

The Jerusalem Institute for Israel Studies

Peace Talks on Jerusalem

A Review of the Israeli-Palestinian Negotiations

Concerning Jerusalem

1993-2013

Lior Lehrs

The JIIS Series no. 432

Peace Talks on Jerusalem
A Review of the Israeli-Palestinian Negotiations Concerning Jerusalem
1993-2013

Lior Lehrs

© 2013, The Jerusalem Institute for Israel Studies
The Hay Elyachar House
20 Radak St. 92186 Jerusalem
<http://www.jiis.org.il>
E-mail: machon@jiis.org.il

About the Author

Lior Lehrs is a researcher at the Jerusalem Institute for Israel Studies. He is a doctoral student at the Department of International Relations of the Hebrew University of Jerusalem. The topic of his research is private peace Entrepreneurs in Conflict Resolution processes. Recent publications include . Reiter and L. Lehrs, *The Sheikh Jarrah Affair*, Jerusalem: Jerusalem Institute for Israel Studies, 2010 . L. Lehrs, Political Holiness: Negotiating Holy Places in Eretz Israel/ Palestine, 193 -2003, in . Reiger, . Reiter, and L. Hammer eds. , *Sacred Space in Israel and Palestine: Religion and Politics* London: Routledge, 2012 .

Jerusalem Institute for Israel Studies' Work Group: Jerusalem between management and resolution of the conflict

Since 1993 a work group of the Jerusalem Institute for Israel Studies has been engaged in studying the political future of Jerusalem. The group aims to present policymakers, public-opinion shapers, and the interested public with reliable, up-to-date information about the demographic, social, and political trends in East Jerusalem and in the city as a whole, and to formulate alternatives for management of the city in the absence of a political agreement as well as alternatives for future management. The work group addresses a variety of issues: analysis of the complex situation in Jerusalem and current trends, mapping the various positions and interests of the parties involved, drawing lessons learned from previous negotiations, and examining alternatives for interim and permanent arrangements for Jerusalem.

Work Group Coordinator: Dr. Imnon Ramon

Work Group Members: Dr. Haim Shapira, Prof. Yaacov Ar-Siman-To (died 2013), David Rodet, Dr. Yehoshua Hoshen, Dr. Hillel Cohen, Brigadier-General Res. David Ekel, Dr. Rotem Iladi, Dr. Dan Halperin, Prof. Moshe Hirsch, Israel Limhi, Eira Raus, Prof. Ruth Lapidot, Lior Lehrs, Reuven Erlich, Attorney Ilad Oam, Prof. Itzhak Reiter, Prof. Roni Sa'el, Ronnie Shaked, Dr. Emanuel Sharon, Ol. Res. Dr. Danny Tira, Ariel Elinek.

The Jerusalem Institute for Israel Studies (JIIS) was founded in 1978 and operates as an independent, non-profit organization for policy research.

The goal of JIIS is to inform and enrich the thinking and planning processes and to influence the decision-making and policymaking processes in Israel within the primary fields of study of the Institute: Jerusalem, conflict resolution, environmental policy, and growth and innovation.

JIIS strives to achieve this goal by producing relevant, precise, and in-depth information, by conducting multi-disciplinary research, and by formulating research-based policy recommendations and planning proposals for the benefit of policymakers and decision makers at various governmental levels, researchers, civil society organizations, and the general public.

Board of Directors of the Jerusalem Institute for Israel Studies

Avn Harperry, Chairman and President, Yehuda Rachevsky, Ehud Shapira, Ilan Solomon, Roy Volkman, Sergio Della Pergola, Judith Shalvi, Abraham Shari, Ariel Halperin, Danny Arora, Hanoah Uffend, Sallai Eridor, Emanuel Sharon, Ruth Heshin.

Director General of JIIS: Eirraus

Foreword

The future of Jerusalem remains one of the greatest challenges facing those who seek to achieve an agreement between Israel and the Palestinians. Geographic and demographic issues are intermingled with religious beliefs, national identities and heritage – all combining to form a complexity that sometimes seems insoluble.

The Jerusalem Institute for Israel Studies (JIIS), founded in 1988, specializes in research on all aspects of policy in Jerusalem and, since 1993, has been researching geopolitical issues relating to the city. In its work JIIS seeks to help decision makers explore both the feasibility of reaching an agreement on Jerusalem and the various alternatives available to Israel in this respect, including their advantages and disadvantages. Building on its extensive knowledge of the geography and demographics of the city as well as the social fabric and needs of its residents, and with the utmost sensitivity to religious and national values, over the years JIIS has examined a variety of alternatives for the city, the Historic Basin, its various neighborhoods, and its holy places, taking into account such concepts of sovereignty, borders, and municipal administration.

This study is the latest in dozens of JIIS publications in this area. It explores the negotiating processes that took place between Israel and the Palestinians regarding the question of Jerusalem since the time of the Oslo Accords (1993), with attention to the Camp David process (2000) and the Annapolis process (2008). Its author reviews and analyzes the main issues discussed by the parties, their various positions, the gaps between their positions, and the apparent areas of agreement. He also offers a number of general insights regarding the conduct and content of these negotiations.

I am grateful to JIIS researcher Lior Lehrs for his comprehensive and thorough research.

Yair Haus
Director General
Jerusalem Institute for Israel Studies

Contents

Executive Summary	9
Introduction	17
Part I: Historical Survey – Negotiations over Jerusalem, 1993-2013.....	19
from the formation of the Arab Government to the Camp David Summit: It is not correct to discuss Jerusalem at this point	20
Camp David Summit: Jerusalem will be the killing point	2
After Camp David: The Temple Mount is the lock and we do not have a key	40
The polling meeting and Clinton parameters: What is Arab in the city should be Palestinian and what is Jewish should be Israeli	44
The Taba Talks: There might not be such negotiations over Jerusalem even an entire generation from now	60
The Sharon Era: There will be no involvement with issues pertaining to the final settlement	4
The Olmert Era: I realized that the unity we talk about is more slogan than reality	60
The Netanyahu Era: Jerusalem will never again be divided	3
Part II: Agreements, Disagreements, and Proposals in Negotiations over Jerusalem.....	79
East Jerusalem neighborhoods	80
The Old City and the Historic Basin	96
The Western Wall and the Temple Mount / Al-Haram Al-Sharif.....	103
Dividing Jerusalem into Two Capitals: Order Regime and Municipal Administration	106
Part III: The Conduct of Negotiations over Jerusalem – Analysis.....	111
Preparation for negotiations	111
Public Legitimacy	11
Timing	119

egotiations on Symbols and Identity	123
ediation	12
The Nature and Structure of Negotiations	128
Interim Agreement	131
Regional, International, and Religious Factors	133
Conclusions	139

