled or is in full control of.

So what we have to do is simplify things and say what the real and basic problem is, because if we are 99% of the way there, we need to work out how we can resolve the remaining 1%, and how we can isolate a problem within Jerusalem, without interdependences, without depending on it. It has often been announced that we have achieved 99% of the solution. President Clinton also mentioned it; we have always been told that we are just one step way, so really we are not that close, or it is not that easy to isolate the problem.

When we talk about Jerusalem, we always put the emphasis on the Holy Places, on East Jerusalem, and we sometimes seem to forget that Jerusalem is East Jerusalem and West Jerusalem. In many talks and negotiations, it is taken for granted that West Jerusalem is Jewish, and that it is East Jerusalem that has to be divided, and not only East Jerusalem and the Old City, but also the surrounding areas. So that is something else

that must be taken into account if we are going to apply international law; Jerusalem includes both the Eastern part and the Western part, which is also territory to be discussed, an object of negotiation.

Moreover, the question of the Holy Places in Jerusalem is not only an issue that can be dealt with in a conflict such as the one involving Israel and Palestine. It is not just a question of the Palestinians: "there may be many Muslims, Arabs and Christians throughout the world who feel much closer to Jerusalem than any Palestinian, being Palestinian and secular. For me, Jerusalem is not so much the Holy Places that exist there, but what it represents for me: it is the Palestinian identity. So we must bear in mind that any peace negotiation cannot be completely isolated from the opinion of many Arab and Muslim and even Christian States throughout the world".

Is this a secular matter? This question is another world in itself. It is a very important issue. For secular people it seems to be a political issue, but it is more than just that. It is something far more intertwined, and we will have to work out how to solve those sovereignty problems, and there are many forms of sovereignty, not just the classic territorial sovereignty. This is a useful question because it is very difficult to get used to that idea of sovereignty. Many conferences are needed to solve this problem. Is it possible to create a special regime that isolates this issue and leaves it aside? Yes, but unless we have a conceptual change that renounces certain principles, this cannot be resolved in that way.

Accepting the reflections on secularism and Jerusalem, we should nevertheless be aware that relativism, secularism and the like can also become a religion. All that is becoming as fundamentalist as any actual religion, and so freedom for all, tolerance with everyone and the right to err is important.

The religious-cultural dimension in Jerusalem has been discussed at length because they are two equally important concepts, but making the religious aspects of Jerusalem dependent on Western ideas about secularism would be very dangerous.

If it is necessary to resolve all the dilemmas of history, of the world, of East-West relations, of religion versus secularism, all those conceptual

problems have to be resolved in order to resolve the problem of Jerusalem, or else there will be no progress, so it is worth asking how we can isolate the practical aspects, separate the tangible points from the intangible ones, of all these insoluble problems. Otherwise people are going to talk about the religious versus the secular indefinitely.

Legal and technical tools can give us answers. We have to live our lives; we have problems with crossing points, transit permits, passports, all of which are practical problems. That is what we have to resolve; then we would have other types of less important problems. The important thing is being able to live.

8.   RECOMMENDATIONS

We should encourage an as yet non-existent and by any reckoning necessary development of the worldwide application of the principle of freedom of conscience and religion, generally recognised as a part of fundamental human rights, but still insufficiently enshrined in legislative and conventional terms, although it has been widely incorporated into common law. For example, there is no international statute on the (in many cases shared) holy places that serves as a meeting point and moderating factor, as opposed to a source of controversy.

The following are sacrosanct: the Charter of the United Nations[34]; the Universal Declaration of Human Rights, which establishes the right to freedom of thought, conscience and religion[35], which was subsequently reaffirmed in the two important Pacts adopted by the General Assembly of December 16, 1966[36]. Likewise, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by UNGA resolution on 25 November 1981, deals more specifically with places of worship[37].

If the final stage of the Israeli-Palestinian negotiations is once again as near as the document seems to demand, our conclusion must be that an

---

[34] In Chapter I. Purposes and Principles, Article 1 refers to achieving international cooperation... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. The same formulation is repeated almost word for word in Article 55, to which Article 56 also alludes: "All Members pledge themselves to take joint and separate action with the Organization for the achievement of the purposes set forth in Article 55". Observance of the principle of religious non-discrimination can be regarded as the fulfilment of a conventional obligation to respect religious freedom on the part of the member countries of the UN.

[35] The Declaration was approved on 10.12.48 with no votes against and only eight abstentions. It is worth recalling the opinion of Margiotta-Broglio in La protezioni internazionale della libertà religiosa nella convenzione europea dei diritti dell'uomo, Milan, 1967, 78: "Il sistema di tutela studiato e progettato nell'ambito dell'organizzazione delle Nazioni Unite... insiste soprattuto sulla libertà religiosa dell'individuo, senza proteggere sufficientemente i diritti dei gruppi religiosi in quanto tali". This vacuum began to be filled, at regional level, with the system provided for in the "European Convention for the Protection of Human Rights and Fundamental Freedoms", signed in Rome on 4.11.1950.

additional effort to clarify the religious aspects of Jerusalem and the Holy Places is required before a merely bilateral agreement between the two negotiating parties can be reached, a process which would leave the interpretation and implementation of the agreements to their subsequent discretion, without the international guarantee that the Holy See and other Christian faiths demand for the religious *statu quo* and its future.