Executive Summary

Introduction

The issue of Jerusalem is at the heart of the Israeli-alestinian conflict and of the national, religious, and political discourse on both sides. Its resolution is therefore crucial for the overall success of efforts to resolve the conflict. And yet, an in-depth review of the history of negotiations between Israel and the Palestine Liberation Organization (PLO) reveals that over the course of 20 years – from September 1993 to July 2013 – the two sides held substantial talks about Jerusalem only on two brief occasions: during the talks that took place between July 2000 and January 2001 under the Barak administration and during meetings between Prime Minister Ehud Olmert and Palestinian Authority Chairman Mahmoud Abbas in the run-up to the end of the Olmert administration in 2008. These negotiations yielded differing, often conflicting, versions, assessments, and interpretations, thus leading to uncertainty and lack of clarity. This study aims to outline as clear and credible a picture as possible of the negotiations that have been held over the future of Jerusalem, including the identification of areas of disagreement and of agreement, and analyzes the manner in which negotiations were conducted, taking into consideration the inherent complexities and limitations.

These talks constitute an important aspect of the Israeli-alestinian negotiations, even though they did not produce an agreement. Although both the Camp David process under Ehud Barak andasser Rafat and the Annapolis process under Olmert and Abbas were guided by the assumption that nothing is agreed until everything is agreed, the understandings reached during these negotiations are significant in the political arena and in the eyes of both sides and of the international community. These understandings will presumably continue to influence any future negotiations as well. The present study can serve decision makers and other stakeholders in weighing the various possibilities relevant to negotiations over Jerusalem. Likewise, familiarity with the details of past negotiations could enrich public debate in Israel regarding the question of Jerusalem and the possibility of reaching an agreement on this complex and sensitive issue.

This publication is based on various studies, memoirs of Israelis, Palestinians, and Americans involved in the negotiating process, interviews, diplomatic documents,

and media reports. The documents of the Oslo negotiations Support Unit Studies that were deposited by *Al-Jazeera* and the British newspaper *The Guardian* served as an important and complementary source for this research.

The publication is divided into three parts: The first part presents a historical survey of negotiations over Jerusalem from the Oslo Accords 1993 to the second administration of Benjamin Netanyahu 2009-2013. Against this background, the second part outlines the points of agreement and disagreement reflected in the negotiating process as these relate to the fundamental issues that form the question of Jerusalem, indicating as well the proposals and ideas that were offered in an effort to bridge the gap. The final part of the document addresses general questions related to the manner in which negotiations over Jerusalem were conducted.

Part I: Historical Survey – Negotiations over Jerusalem, 1993-2013

The Declaration of Principles signed between Israel and the PLO in 1993 the Oslo Accords held that the two sides would address the issue of Jerusalem during final status negotiations. Substantive negotiations on a final status agreement in fact began only during the Arafat administration 1999-2001, and the issue of Jerusalem was officially introduced into the negotiations for the first time during the Camp David Summit in July 2000. The Summit ended in failure, with dispute regarding sovereignty over the Temple Mount/ Al-Haram Al-Sharif emerging as a main obstacle to agreement. Meetings between the two sides were maintained even after the onset of the Intifada in September 2000. Talks were held, among other places, at Aqaba in October 2000 and in Taba in January 2001. In December 2000 the US president at the time, Bill Clinton, presented an outline of parameters for agreement. Although these efforts did achieve some progress, they did not produce an agreement. During the governments of Ariel Sharon, from 2001 to 2006, the two sides did not conduct negotiations on Jerusalem or, indeed, on any final status issues. Under the Roadmap in April 2003 the parties would have negotiated the issue of Jerusalem during the third stage, which was scheduled to conclude in 2005, but this provision was never implemented. The Annapolis Summit took place in November 2007 and renewed the final status negotiations, but at Israel's request the negotiating teams did not address the issue of Jerusalem, which was raised only in talks between Israeli Prime Minister Olmert and Palestinian Authority Chairman Abu Awen. During these negotiations each

side presented a map detailing a proposed solution for Jerusalem, but the talks were suspended following Olmert's resignation and the last Lead military operation in Gaza and were not renewed after the Netanyahu government came to power in March 2009. The period of the second Netanyahu government 2009-2013 was characterized by a return to political stalemate alongside continuing efforts to renew direct negotiations on a final status agreement. In July 2013, a few months after the inception of the third Netanyahu government, the parties agreed to renew negotiations as a result of mediation efforts on the part of US Secretary of State John Kerry. They further agreed that all core issues would be placed on the table and they set a timetable of nine months to reach an agreement.

Part II: Agreements, Disagreements, and Proposals in Negotiations over Jerusalem

Against the background of the historical survey presented above, Part II explores the areas of agreement that surfaced during the talks about Jerusalem and identifies remaining points of disagreement. The discussion that follows will also include ideas and proposals that were raised in various contexts in an effort to bridge the gaps that existed between the parties. For the purposes of analysis, this part divides the question of Jerusalem into four core issues: East Jerusalem neighborhoods Jewish and Palestinian identity and the Historic Basin or Holy Basin the Western Wall and Temple Mount/ Al-Haram Al-Sharif and arrangements regarding relations between the two capitals in the context of a border regime and municipal administration.

1. East Jerusalem Neighborhoods

Agreements: During negotiations the two sides agreed on a formulation according to which sovereignty in East Jerusalem would be divided along demographic lines, thereby granting Israeli sovereignty over Jewish neighborhoods and Palestinian sovereignty over Arab neighborhoods. Thus, the Israeli side relinquished its original position opposing Palestinian sovereignty over any part of East Jerusalem, while the Palestinian side relinquished its original demands that Jerusalem's borderlines follow the 1949 armistice line. This understanding presupposed a territorial swap based on the 4 June 1967 borderlines. Such a formulation appeared in the Clinton Parameters 2000 and served as an agreed-upon basis for negotiations during the talks at Aqaba in June 2000 and Taba 2001 as well as discussions between Olmert and Abu Ayyash in 2008.

Disagreements: Despite agreement in principle on this issue, a main point of disagreement is the question of sovereignty over the neighborhood of Har Homa. The Palestinians are not willing to apply the agreed-upon principle to this neighborhood primarily because it was built after the signing of the Oslo Accords. In addition, difficulties related to geography and transportation in areas where the new order would disrupt urban contiguity and links between neighborhoods require resolution. With respect to the environs surrounding Jerusalem, the two sides disagree on the matter of annexation of East Jerusalem and the Golan Heights. Likewise, they will need to address the question of the future of Jewish settlements in Palestinian neighborhoods such as Silwan, Ras al-Nud, and Sheikh Jarrah.

In response to these issues, the present publication cites a number of creative solutions proposed during official talks or by unofficial bodies such as the Geneva Initiative 2003 and an Israeli-Palestinian team that operated under the auspices of Rice University's Baker Institute for Public Policy 2010.

2. The Old City and the Historic Basin

Negotiations on the future of the Old City and the Historic Basin followed two courses towards a potential solution: division of sovereignty, on the one hand, and an international regime, on the other. As a matter of principle, the Israeli side prefers a solution based on a special regime that does not require division of sovereignty. The Palestinian side demands agreement on the division of sovereignty first, with negotiations on practical arrangements and creative administrative solutions taking place only after such initial agreement.

A. Division of Sovereignty – Agreements: The negotiations that took place under the Arafat administration made some progress towards agreement on division of sovereignty in the Old City. It was agreed that the Jewish Quarter would be under Israeli sovereignty while the Muslim and Christian Quarters would be under Palestinian sovereignty. The Palestinians had agreed to Israeli sovereignty over the Jewish Quarter prior to the Camp David Summit, and they reaffirmed this position to American and Israeli representatives during various stages of the negotiations. The Palestinian proposal made during the Annapolis process was also based on this agreement.

Disagreements: Disagreement remains regarding the question of sovereignty over the Armenian Quarter and areas outside of the Old City walls. The City

of a id and the ount of li es. Israel demanded sovereignty over these territories while the alestinians were prepared to have them administered by Israel as long as they remain under alestinian sovereignty. The same disagreement applies to the uestion of sovereignty over the estern all Tunnel and the Tower of a id.

B. International Regime – Agreements: The talks etween Imert and u a en during the nnapolis process addressed Imert's proposal for administration of the Holy asin y an international trusteeship composed of Israel, the alestinian state, the nited States, Jordan, and Saudi ra ia. u a en neither accepted nor rejected Imert's overall proposal, ut according to a *New York Times* article ased on separate conversations with u a en and Imert, he did e press agreement in principle with this idea, with reser ations regarding some of its elements.

Disagreements: Two main areas of disagreement remain etween the parties. The rst pertains to the area to e included under an international regime, whether it would co er only the ld ity or e pand to encompass areas of the Historic asin which includes ount of li es and the ity of a id . The second point of disagreement relates to the uestion of sovereignty over the area. The alestinians are reluctant to defer agreement on this issue to a later stage.

The current study presents the solutions proposed to this issue in the framework of two unof cial initiatives the ene a Initiative 2003 and the Jerusalem ld ity Initiative 200 -10 as well as the alternati es put forward y the Jerusalem Institute for Israel Studies 200 .

3. The Western Wall and Temple Mount/Al-Haram Al-Sharif

Agreements: uring the negotiations that took place under the arak administration, the parties agreed that the estern all would e under Israeli sovereignty, and the Temple ount/ l-Haram l-Sharif would e under alestinian administration with no e ca tions to take place therein. rafat had granted alestinian consent to Israeli sovereignty over the estern all prior to amp a id, and the alestinians reiterated this position throughout the course of the negotiations. It should e noted that under Imert's proposal, oth these sites would come under the international regime that would apply to areas within the Historic asin.

Disagreements: The question of sovereignty over the Temple Mount/Haram al-Sharif was the primary stumbling block at the Camp David. Various compromise proposals that were put forward following the Summit failed to produce an agreement on this issue. Disagreement also surfaced surrounding the demarcation of borders applicable to Israel's sovereignty at the Western Wall, and surrounding Israeli demands raised during the Arafat era for a prayer area to be allocated to Jews at the Temple Mount and for Palestinian recognition of Jewish ties to the place.

In this context, the current document points to relevant creative solutions that were raised in the Eilun-Uda document 1997, the Amman-Husseini document 2000, the Geneva Initiative 2003, and the Yalon-Husseini document 2003, among others.

4. Dividing Jerusalem into Two Capitals: Border Regime and Municipal Administration

Agreements: The two sides agreed on the founding of two capitals in Jerusalem with two separate municipalities and a joint body responsible for municipal coordination.

Disagreements: Disagreement emerged surrounding the nature of the border regime that would apply to the dividing lines between the separate parts of the city. The Palestinians supported the open city solution, with no physical border, whereas the Israelis demanded a firm physical border within the city.

In this context the document presents proposals raised in Ezeron-Henikstein's roughs plan 1968, the Eilun-Uda document 1997, the document prepared by Yehiel Shalev on the eve of the Camp David Summit 2000, the plan presented by Yassal Hussein 2000, and the Geneva Initiative 2003. The document also notes two additional research papers prepared by the Jerusalem Institute for Israel Studies: the first, prepared by Israel Almhi and Daniel Tirat, discusses possible options for a border regime in Jerusalem 2011, and the second, on the question of economic and social rights of Palestinians in East Jerusalem who today have the status of permanent residents of Israel in the event that Israel withdraws from the neighborhoods in East Jerusalem 2007.

Part III: The Conduct of Negotiations over Jerusalem – Analysis

An analysis of the negotiating process regarding Jerusalem raises a number of general issues and questions about the manner in which the negotiations were conducted. These issues have repeatedly surfaced throughout past years of negotiations, and presumably they will require attention and consideration in any future talks that address this topic.

Preparation for Negotiations: There should be taken to avoid a situation in which the sensitivity of the Jerusalem issue and the fear of media leaks frustrate the preparatory work needed for negotiations over Jerusalem. These negotiations require comprehensive, in-depth preparatory work that includes studying the issue in all its aspects, the positions of the parties, the details of past negotiations, the current situation on the ground, and options and proposals for resolution. It would also be appropriate, in advance of negotiations, to undertake a thorough hands-on internal review to discuss and define Israel's interests and priorities with respect to Jerusalem, taking into account the vast array of relevant considerations. Additionally, a strong and permanent body in the form of a peace administration could play a very important role in guiding negotiations throughout the years and addressing the various aspects of negotiations in a continuous and consistent manner.

Public Legitimacy: The renewal of negotiations over Jerusalem will require addressing the question of internal legitimacy on both sides and, in tandem, establishing a process that prepares public opinion for the possibility of compromise.

Timing: The proposal to postpone discussion of Jerusalem to a later stage of negotiations is intended to enable confidence-building and to lay a solid foundation that will improve the means available to address this complex issue at a later date. But postponement could also endanger negotiations by removing the option of linking between core issues such as Jerusalem and the refugee question and reaching the endgame.