What can we do? Raise awareness insofar as possible, or keep awareness alive and collaborate, at least conceptually, in shaping the scenario that we hope the international community will eventually decide to codify in a pact on the freedom of religion, and on the protection of places of worship, freedom of access, etc., and if other countries get involved, the end result is likely to be an extremely positive one for the whole of mankind, because the problem of Jerusalem, important as it is, is obviously not the only one; there are other religious problems in world that are no less important, and we have seen the consequences, especially when the religious and the tribal are mixed.

In coordination with the members of the Quartet on the Middle East (European Union, United States, Russia and United Nations), a further

---

[36] "International Covenant on Civil and Political Rights" and "International Covenant on Economic, Social and Cultural Rights". Article 18 of the latter virtually repeats the terms used in article 18 of the "Universal Declaration". Although it represents an obligation of non-interference in religious freedom, it could be interpreted in a positive sense of obligation to adopt the necessary measures to permit and guarantee the enjoyment of religious freedom, where the adoption of these measures –as occurs with the holy places– is necessary to create the conditions required to enable this right to be effectively exercised.

[37] Article 1 underlines once again the provisions of article 18 of the Covenant and religious freedom is the subject of seven other articles, among them no. 6, which includes in its paragraph a) the freedom "to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes". In the legal framework of the State of Israel, an Israeli Supreme Court ruling issued by Judge Cohen in 1967 referred to freedom of religion, establishing that "The principles of freedom of religion are similar to the other rights of man, as these have been laid down in the Universal Declaration of Human Rights, 1948, and in the Covenant on Political and Civil Rights, 1965. These are now the heritage of all enlightened peoples, whether or not they are members of the United Nations Organization and whether or not they have as yet ratified them."

series of informal meetings concerning some apsects of the complex question of Jerusalem and its Holy Places could be established. In the final phase of these informal meetings, when the specific details of the technical work are at the disposal of the negotiators, the public opinion of the parties concerned could also contribute to the political decisions.

Geneva Accord: Private Initiative for a Permanent Agreement

The full text of the accord can be found at the following web page:
    http://www.geneva-accord.org

For the specific annex on Jerusalem, as well as the maps, go to:
    http://www.geneva-accord.org/mainmenu/the-annexes
    http://www.geneva-accord.org/images/PDF/Jerusalem.pdf

Article 5- Jerusalem

1.   Religious and Cultural Significance

I.   The Parties recognize the universal historic, religious, spiritual, and cultural significance of Jerusalem and its holiness enshrined in Judaism, Christianity, and Islam. In recognition of this status, the Parties reaffirm their commitment to safeguard the character, holiness, and freedom of worship in the city and to respect the existing division of administrative functions and traditional practices between different denominations.

II.   The Parties shall establish an inter-faith body consisting of representatives of the three monotheistic faiths, to act as a consultative body to the Parties on matters related to the city's religious significance and to promote inter-religious understanding and dialogue.

2.   Capital of Two States

The Parties shall have their mutually recognized capitals in the areas of Jerusalem under their respective sovereignty.

3.   Sovereignty

Sovereignty in Jerusalem shall be in accordance with attached Map 2. This shall not prejudice nor be prejudiced by the arrangements set forth below.

4. **Border Regime**

   The border regime shall be designed according to the provisions of Article 11, and taking into account the specific needs of Jerusalem (e.g., movement of tourists and intensity of border crossing use including provisions for Jerusalemites) and the provisions of this Article.

5. **Harem al-Sharif / Temple Mount (Compound)**

I.   International Group

a.   An International Group, composed of the IVG and other parties to be agreed upon by the Parties, including members of the Organization of the Islamic Conference (OIC), shall hereby be established to monitor, verify, and assist in the implementation of this clause.

b.   For this purpose, the International Group shall establish a Multinational Presence on the Compound, the composition, structure, mandate and functions of which are set forth in Annex X.

c.   The Multinational Presence shall have specialized detachments dealing with security and conservation. The Multinational Presence shall make periodic conservation and security reports to the International Group. These reports shall be made public.

d.   The Multinational Presence shall strive to immediately resolve any problems arising and may refer any unresolved disputes to the International Group that will function in accordance with Article 16.

e.   The Parties may at any time request clarifications or submit complaints to the International Group which shall be promptly investigated and acted upon.

f.   The International Group shall draw up rules and regulations to maintain security on and conservation of the Compound. These shall include lists of the weapons and equipment permitted on the site.

II.   Regulations regarding the Compound

a.   In view of the sanctity of the Compound, and in light of the unique religious and cultural significance of the site to the Jewish people, there shall be no digging, excavation, or construction on the Compound, unless approved by the two Parties. Procedures for regular maintenance and emergency repairs on the Compound shall be established by the IG after consultation with the Parties.

b.   The state of Palestine shall be responsible for maintaining the security of the Compound and for ensuring that it will not be used for any hostile acts against Israelis or Israeli areas. The only arms permitted on the Compound shall be those carried by the Palestinian security personnel and the security detachment of the Multinational Presence.

c.   In light of the universal significance of the Compound, and subject to security considerations and to the need not to disrupt religious worship or decorum on the site as determined by the Waqf, visitors shall be allowed access to the site. This shall be without any discrimination and generally be in accordance with past practice.

III.   Transfer of Authority

a.   At the end of the withdrawal period stipulated in Article 5/7, the state of Palestine shall assert sovereignty over the Compound.

b.   The International Group and its subsidiary organs shall continue to exist and fulfill all the functions stipulated in this Article unless otherwise agreed by the two Parties.

6.   The Wailing Wall

The Wailing Wall shall be under Israeli sovereignty.

7.   The Old City

I.   Significance of the Old City

a. The Parties view the Old City as one whole enjoying a unique character. The Parties agree that the preservation of this unique character together with safeguarding and promoting the welfare of the inhabitants should guide the administration of the Old City.

b. Las Partes actuarán de acuerdo con las regulaciones existentes en el Catálogo del Patrimonio Cultural Universal de la UNESCO, en el cual la Ciudad Vieja está registrada.

II. IVG role in the Old City

a. Cultural Heritage.

1. The IVG shall monitor and verify the preservation of cultural heritage in the Old City in accordance with the UNESCO World Cultural Heritage List rules. For this purpose, the IVG shall have free and unimpeded access to sites, documents, and information related to the performance of this function.

2. The IVG shall work in close coordination with the Old City Committee of the Jerusalem Coordination and Development Committee (JCDC), including in devising a restoration and preservation plan for the Old City.

b. Policing.

1. The IVG shall establish an Old City Policing Unit (PU) to liaise with, coordinate between, and assist the Palestinian and Israeli police forces in the Old City, to defuse localized tensions and help resolve disputes, and to perform policing duties in locations specified in and according to operational procedures detailed in Annex X.

2. The PU shall periodically report to the IVG.

c. Either Party may submit complaints in relation to this clause to the IVG, which shall promptly act upon them in accordance with Article 16.

III. Free Movement within the Old City

Movement within the Old City shall be free and unimpeded subject to the provisions of this article and rules and regulations pertaining to the various holy sites.

IV. Entry into and Exit from the Old City

a. Entry and exit points into and from the Old City will be staffed by the authorities of the state under whose sovereignty the point falls, with the presence of PU members, unless otherwise specified.

b. With a view to facilitating movement into the Old City, each Party shall take such measures at the entry points in its territory as to ensure the preservation of security in the Old City. The PU shall monitor the operation of the entry points.

c. Citizens of either Party may not exit the Old City into the territory of the other Party unless they are in possession of the relevant documentation that entitles them to. Tourists may only exit the Old City into the territory of the Party which they posses valid authorization to enter.

V. Suspension, Termination and Expansion

a. Either Party may suspend the arrangements set forth in Article 6.7.iii in cases of emergency for one week. The extension of such suspension for longer than a week shall be pursuant to consultation with the other Party and the IVG at the Trilateral Committee established in Article 3/3.

b. This clause shall not apply to the arrangements set forth in Article 6/7/VI.

c. Three years after the transfer of authority over the Old City, the Parties shall review these arrangements. These arrangements may only be terminated by agreement of the Parties.

d. The Parties shall examine the possibility of expanding these arrangements beyond the Old City and may agree to such an expansion.

VI.   Special Arrangements

a.   Along the way outlined in Map X (from the Jaffa Gate to the Zion Gate) there will be permanent and guaranteed arrangements for Israelis regarding access, freedom of movement, and security, as set forth in Annex X.

1.   The IVG shall be responsible for the implementation of these arrangements.

b.   Without prejudice to Palestinian sovereignty, Israeli administration of the Citadel will be as outlined in Annex X.

VII.   Color-Coding of the Old City

A visible color-coding scheme shall be used in the Old City to denote the sovereign areas of the respective Parties.

VIII.   Policing

a.   An agreed number of Israeli police shall constitute the Israeli Old City police detachment and shall exercise responsibility for maintaining order and day-to-day policing functions in the area under Israeli sovereignty.

b.   An agreed number of Palestinian police shall constitute the Palestinian Old City police detachment and shall exercise responsibility for maintaining order and day-to-day policing functions in the area under Palestinian sovereignty.

c.   All members of the respective Israeli and Palestinian Old City police detachments shall undergo special training, including joint training exercises, to be administered by the PU.

d.   A special Joint Situation Room, under the direction of the PU and incorporating members of the Israeli and Palestinian Old City police detachments, shall facilitate liaison on all relevant matters of policing and security in the Old City.

IX.   Arms

No person shall be allowed to carry or possess arms in the Old City, with the exception of the Police Forces provided for in this agreement. In addition, each Party may grant special written permission to carry or possess arms in areas under its sovereignty.

X.   Intelligence and Security

a.   The Parties shall establish intensive intelligence cooperation regarding the Old City, including the immediate sharing of threat information.

b.   A trilateral committee composed of the two Parties and representatives of the United States shall be established to facilitate this cooperation.