Negotiations on Symbols and Identity: Any negotiations that touch upon issues related to values and identity require great care in order to avoid digressing from political, pragmatic negotiations to the realm of values, faith, and religion, where there is almost no flexibility or room for compromise. There is, however, room for

discussion of future efforts by both peoples to address questions of recognition, narratives, and education in the context of Jerusalem.

Mediation: The question of a mediator's role in these negotiations requires assessment of the mediator's ability to appear as an honest broker and a ability to make proper and appropriate use of mediation proposals as a basis for negotiations.

The Nature and Structure of Negotiations: Any negotiating process must take into account the influence of variables such as structure, deadlines, internal struggles and differences of opinion on each side, relationships between leaders, Sincerity, and the extent of media and public interest. It is also necessary to mediate and balance between negotiations regarding principles, on the one hand, and practical negotiations about the finer details of the agreement, on the other.

Interim Agreement: The likelihood of an interim or partial agreement that would postpone full resolution of the question of Jerusalem is rather low given the fierce Palestinian opposition to this idea. Any future discussion can be expected to entail the following elements: symbolic Palestinian sovereignty in Jerusalem, defining the rules of the game for the interim period, a clear time frame, and the establishment of a mechanism for coordination and enforcement.

Regional, International, and Religious Players: It would be appropriate to include Arab and Muslim states in negotiations over Jerusalem and resolution of the issue in light of the relationship of the Arab and Muslim world to this issue and in order to enhance the legitimacy of an agreement. The relationship of the Christian world to Jerusalem should also be given attention, including consideration of the positions of church leaders within the city and of international Christian bodies, foremost among them the Vatican.

Introduction

The issue of Jerusalem is at the heart of the Israeli-alestinian conflict and of the national, religious, and political discourse on both sides. Its resolution is therefore crucial for the overall success of efforts to resolve the conflict. And yet, an in-depth review of the history of negotiations between Israel and the Palestinian Liberation Organization (PLO) reveals that over the course of 20 years – from September 1993 to July 2013 – the two sides held substantive talks about Jerusalem only on two brief occasions: during the talks that took place between July 2000 and January 2001 under the Arafat administration and during meetings between Prime Minister Ehud Olmert and Palestinian Authority Chairman Mahmoud Abbas – until the end of the Olmert administration in 2008. These negotiations yielded differing, often conflicting, versions, assessments, and interpretations, thus leading to uncertainty and lack of clarity. This study aims to outline as clear and credible a picture as possible of the negotiations that have been held over the future of Jerusalem, including the identification of areas of disagreement and of agreement, and analyses the manner in which negotiations were conducted, taking into consideration the inherent complexities and limitations.

These talks constitute an important aspect of the Israeli-alestinian negotiations, even though they did not produce an agreement. Although both the Camp David process under Ehud Arafat and Yasser Arafat and the Annapolis process under Olmert and Abbas were guided by the assumption that nothing is agreed until everything is agreed, the understandings reached during these negotiations are significant in the political arena and in the eyes of both sides and of the international community. These understandings will presumably continue to influence any future negotiations as well. The present publication can serve decision makers and other stakeholders in weighing the various possibilities relevant to negotiations over Jerusalem. Likewise, familiarity with the details of past negotiations could enrich public debate in Israel regarding the question of Jerusalem and the possibility of reaching an agreement on this complex and sensitive issue.

It should be noted that the analysis presented here relates only to the question of Jerusalem as part of a wider mix of issues, and that discussions on various core issues – Jerusalem, refugees, security, borders – are closely related and influence each other.

This publication is based on various studies, memoirs of Israelis, Palestinians, and Americans involved in the negotiating process, interviews, diplomatic documents, and media reports. The documents of the U.S. Negotiations Support Unit that were exposed by *Al-Jazeera* and the British newspaper *The Guardian* served as an important and complementary source for this research.

The publication is divided into three parts: The first part presents a historical survey of negotiations over Jerusalem from the Oslo Accords 1993 to the second administration of Benjamin Netanyahu 2009-2013. It addresses political developments, contacts between the parties, and relevant documents. Against this background, the second part outlines the points of agreement and disagreement reflected in the negotiating process as these relate to the four issues that form the question of Jerusalem: Arab and Jewish neighborhoods in East Jerusalem, the Old City and the Historic Basin or Holy Basin, the Western Wall and Temple Mount/Haram al-Sharif, and the regime between the two capitals indicating as well the proposals and ideas that were offered in an effort to bridge current gaps. The final part of the document addresses general questions related to the manner in which negotiations over Jerusalem were conducted.

I would like to express my gratitude to the late Prof. Yaacov Bar-Siman-Tor, Head of JIIS 2003-2013, Eira Zusman, Director General of JIIS, Dr. Miron Ramon, and Prof. Ruth Lapidot, who read the manuscript and provided important and constructive comments. My gratitude also goes to Amir Sassaf-Shapira for preparing the maps, to Shlomo Givon for Hebrew editing, to Eran Givon for the English translation, to Esti Givon for layout, and to Hamutal Appel, who oversaw the process of publication.

Part I

Historical Survey: Negotiations over Jerusalem, 1993-2013

The Declaration of Principles signed between Israel and the PLO on 13 September 1993, the Oslo Accords, held that the two sides would address the issue of Jerusalem during final status negotiations.

The parties agreed that the final status negotiations would commence no later than the beginning of the third year of the interim period. The agreement held that East Jerusalem would not come under Palestinian Council jurisdiction, but East Jerusalem Palestinian residents could participate in elections to the Palestinian Council.¹ The Interim Agreement signed on 28 September 1993 termed Oslo Accords established guidelines for elections, which were to be conducted at East Jerusalem post offices under international supervision.² This may be seen as partial Israeli recognition of the relationship of Palestinian residents of East Jerusalem with the Palestinian Authority and its institutions.

In parallel to the Oslo Agreement, on 13 October 1993, the then foreign minister Shimon Peres sent a letter to the Norwegian foreign minister, Johan Jørgen Holst, stating as follows:

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

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

¹ The text of the Agreement is available on the Foreign Ministry website:

http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/declaration_20of_20principles.asp.

² Article 6 of Annex II of the Interim Agreement. See:

http://www.mfa.gov.il/peace/peace_process/guide_to_the_peace_process/THE_ISR_ELIL-LESTI_I_I_TERI_REE_E_T_-_nne_II.htm article6.

Regarding the polling arrangements, see H. Cohen, *Kikar Hashuk Reika [The Market Square is Empty]* Jerusalem: Jerusalem Institute for Israel Studies, pp. 18-181 Hebrew.

needless to say, we will not hamper their activity on the contrary, the fulfillment of this important mission is to be encouraged.³

The question of Jerusalem also arose in the context of the peace treaty between Israel and Jordan, signed on 26 October 1994. In this agreement Israel recognized the special role of the Hashemite Kingdom of Jordan with respect to Islam's holy places in Jerusalem, and promised to ascribe high priority to the historical role of Jordan in these places during final status negotiations.⁴

In May 1996, the deadline for final status negotiations to begin, Israel held elections that resulted in the rise to power of the Netanyahu government. Under this government's rule, negotiations focused on implementing the interim agreement, and their efforts yielded the Hebron Agreement in January 1997 and the Wye River Memorandum in October 1998. During this time there were no negotiations over final status agreement issues, including Jerusalem.

From the Formation of the Barak Government to the Camp David Summit: "It is not correct to discuss Jerusalem at this point"⁵

The government of Ehud Barak came to power in July 1999, but substantive final status talks began only in March 2000, after the failure of negotiations along the Israeli-Syrian track.⁶ The official, bilateral talks took place between Ehud Barak, head of the Israeli negotiating team, and Yasser Arafat, head

³ See R. Iliad, Letter from Foreign Minister Shimon Peres to His Norwegian counterpart, Johan J. Holst, in Y. Ramon, ed. *City in Turmoil: A Lexicon of Jerusalem for Our Times* (Jerusalem: Jerusalem Institute for Israel Studies), pp. 361-362. For the text of the letter, see: http://www.mfa.gov.il/mfa/foreignpolicy/peace/mfadocuments/pages/peres-holst_20letter_20regarding_20jerusalem_20-2011-oct-93.asp.

⁴ Article 9.2 of the Israel-Jordan Peace Treaty. For the text of the treaty, see: http://www.mfa.gov.il/mfa/foreignpolicy/peace/treaty/pages/Israel-Jordan_20peace_20Treaty.asp.

From remarks by Shlomo Ben-Ami to Palestinian representatives during a round of talks in Sweden translated from Hebrew by author, according to Y. Sher, *Within Touching Distance: Negotiations towards Peace, 1999-2001* (Tel Aviv: Yediot Achronot, 2001), p. 88 (Hebrew).

⁶ In September 1999 Israel and the PLO signed the Sharm el-Sheikh Memorandum, which addressed commitments stemming from the interim agreements and the transition to final status talks. The talks along the Syrian track led to the summit meeting in Shepherdstown in January 2000, but the negotiations did not yield a breakthrough. The failure of the summit meeting between Clinton and Assad in June in March 2000 symbolized the collapse of talks along this track.

of the Palestinian negotiating team. Simultaneously a backchannel negotiating track was established between Shlomo Ben-Ami and Yassir Arafat, who were joined by Yigal Allon and Hassan Safour.⁸ This track was nicknamed the Stockholm track because in part they took place in Harpsund, Sweden. The first round of talks in Sweden took place from May 11 to May 13. The second round began on May 20 but was suspended because of violence that erupted in the West Bank and Gaza Strip days of Rage. The third and final round began on June 1 of the same year in Israel.⁹ The negotiating channel was kept secret, but its existence was exposed at an early stage.¹⁰

Arafat instructed Israel's delegates to the talks not to engage in substantive negotiations over Jerusalem and to delay this issue to the very end.¹¹ In his view, a substantive discussion of Jerusalem could sabotage and slow up the process in terms of the public discourse in Israel.¹² Arafat requested the delegates not to

Ben-Ami notes that three ceremonies were held to mark the start of final status talks between Israel and the PLO: a ceremony in Taba in May 1996, on the eve of Israel's elections; a ceremony in the presence of Arafat in May 1999, and a ceremony for the start of talks between the negotiating teams led by Yigal Allon and Yassir Arafat in December 1999. Ben-Ami, *Breaking the Taboo* (Jerusalem: Jerusalem Institute for Israel Studies, 2001), p. 9. Hebrew.

According to Yigal Allon, in March 2000 talks between the teams of Eran and Yassir Arafat began near Washington, for the purpose of exchanging ideas, as described by the participants upon their conclusion. Sher, p. 68.

⁸ Ben-Ami, *A Front without a Rearguard: Travels to the Limits of the Peace Process* (Tel Aviv: Yediot Achronot, 2004), pp. 32, 28, 3. Hebrew. Sher, pp. 80-83. The first meeting between Ben-Ami and Arafat took place on 28 March 1999. Yigal Allon and Hassan Safour joined later. The first meetings took place in Tel Aviv and in Jaffa.

⁹ Sher, pp. 3, 93, 9, 108-116. Ben-Ami, pp. 32, 39, 1-2. During the second round negotiators were joined by Yigal Allon on the Israeli side and Hafez Husseini on the Palestinian side. Initially the meetings were between Ben-Ami and Arafat, joined at times by Yigal Allon Lipkin-Shahak and Yassir Arafat. In April 2000 Arafat decided to have Yigal Allon join the talks as well. The Americans knew about this track and participated as well. Ben-Ami claims in his book that for a long time he urged Arafat to initiate backchannel negotiations on final status issues, but Arafat was reluctant, among other reasons because of his focus on the Syrian track. According to Ben-Ami, Yigal Allon also met in parallel with Arafat's colleagues, Hussein Ghannouchi and Ahmed Dahlan, but after Yigal Allon's objections it was decided in late April to unite the negotiating tracks. Ben-Ami, pp. 21-23, 32, 3. In the first and second round of negotiations, see Ben-Ami, pp. 44-1. Sher, pp. 86-91.

¹⁰ Regarding this leak, see Sher, pp. 88-89. Ross, *The Missing Peace* (New York: Farrar, Straus and Giroux, 2000), p. 613.

¹¹ See Sher, pp. 8, 88, 89, 106, 109. Ross, p. 612.