8.   Mount of Olives Cemetery

I.   The area outlined in Map X (the Jewish Cemetery on the Mount of Olives) shall be under Israeli administration; Israeli law shall apply to persons using and procedures appertaining to this area in accordance with Annex X.

a.   There shall be a designated road to provide free, unlimited, and unimpeded access to the Cemetery.

b.   The IVG shall monitor the implementation of this clause.

c.   This arrangement may only be terminated by the agreement of both Parties.

9.   Special Cemetery Arrangements

Arrangements shall be established in the two cemeteries designated in Map X (Mount Zion Cemetery and the German Colony Cemetery), to facilitate and ensure the continuation of the current burial and visitation practices, including the facilitation of access.

10. The Western Wall Tunnel

I.   The Western Wall Tunnel designated in Map X shall be under Israeli administration, including:

a.   Unrestricted Israeli access and right to worship and conduct religious practices.

b.   Responsibility for the preservation and maintenance of the site in accordance with this Agreement and without damaging structures above, under IVG supervision.

c.   Israel policing.

d.   IVG monitoring.

e.   The Northern Exit of the Tunnel shall only be used for exit and may only be closed in case of emergency as stipulated in Article 6/7.

II.   This arrangement may only be terminated by the agreement of both Parties.

11. Muncipal Coordination

I.   The two Jerusalem municipalities shall form a Jerusalem Co-ordination and Development Committee ("JCDC") to oversee the cooperation and coordination between the Palestinian Jerusalem municipality and the Israeli Jerusalem municipality. The JCDC and its sub-committees shall be composed of an equal number of representatives from Palestine and Israel. Each side will appoint members of the JCDC and its subcommittees in accordance with its own modalities.

II.   The JCDC shall ensure that the coordination of infrastructure and services best serves the residents of Jerusalem, and shall promote the economic development of the city to the benefit of all. The JCDC will act to encourage cross-community dialogue and reconciliation.

III.   The JCDC shall have the following subcommittees:

a. A Planning and Zoning Committee: to ensure agreed planning and zoning regulations in areas designated in Annex X.

b. A Hydro Infrastructure Committee: to handle matters relating to drinking water delivery, drainage, and wastewater collection and treatment.

c. A Transport Committee: to coordinate relevant connectedness and compatibility of the two road systems and other issues pertaining to transport.

d. An Environmental Committee: to deal with environmental issues affecting the quality of life in the city, including solid waste management.

e. An Economic and Development Committee: to formulate plans for economic development in areas of joint interest, including in the areas of transportation, seam line commercial cooperation, and tourism.

f. A Police and Emergency Services Committee: to coordinate measures for the maintenance of public order and crime prevention and the provision of emergency services.

g. An Old City Committee: to plan and closely coordinate the joint provision of the relevant municipal services, and other functions stipulated in Article 6/7.

h. Other Committees as agreed in the JCDC.

12. Israeli Residency of Palestinian Jerusalemites

Palestinian Jerusalemites who currently are permanent residents of Israel shall lose this status upon the transfer of authority to Palestine of those areas in which they reside.

13. Transfer of Authority

The Parties will apply in certain socio-economic spheres interim measures to ensure the agreed, expeditious, and orderly transfer of

powers and obligations from Israel to Palestine. This shall be done in a manner that preserves the accumulated socio-economic rights of the residents of East Jerusalem.

University of Windsor: Jerusalem Old City Initiative
By the Director of JOCI (Jerusalem Old City Initiative), John Bell

1.   The Premise

In late 2003, we decided to look at the core issue of Jerusalem, the Old City and its critical symbolic impact on politics and negotiations. We were keenly aware of its sensitivity at many levels, and the need for innovative solutions, as evinced by the failures in Camp David in 2000.

Quickly, we came to realize that our thinking and approach contrasted with an existing and powerful idea presented by the Geneva Initiative that the Old City could be divided, politically and physically, into two national sides with liaison bodies to facilitate matters.

We believed that the most sustainable arrangements required maintaining the integrity of the Old City (as one unit), and, considering the ongoing political difficulties between Israelis and Palestinians, the introduction of a strong third party role in its management and governance.

From this premise, stemmed the idea of a Special Regime for the Old City of Jerusalem. Mike Molloy will present the details shortly, but, quickly, the idea is based on having key functions and needs in the Old City managed by a third party body with executive authority, mandated by Israel and Palestine to do so.

2.   Useful Tensions

In fact, we do not say anything about the sovereignty of the Old City and leave that to negotiators, and instead have indeed focused on building a system that works, that is functional and that could work under any sovereignty arrangement, including deferred sovereignty or a lack of agreement.

"We don't say a lot about sovereignty and that's intentional. Our own view, debatable, is that our proposal is sovereignty-neutral,

meaning it could be applied under a situation of divided sovereignty of the Old City, deferred sovereignty or no agreement whatsoever. That's our view. Others have debated us on this. They say that what we're proposing does have implications and in that sense, very frankly, considering this Special Regime may not be the first choice of either Israelis or Palestinians. It could be a good fallback should sovereignty prove to be a massively difficult issue as it was in 2000." John Bell.

3.   **Lessons & Political Implications**

The issue of Jerusalem demands an international dimension and process. The very process that our initiative pursued was "international" and necessarily so. Even if it is not always popular, this factor will not go away, if the debate about the nature of that involvement – Special Regime or otherwise – will go on.