¹² Sher, p. 8.

record any stances regarding Jerusalem and not to formulate draft documents or agreements on this issue.¹³

Ben-El-Mechaieq underscored to the Palestinians during the first round of talks in Sweden that it is not correct to discuss Jerusalem at this point.¹⁴ The Palestinians and Americans objected to the Israelis' position of a pending discussion of the issue. Dennis Ross, Secretary to the Middle East, states in his book that Barak's stance placed the negotiations in a state of "atch 22," as the Palestinians could not offer concessions and reach the endgame without knowing what they were to receive regarding Jerusalem.¹⁵

The question of Jerusalem arose during the talks in the most general terms only.¹⁶ The Palestinians posed a demand for full Palestinian sovereignty over East Jerusalem – the East for us, the West for you – with the possibility of special arrangements for holy places and Jewish neighborhoods.¹⁷ Ben-El-Mechaieq made clear that if a special regime were to be agreed upon for Jerusalem, it would apply to both East and West Jerusalem; otherwise, the alternative would be a clear division between the eastern and western sides of the city. Ben-El-Mechaieq further emphasized during the talks that the issues of Jerusalem and the refugees were fatal to any agreement, and to Sher he stated, "Give us sovereignty in East Jerusalem, and everything else will work itself out."¹⁸ Israel proposed a solution of expanding Jerusalem's municipal boundaries beyond its current borders to include the Gush Etzion in the east, Beit Lehem in the north, and the West Bank in the south, with the expanded city having two capitals: Jerusalem and Be'er Sheva. Under this arrangement, each sub-municipality would administer its own neighborhoods, and a special regime would apply to the Old City.¹⁹

¹³ Sher, p. 121 Ben-El-Mechaieq, p. 88.

¹⁴ Ben-El-Mechaieq, p. 88.

¹⁵ Ross, pp. 619, 623 Sher, pp. 88-89, 106, 109. Regarding this negotiating channel, Ben-El-Mechaieq says, "Jerusalem was not discussed at all. Barak was not willing... in the drafts we prepared the section on Jerusalem was a blank page and even this troubled him." Ben-El-Mechaieq, *The Peace Process*, Ha'aretz, 14 September 2001. The document drafted during the talks, which is reproduced in Ben-El-Mechaieq's book, shows that the section on Jerusalem remained blank. See Ben-El-Mechaieq, *Beyond Oslo, the Struggle for Palestine* (London: I. B. Tauris, 2008), p. 348.

¹⁶ Sher, p. 106 Ross, p. 614. Sher claims that the question of Jerusalem was discussed less formally, without a written record and primarily in the form of a telephone interview with Yehuda Sher, 16 March 2011. See also Ben-El-Mechaieq, *American Peace* (Tel Aviv: M. Sefer, 2009), p. 29. Hebrew.

¹⁷ Sher, p. 114 Ben-El-Mechaieq, pp. 39, 40.

¹⁸ Sher, pp. 81, 114.

¹⁹ Ibid. Ben-El-Mechaieq, p. 39. Regarding this position see also Ben-El-Mechaieq, *Shutaf Sod* ["The Confidant"] (Tel Aviv: Yediot Achronot, 2009), pp. 3-6, 3-8. Hebrew.

Ehud Barak tried to promote the option of postponing agreement regarding Jerusalem for several years, but the Palestinians strongly objected.²⁰ In his account of the events, Ben-Mi argues that at this point Barak supported the idea of a partial settlement because Jerusalem terrified him and he feared that agreements on Jerusalem would not pass a national referendum. Ben-Mi identifies a contradiction between this proposal by Barak and his aggressive stance against interim measures as well as his quest for a comprehensive agreement on all issues that would include announcing the end of the conflict and the end of claims.²¹

Barak was interested in having the question of Jerusalem raised for discussion only at the summit, and he feared internal Israeli discussions of this issue.²² Ben-Mi argues that he repeatedly asked Barak to undertake preparations for substantive talks on Jerusalem, including in-depth study of the issue with the assistance of experts.²³ Shaul Arieli, who served as head of the Peace Administration body established within the Prime Minister's office to coordinate the administrative work for final status negotiations, notes that Barak instructed him prior to the Camp David Summit not to engage in the question of Jerusalem and not to undertake preparatory work on the issue.²⁴ Levin claims that the Peace Administration did not include experts on matters of Jerusalem, and that the Planning Directorate of the General Staff Headquarters was likewise not granted permission to engage in these issues.²⁵

In November 1999 a team was established to deal with the question of Jerusalem. It was composed of representatives of the Peace Administration alongside researchers from the Jerusalem Institute for Israel Studies, but the team's work soon came to a stop following a media leak about its existence.²⁶

The document prepared by Ilan Sher in late May 2000, in preparation for a future summit, claims that both sides understand that the issue of Jerusalem cannot be

²⁰ Sher, p. 112 Ben-Mi, pp. 39, 6, 2, 3, 6.

²¹ Ben-Mi, pp. 6, 2.

²² Ross, pp. 60, 623.

²³ Ben-Mi, pp. 60, 63, 118.

²⁴ Interview with Shaul Arieli, 14 April 2011.

²⁵ Levin, *Breaking the Taboo*, p. 32.

²⁶ See Levin, *Breaking the Taboo*, pp. 32-33. The team was headed by Reuven Erlich and included Ruth Lapidot, Israel Limhi, and Maya Hoshen from the Jerusalem Institute for Israel Studies as well as Israel Hasson, Yehonatan Shani, and Yehonatan Rabin from the Peace Administration.

resolved at this stage, and it proposed that an agreement be drafted on the basis of the following principles: freedom of access and worship; delineation of the zone of Jerusalem; J, which will include an expanded city encompassing Palestinian neighborhoods from beyond Jerusalem as well as adjacent Jewish settlements; division of the zone into Israeli Jerusalem and Palestinian lands as well as gray areas under a special regime, and the establishment of an umbrella municipal authority to administer the space; a special regime in the old city; a single capital in the J. According to this document, the remaining issues would be discussed at the summit.²

Explicitly at this stage, with preparations for the Camp David Summit underway, Israel sought solutions that would not require relinquishing Israeli sovereignty at the municipal boundaries of Jerusalem: expansion of the city's borders, agreement on postponing discussions of the issue, or special arrangements that would not entail changing the sovereignty status of the city.

At the same time, during a June 2000 conversation with US representatives on the eve of the Camp David Summit, Arafat and Sharon hinted at the possibility that the Palestinian capital would also include the eastern Jerusalem neighborhoods of East Jerusalem, such as Sur Baher, Shuafat, and Beit Hanina. Arafat proposed that these neighborhoods come under Palestinian sovereignty, whereas Sharon proposed leaving the question of their sovereignty open.²⁸ According to this proposal, the internal neighborhoods would remain under Israeli sovereignty, but Palestinians would have certain rights to them.²⁹ In addressing the range of his flexibility vis-à-vis Jerusalem on 1 July 2000, Arafat told Clinton that he would agree to Palestinian sovereignty only in the part of the city that is within the municipal territory of Jerusalem and in Shuafat, and only if an agreement could not be achieved otherwise.³⁰

² Sher, pp. 103-104.

²⁸ Arafat, pp. 112-113. Regarding Arafat's position at this stage, see Arafat, p. 62. Ross, p. 636.

²⁹ Arafat, pp. 112-113.

³⁰ Indyk, p. 299. According to Indyk, Arafat told him when they met on 8 July 2000 that he was willing to accept certain concessions on Jerusalem, the transfer of the eastern neighborhoods and unhampered Palestinian access to the Temple Mount, which would also come under their control in practical matters without our relinquishing sovereignty. See Arafat, final moments of dialogue: Indyk's diaries, *Ha'aretz*, 29 July 2011, p. 18. Hebrew.

On June 2, the eve of the summit, Benjamin Netanyahu, Ariel Sharon, and Yossi Albin met with Yasser Arafat and discussed the issue of Jerusalem among other matters. Netanyahu and Sharon raised the possibility of postponing the discussion of Jerusalem, but Arafat made it clear that he would not agree to a delay of more than two hours. Arafat underscored his demand for full sovereignty over Al-Haram Al-Sharif and the Old City, but expressed willingness to accept Israeli sovereignty over the Western Wall and the Jewish Quarter and a commitment that no excavations would take place at Al-Haram Al-Sharif.³¹ Arafat firmly rejected the possibility of functional Palestinian autonomy in the neighborhoods of East Jerusalem under Israeli sovereignty, and he wondered why Israel opposes recognition of a Palestinian right of return on the one hand, yet wishes to annex 300,000 Palestinians within Jerusalem on the other hand.³²

During a preparatory meeting with Arafat in advance of the Camp David Summit, Netanyahu said that in his assessment, Arafat would not compromise on Jerusalem, but if Israel would accept his demands on the issue, then he would agree to sacrifice the refugees in return.³³

Camp David Summit: “Jerusalem will be the killing point”³⁴

The Camp David Summit opened on July 11 and included the following participants on the Israeli side: Ehud Barak, Shlomo Netanyahu, Ariel Sharon, Elyakim Rubinstein, Menachem Lipkin-Shahak, Danny Atom, Amichai Eliazar, Yossi Albin, Shlomo Amichai, Israel Hasson, David Eran, and Idi Rabinowitz. The Palestinian participants were Yasser Arafat, Ahmad Qasbi, Abu Aun, Ahmed Qurei, Yusef al-Ja'ar, Yasser Abed Rabbo, Khalil Shaath, Sa'ed Erekat, Karam Hanieh, Mohammed Dahlan, Hassan Sfour, Mohamed Rashid, Khalil al-Rudeina, and Yusuf Abdullah.³ From the very outset of the Summit, it appeared that the issue of Jerusalem would be at the heart of matters. Netanyahu stated on the very first day of the summit that it would be a Jerusalem Summit and asserted that Jerusalem

³¹ Netanyahu, pp. 11, 11. Shaath, The Day Peace Died, p. 299. Hanieh, The Camp David Papers, *Journal of Palestine Studies*, vol. 30, no. 2, Winter 2001, p. 81, also available at <http://www.miftah.org/doc/Reports/2011/CampDavidPapers.pdf>.

³² Netanyahu, p. 11.

³³ Netanyahu, p. 124.

³⁴ Mohamed Rashid to Shlomo Netanyahu, Netanyahu, p. .

³ Sharon, p. 14. E. Swisher, *The Truth About Camp David: The Untold Story about the Collapse of the Middle East Peace Process* (New York: Nation Books, 2004), pp. 23-24.

would be the make or break issue of the agreement.³⁶ Dennis Ross also said at the beginning of the summit that Jerusalem was undoubtedly the most difficult issue to resolve.³

The summit commenced with a failed US attempt to draft a statement of principles that would serve as a basis for discussion. The American team tried initially to present a document with general parameters for a solution on final status issues as a primitive framework agreement according to John Schwartz, a member of the US team.³⁸ In its initial form, the document was general and cautious on all matters relating to Jerusalem, and it proposed a formula for an undivided city with special arrangements for holy places. The word sovereignty was not mentioned in the document, which focused rather on questions of functional and municipal authorities.³⁹ Ross explains that the document differentiated among three levels: municipal, religious, and political. He proposed beginning with a formulation of understandings regarding practical and functional administration of the city, and only after that to address the more difficult questions.⁴⁰

Barak's reaction to the document was extremely negative primarily because of the article on borders and consequently Clinton decided to shred the document and issued instructions to draft a new document, one that would be softer and represent the positions of both sides while suggesting options for bridging them.⁴¹

Ben-Mi writes that the document was reasonable in his opinion and he was therefore surprised by Barak's reaction, no less than by the speed with which the Americans shredded the document.⁴² When the new document was presented to Barak before being presented to Rabin, in accordance with the agreement between Clinton and Barak, Israel expressed a strong reservation about the article regarding Jerusalem, where it was implied that there would be two capitals

³⁶ Ben-Mi, p. 141. Sher, p. 14.

³ Sher, p. 149.

³⁸ Sher, p. 19.

³⁹ Ben-Mi, p. 143. Ross, p. 6. Uribe, pp. 19-180. Zeitlin, Final Moments of Dialogue, p. 19. Regarding the drafting process, see Ross, pp. 61-62.

⁴⁰ Ross, p. 6. According to Ross, Ahalan and Shahak recommended that at this stage the document on Jerusalem be drafted in general terms but Ahalan wanted the document to be more detailed. Ross, p. 69.

⁴¹ Ross, p. 69. Indyk pp. 304-30. According to Ross, Clinton explained that it was premature to compel Barak to make concessions. Ross, p. 69. Indyk writes that the Israelis later admitted that Barak's reaction was a bargaining tactic and that they had never imagined that a negative reaction would result in the document being discarded. Indyk, p. 304.

⁴² Ben-Mi, p. 143. See also Indyk, p. 444.

within the current municipal borders of the city. The Americans indeed changed the document substantially, so that the version presented to Rafat referred to the expanded Jerusalem rather than municipal Jerusalem.⁴³ The document in its new version drew angry reactions from the Palestinians, who completely rejected it. They argued that it had been prepared in coordination with the Israelis, and they saw the term expanded Jerusalem as an attempt to impose a decision upon them to establish their capital in Judea, outside of East Jerusalem, along the lines of the idea proposed in the 1993 Oslo Accords.⁴⁴ As a result, this document too fell off the agenda and negotiations continued with no agreement on a joint framework for discussions.⁴

On July 1, Arafat outlined his proposal for a solution to the issue of Jerusalem before Clinton. According to this proposal, the city would remain under Israeli sovereignty and the Palestinian capital would be established in the villages of Judea and Galilee. The neighborhoods of East Jerusalem would be granted a certain degree of municipal autonomy and Israeli sovereignty would be preserved in the Old City, but with an agreed-upon special regime.⁴⁶ Arafat made clear to the Americans that if a document were presented proposing Palestinian sovereignty in Jerusalem, then he would abandon the summit.⁴

At this stage, in an effort to overcome the deadlock, Clinton proposed holding a marathon of discussions within a limited framework. Thus during the night between July 1 and 16 a secret nighttime meeting took place at Camp David, on an informal and unofficial basis, with two representatives from each side: Ben-Ami and Sher from the Israeli side, Erekat and Ahdan from the Palestinian side.⁴⁸

⁴³ Sher, p. 161. Ross, pp. 660-661. Swisher, pp. 26-288. In his book, Indyk presents a different version, claiming that the Americans presented the draft to both sides simultaneously without prior consultation with the Israelis, and that Arafat complained to Clinton about this. Indyk, pp. 36-37.