We have seen through our own partners, through the Camp David process of 2000, even in some of the discussions at Annapolis, that the logic of negotiations between Israelis and Palestinians does lead to options that are close to the idea of a Special Regime or special arrangements for the Old City. There seems to be almost an inevitability to it, if talks are serious, and if for varying reasons on each side. Critically, the ability of each side to discuss the option publicly varies.

Substance of the Jerusalem Old City Initiative
By the Co-Director of JOCI

As we started our work the Geneva Accords were released. We admire the work of the Geneva group whose Accords followed the peace process logic of dividing everything. However, our view is that the Old City of Jerusalem merits an exception.

We reviewed over 60 proposals for Jerusalem dating back to the 1930s. More than half of them deal with sovereignty claims by suggesting something special - from the UN's corpus separatum to a range of special, UN, International or third party interventions. Few describe what they mean.

Our modest contribution is to develop the Special Regime idea in detail in hopes that future negotiators and policy makers might find it useful.

Why the Old City?

Originally we called our project the Holy Basin Initiative but when we walked the ground we saw there was no agreed definition of the Holy Basin. The Old City, by contrast, is clearly defined by its walls.

It contains the most important, contentious, internationally resonant and overlapping Sacred Spaces: the Harem al-Sharif and Temple Mount; plus a population of Israelis and Palestinians, Christians, Jews and Muslims living in unique, close proximity.

In designing a governance scheme for the Old City, the key breakthrough occurred when someone asked "Is the Special Regime about the mix of people who live within the Old City's walls or is it about the place itself and the unique and explosive hold its Holy Sites have on the religious imagination of millions of believers?" Posed that way, the answer was obvious.

Our decision to focus our concept on "place" and to avoid positioning the Special Regime between the Palestinian and Israeli residents and their governments was critical in shaping what it is described below.

1. The Treaty

Our proposal calls for the mandate of the Special Regime and its Chief Administrator to be embedded in an Israeli-Palestinian peace treaty that establishes a Palestinian state. The Special Regime must be a creation of the two sides - with a little help from their friends.

Whether the treaty assigns sovereignty for areas of the Old City to the parties or whether, as we think more likely, it defers the issue of sovereignty to a later more propitious time, the Special Regime treats the Old City as a whole.

2. The Board

The Treaty would create an oversight authority we call the Governance Board, consisting of representatives of the Palestinian and Israeli states, as well as outside members from other countries chosen by both.

The Governance Board permits the two states to protect their interests in the Old City. We considered an exclusively Israeli and Palestinian Board but concluded that the systemic distrust is such that a Board including representatives of other governments would be more sustainable.

It is important to see the Board as an institution that permits both sides to declare victory when explaining the outcome of negotiations. The Board's mandate should include:

a. Appointing the Chief Administrator,

b. Holding him or her accountable,

c. Setting up the legal regime,

d. Approving the hiring of key executives,

e. Financing the operation.

3. The Chief Administrator

The Chief Administrator and the Special Regime would manage the issues and points of friction within the Old City including: public safety, access, religious sites, archaeology, property matters and would ensure religious freedom and the equitable status and treatment of residents and visitors.

We had long discussions about whether the Chief Administrator should be elected, should be a committee or an individual accountable to a council elected by the inhabitants. In the end we decided against these and for an empowered executive position

with real authority, both executive and regulatory, and accountable through the Board to the two national governments. If peace is to succeed, the flashpoints in the Old City need to be managed directly, deftly and firmly.

The first Chief Administrator would oversee the design and establishment of the police service, a small civil service and a commission to design the legal and regulatory framework of the Special Regime.

He or she will help manage the transition from direct Israeli rule over the Palestinian inhabitants without getting between the residents and their authorities.

The Chief Administrator should be neither Palestinian nor Israeli, should probably live in the Old City and serve a term of five years. The Board should be able to remove and replace a Chief Administrator.

4.   **Holy Sites and the Special Regime**

The justification for something as unique as this Special Regime rests with the Old City's status as a site sacred to millions of Jews, Muslims and Christians and the inescapable reality that the Harem al-Sharif and the Temple Mount are one and the same structure. However the Special Regime's function does not relate to holiness but to safety, security and public order, Freedom of religion and worship must be guaranteed by the treaty with appropriate access guided by existing customary practice. Management of the sites would remain with current custodians and the communities they represent.

These religious rights are subject to the requirements of public safety and decorum and that is where the Special Regime comes in. It does not determine what is holy but will be responsible for security, ensuring respect for customary practice, public order and safety - including the structural soundness of the sites.

Essential to the Special Regime, would be an Advisory Religious Council created by religious leaders. The Council would provide a

forum where security, conservation, access and the planning of major religious events and observances could be coordinated.

5. Security and Policing

On the security front we attracted a remarkably well qualified team of Canadian, American, Israeli and Palestinian experts to design a security institution. They conceived a police service recruited from countries acceptable to both sides and concluded that, while peace is taking hold, the service must be overwhelmingly international. They insisted the Old City must be a weapons free zone with only internationally recruited police being armed.

The design includes Palestinian and Israeli liaison officers to ensure the flow of intelligence and information between the Service and its Israeli and Palestinian counterparts.

Palestinians and Israelis serving alongside the internationals as unarmed Community Liaison Officers would be responsible for ensuring appropriate community and cultural sensitivity in a community-based policing model.

6. Legal System

It is important to stress that all functions and powers not assigned to the Special Regime would rest with the two states: citizenship, education, religious practice, health, tourism, culture, professional licensing and family, contract and commercial law remain the responsibility of Israel and Palestine.

Thinking through a legal system for the Special Regime was particularly challenging. We anticipate that the two states will have jurisdiction over their respective citizens. Instances involving third country nationals will need special rules: a special tribunal would assign jurisdiction in such cases.

The comprehensive design of the legal system was beyond the scope of our project but the Governance Discussion Document provides some workable guidelines. The first task of the Chief

Administrator would be to commission a group of Israeli, Palestinian and international legal experts to design a framework for approval by the Governance Board.

In the interim period, existing law, deemed relevant by the Chief Administrator and excluding provisions prejudicial to either of the parties, would continue to apply.

7. Managing Other Points of Friction

The weapons in the struggle for Jerusalem and its Old City include archaeology, the antiquities laws, planning, and building permits. In the context of peace these functions must be removed from the arsenal.

For that reason we believe that oversight, licensing and control of archaeological activity and modification of historic structures must be assigned to the Special Regime operating under rules that reflect the best international scientific practices, appropriate to the Old City's World Heritage Site status.

The Chief Administrator should create a comprehensive urban development and conservation plan, to be approved by the Governance Board, that improves living conditions, conserves heritage buildings and sites, addresses environmental concerns, promotes a vibrant commercial environment and accommodates the needs of pilgrims, tourists and visitors.

The Special Regime must have responsibility for the issuance of building permits on the basis of objective criteria.

Between the establishment of the Special Regime and the coming into effect of its legal system, land and property sales, and transfer of ownership will require the approval of the Chief Administrator advised by an expert committee.

Most proposals for Jerusalem as capital of the two states make provision for a mechanism to coordinate common urban services, utilities and infrastructure for the two capitals. In such a scenario,

it would make sense for the Special Regime to have a seat at the table and for its urban service and utility needs to be included within the responsibilities of the coordination mechanism.

8. Duration

Finally, how long would a Special Regime be in place? The short answer is until the time is ripe and the two states are ready to replace it with something else. Some of our partners suggested this might be a few years, other talked about centuries. Our view is that the Special Regime would be needed until a full generation of Israelis and Palestinians has lived in peace.

Schedule of the international seminar "Israel, Palestine, Jerusalem and the Holy Places. Past, present and future"
2nd June 2010

9.30 - 9.45 hours. Opening Remarks

H. E. Raphael Schutz. Ambassador of the State of Israel in Spain.
H. E. Musa Amer Odeh. General Delegate of the Palestinian National Authority in Spain.
Mr. Santiago Íñiguez. Dean of IE Business School and Rector of IE University.
Ms. Pilar Lara. President of the Foundation for the Social Promotion of Culture (FPSC).

9.45 - 10.15 hours. Homage to late Ambassador Hadas

H. E. Pedro López Aguirrebengoa. Ambassador of Spain.
Mr. Diego de Ojeda. General Director of Casa Sefarad-Israel.
Ms. Elvira Saint-Gerons. Executive Director of Fundación Tres Culturas.
Ms. Pilar Lara. President of the FPSC.

10.15 - 11.00 hours. Opening Conference

Prof. Henry Laurens. Professor at the Collège de France.

Presents:

Mr. Diego de Ojeda. General Director of Casa Sefarad-Israel.

11.30 - 13.00 hours. 1st round table: *The meaning of Jerusalem for the three monotheistic religions*

Dr. Leonardo Senkman. Director of Academic Programs of The Liwerant Center for the Study of Latin America, Spain, Portugal and their Jewish Communities, and Director for Academic Programs in Latin America at the International Center for University Teaching of Jewish Civilization, Hebrew University of Jerusalem.

Dr. Mahdi Abdul-Hadi. Head of Palestinian Academic Society for the Study of International Affairs (PASSIA).
H. E. Pedro López Aguirrebengoa. Ambassador of Spain.

Moderator:

Mr. Jacobo Israel Garzón. President of the Spanish Federation of Jewish communities.

13.00 - 14.00 hours. 2ⁿᵈ round table: *The future status of Jerusalem in the framework of a peace agreement between Palestinians and Israeli*

Dr. Yossi Beilin. President of Beilink, Business Foreign Affairs, a Global consulting firm. Chairman of the "Geneva Initiative". Served as a member of the Israeli Knesset for twenty years, and held various ministerial positions, including: Minister of Justice and Deputy Foreign Minister.
H. E. Afif Safieh. Former Palestinian Ambassador to the Holy See and the United Kingdom.
Mr. John Bell. Director of the Middle East and Mediterranean Program of CITpax.
Dr. Enrico Molinaro. Chairman of Mediterranean Perspectives and chairman of the Jerusalem Holy Places Center (JHPC).

Moderator:

H. E. José María Ferré de la Peña. Special Ambassador for Relations with Muslim Communities and Organizations, Spanish Ministry of Foreign Affairs. Former Spanish Consul in Jerusalem.

14.00 - 14.30 hours. Debate and reading of the conclusions and closing session

Mr. Nadim Shehadi. Research Fellow of the Middle East Program at Chatham House and member of de board of CEMOFPSC (United Kingdom).
Ms. Jumana Trad. Tribune and Seminar of Casa Árabe-IEAM and member of the Executive Committee of the CEMOFPSC.

Will take part *H. E. Giuseppe Cassini*, Ambassador of the Italian Republic.

List of participants in the seminar

1. H. E. José Rodríguez-Spiteri. Director of Relations with the Holy See. Spanish Ministry of Foreign Affairs.

2. Mr. Percival Manglano. General Director of Cooperacion for Development at the Immigration and Development Department of the Madrid Autonomous Community.

3. Mr. Gabriel Fernández. Vice-Counsellor for Immigration and Cooperation of the Madrid Autonomous Community.

4. H. E. Eduardo Gutiérrez Sáenz de Buruaga. Senior Advisor to the Undersecretary of Foreign Affaires.

5. H. E. Silvia Escobar Moreno. Ambassador at Large for Human Rights Related Affairs.

6. Mr. Lior Haiat. Spookesman at the Israeli Embassy in Spain.

7. Mr. Raouf Malki. Cooperation Advisor of the General Delegation of Palestine in Spain.

8. Mr. Pere Vilanova Trías. Director of the Division Strategic Affaires and Security. Ministry of Defense.

9. Prof. Rafael Palomino. Professor of Ecclesiastical Law. Complutense University of Madrid.

10. Mr. Máximo Cuñado. President of Grupo Cuñado. Member of the Board of Trustees. FPSC.

11. Ms. Rosario Martín Gutiérrez de Cabiedes. Trustee of the FPSC.

12. Mr. Carlos Torralba Gallego. Vice-presidente. Repsol-Gas Natural LNG.

13. Ms. Isabel Armada. Instituto de Empresa.

14. Ms. Cristina Manzano. Director of Foreign Policy Magazine.

15. Mr. Darío Valcárcel. CEO and Editorial Director of Política Exterior magazine.

16. Ms. María José García Molina. Complutense University of Madrid.

17. Ms. Eleonora Tafuro. Università di Roma Tre.

18. Mr. Antonio Hernández Deus. Director of communication. Opus Dei.

19. Mr. Fernando de Haro Izquierdo. News Director. Popular TV.

20. Prof. Joaquín Mantecón Sancho. Professor of Ecclesiastical Law. University of Cantabria.

21. Mr. Fernando Moreno. Law Firm Mas y Calvet.

22. Representative of FRIDE.

23. Ms. Rosa Meneses. International Journalist. El Mundo Newspaper.

24. Ms. Begoña Casas. Coordinator of the Department of Development and Co-Development of the School for Immigration and Cooperation Professionals of the Madrid Region.

25. Mr. Eduard Soler Lecha. Coordinator of the Mediterranean Program. CIDOB Foundation.

26. Mr. Manuel Cimadevilla. Delegate of Casa Sefarad in Israel.

27. Ms. María Antonia Quesada.

28. Ms. Rosario García Mangas.

29. Ms. Beatriz Soto.

30. Ms. María Eugenia Barea.

31. Ms. Eugenia María Campos.

32. Ms. Macarena Cotelo. President of the Euro-Arab Network of NGOs for Development and Integration (READI).

33. Ms. Mónica Bohigues. General Secretary. Foundation for the Social Promotion of Culture.

34. Mr. Juan Kindelán. Director of External Relations. Foundation for the Social Promotion of Culture.

35. Ms. María José Cantón. Director of Development. Foundation for the Social Promotion of Culture.

36. Mr. Félix Sánchez Broco. Researcher at the Centre for Middle Eastern Studies. Foundation for the Social Promotion of Culture.

37. Mr. Carmen Seoane. Foundation for the Social Promotion of Culture.

38. Mr. Enric Roig Tió. Foundation for the Social Promotion of Culture.

39. Mr. Roberto Aguado. Foundation for the Social Promotion of Culture.

40. Mr. Ricardo López. Foundation for the Social Promotion of Culture.

41. Ms. Valle Oñate. Foundation for the Social Promotion of Culture.

42. Ms. Lucía Recarte. Foundation for the Social Promotion of Culture.

43. Ms. Carmen García. Foundation for the Social Promotion of Culture.

44. Ms. Lucia García Gilabert. Foundation for the Social Promotion of Culture.

45. Ms. Irene Pérez Acín. Foundation for the Social Promotion of Culture.

46. Ms. María Abellanas. Foundation for the Social Promotion of Culture.

CENTRE FOR MIDDLE EASTERN STUDIES
OF THE FOUNDATION FOR THE SOCIAL PROMOTION OF CULTURE
(CEMOFPSC)

www.fundacionfpsc.org

The Centre for Middle Eastern Studies of the Foundation for the Social Promotion of Culture (CEMOFPSC, Centro de Estudios de Oriente Medio de la Fundación Promoción Social de la Cultura) was created in 2006 to promote research into and analysis of matters relating to the Middle East (Syria, Lebanon, Palestine, Israel, Egypt and Jordan), and with intention of contributing to a better understanding of the different cultures and peoples and, therefore, to peacebuilding.

Its international nature and multidisciplinary approach aim to facilitate reflection, analysis and the exchange of opinions among intellectuals and experts from such diverse spheres as sociology, history, economics, communication, ethics, law, politics, cooperation for development, in order to help spread a better understanding of the constituent elements of the social reality of these countries, and to offer proposals which, from an apolitical, impartial and balanced perspective, favour the search for peaceful solutions that promote social and human development and focus on dialogue and reconciliation.

The people and institutions that form part of the CEMOFPSC or participate in its activities share a vision of society and the individual based on justice, on a profound respect for freedom of thought and on the desire to contribute to social progress, understanding among peoples, peace and the common good of mankind.

The CEMOFPSC's public activity commenced on 3rd February 2007 with the Inaugural Speech given by Nadim Shehadi, Associate Fellow in the Middle East Programme at Chatham House (United Kingdom) and Ana Menéndez, Spanish diplomat and former Ambassador on the Permanent Mission to the United Nations in New York.

ORGANISATION

The CEMOFPSC is an institution sponsored by the Foundation for the Social Promotion of Culture (FPSC). Its small and flexible structure corresponds to its multidisciplinary nature and its aims of promoting and spreading a better understanding of the aspects that make up the reality of the countries in the Middle East region.

The Centre for Middle Eastern Studies comprises an Advisory Committee, an Executive Committee and a group of Middle East experts.

ADVISORY COMMITTEE

High Level consultative body made up of representatives of institutions and important personalities in the different areas of activity of the CEMOFPSC. Its mission is to advise the Executive Committee on how to define the CEMOFPSC's courses of action and how to carry out specific actions.

- **Nadim Shehadi**
  Associate Fellow, Middle East and North Africa Programme, Chatham House. United Kingdom.
- ✝ **Samuel Hadas**
  Israeli Ambassador.
- **Riad Malki**
  Minister of Foreing Affaire of the PNA. Palestinian Territories.
- **Youssef El Khalil**
  Director of the Department of Financial Operations of the Bank of Lebanon. President and founding member of the Association for the Development of Rural Capacities (ADR). Lecturer at the American University of Beirut. Lebanon.
- **Pedro López Aguirrebengoa**
  Spanish Ambassador.
- **Giuseppe Cassini**
  Italian Ambassador.
- **Manuel Cimadevilla**
  Casa Sefarad Delegate in Jerusalem.

✝ Samuel Hadas, died on January 12, 2010.

EXECUTIVE COMMITTEE

This body is directly responsible for defining and executing the CEMOFPSC's work programme.

OBJECTIVES

The CEMOFPSC's priority objective is to *educate and inform* experts, academics, communication media, politicians, development agents and civil society in general on matters relating to the Middle East.

The CEMOFPSC supports international postgraduate programmes in the field of social development, international cooperation, the political and social sciences, etc. and sponsors and promotes the training of young researchers and the specialization of academic experts.

The CEMOFPSC intends to establish a multidisciplinary network of Middle East experts made up of Spanish and international organisations and personalities who share its vocation to *educate and inform*. For this

reason, it counts on the collaboration of universities, think tanks, organisations, experts, academics, communication media, politicians, development agents and other interested parties.

With the aim of encouraging an open and independent debate at its seminars and conferences, the CEMOFPSC maintains the confidentiality of the views and opinions expressed by members, speakers and guests during the work sessions, seminars, conferences or meetings that it organises.

ACTIVITIES

In order to achieve its objectives, the CEMOFPSC organises various types of activities:

- Expert meetings. Dinner-debates, round-table conferences, work sessions, congresses, seminars and conferences. Specialists from various academic disciplines meet to discuss important issues in the Middle East.
- Post-graduate education. The CEMOFPSC supports international postgraduate programmes in the field of social development, international cooperation, the political and social sciences, etc. It also sponsors and promotes the training of young researchers and academic experts in their specialist fields.
- Alliances. The CEMOFPSC establishes alliances and partnerships with internationally renowned institutions and people in order to achieve common goals.
- Publications. The CEMOFPSC devotes special effort to publishing and disseminating the work carried out in its different spheres of activity. The publications will take the form of: work documents, expert papers, and the conclusions of debates and expert work sessions.

The CEMOFPSC disseminates all this work through its website. The content of research papers and important texts, both internal and external, can be consulted at www.fundacionfpsc.org.

The CEMOFPSC's activities will be open unless the speaker invokes the rule of confidentiality. If the speaker does not consider the rule sufficiently strict, the CEMOFPSC activity in question may be considered subject to the highest degree of confidentiality.

CENTRE FOR MIDDLE EASTERN STUDIES OF THE FOUNDATION FOR THE SOCIAL PROMOTION OF CULTURE

CEMOFPSC

www.fundacionfpsc.org
www.cemofpsc.org

Organisers:

Fundación
Promoción
Social de la
Cultura

La Suma de Todos

AGENCIA REGIONAL PARA LA
INMIGRACIÓN Y LA COOPERACIÓN

Comunidad de Madrid