⁴⁴ Indyk, p. 30. Ross, pp. 661-662. Uribe, pp. 189-190. Hanieh, p. 8.

⁴ Indyk, p. 30. Ross, pp. 661-662. Uribe, p. 190. It should be noted that some Israelis and Americans proposed the Oslo Accords as the product of unofficial talks during 1994-1995 as a basis for negotiations, but Arafat objected. Interview with Ilan Sher, 16 March 2011. Ilan Sher, "The Oslo Accords: A Full Responsibility," *Ha'aretz*, 9 October 2001. Hebrew.

⁴⁶ Indyk, p. 38.

⁴ Indyk, p. 381.

⁴⁸ Ben-Ami, pp. 166-167. Sher, pp. 11-12. Indyk, p. 308. Israel Hasson joined the meeting at a later point. Ben-Ami points out that as former commander of the Jerusalem governorate of the General Security Services Shin Bet, Hasson was very familiar with Jerusalem's physical composition, which was essential for a meeting focused on this question. Ben-Ami, p. 16. Uribe interviewed these talks as an attempt to exclude him from the negotiations. Uribe, p. 200.

en- mi sought to advance the discussion regarding Jerusalem and raised a proposal that deviated from the official Israeli stance. He proposed that the external neighborhoods of East Jerusalem such as Afrata, Beit Hanina, Surfer, and Ras al-Nud would be transferred to Palestinian sovereignty, the internal neighborhoods such as Silwan, Sheikh Jarrah, and U-Tor would be granted municipal Palestinian autonomy under Israeli sovereignty⁴⁹ in the identity Israeli sovereignty would be maintained but a special regime would be established and in the Temple Mount the principle of *status quo* would be officially and legally accepted on a permanent basis, such that the Palestinians administer it but Israel would have sovereignty.⁵⁰ The Palestinians were not impressed with this proposal and rejected it categorically. This means nothing, Rafat explained to Linton, it includes only the distant neighborhoods of Jerusalem, which Arafat wants to get rid of anyway.⁵¹ The Americans were surprised by En- mi's proposal and saw it as a precedent-setting Israeli move, but Arafat informed them that he does not support it.⁵²

During the marathon-style meeting the Palestinians voiced a willingness to accept Israeli sovereignty in Jewish neighborhoods built in East Jerusalem after 1967, and Erekat emphasized that this is a far-reaching proposal in its acceptance of the presence of neighborhoods that Palestinians perceive as illegal settlements.⁵³

After the meeting a difficult conversation took place between Linton and Rafat, after which Rafat sent a letter that the Americans interpreted as an expression of Palestinian willingness to demonstrate greater flexibility on a number of issues: percentage of Israeli annexation, the Jordan Valley, end of the conflict, on the condition of a satisfactory solution regarding Jerusalem.⁵⁴

⁴⁹ En- mi proposed a model in which certain municipal functions would be transferred to neighborhood administrations, similar to the London model. Atom, p. 382.

⁵⁰ The proposal not only addressed Jerusalem but included solutions to the other issues as well. En- mi, pp. 16-168. Indyk, p. 308.

⁵¹ Sher, p. 14.

⁵² Indyk, p. 308. En- mi, p. 169. Atom, pp. 383-384. Arafat claims that En- mi and Sher went beyond what I can live with and sent a letter along these lines to Linton. See Ross, pp. 6-6. At the same time Atom claims that Arafat was not alarmed by these developments; it was already becoming clear that unless we propose a very revolutionary solution for Jerusalem, nothing will move. Atom, p. 382.

⁵³ Indyk, p. 308. Ross, pp. 6-3-6-4.

⁵⁴ Indyk, p. 310. En- mi, p. 11. Sher, p. 14. Ross, p. 6-9. Linton conveyed three questions to Rafat, on the percentage of Israeli annexation and land swap, Israel's presence in the Jordan Valley, and the end of the conflict, with an ultimatum for Rafat to provide answers that would prove he was

At this stage the Americans concluded that any negotiation will essentially depend on the question of Jerusalem and accordingly began to focus all their efforts on this issue, developing new and creative ideas to resolve the dispute over Jerusalem in general and over the Temple Mount / Al-Haram Al-Sharif in particular. The main American idea that began to take shape at this point was that the Palestinians receive the status of permanent custodianship for Al-Haram Al-Sharif, similar to the status Saudi Arabia holds in relation to holy places in Mecca and Medina. The status would be granted to them in the framework of an agreement to be signed between Israel and the five permanent members of the Security Council, the United States, France, Great Britain, China, and the Soviet Union which was chair of the organization of the Islamic Conference in Algiers.⁶ Under this proposal, the Palestinians would have a status comparable to the diplomatic status enjoyed by an embassy, while overall and symbolic sovereignty would remain with Israel.

On the Palestinian side, two models took shape at this time regarding a solution to the issue of Jerusalem: full Palestinian sovereignty in East Jerusalem as the capital of a Palestinian state, or the internationalization of Jerusalem in accordance with

Resolution 181 of 1947, which proposed making the city a *corpus separatum*. They prepared a number of questions for clarification of various issues such as the organization of municipal services, a proposal for expanding the city, security arrangements, and the meaning of the term 'open city'.⁸

meeting the challenge posed by the Israelis during the nighttime marathon meeting Sher, p. 14. Ben-Mi, p. 10. According to the document that appears in this book, Rafat expressed a willingness to go to the furthest limit on the issues Ben-Mi raised, on the condition that he be assured Palestinian sovereignty in East Jerusalem, with due consideration to Israeli interests in the Jewish Quarter and the Western Wall and with the city maintained as an open city. Urie, pp. 202-203. In his book Ben-Mi asserts that Rafat's written response stated that if what he views as a satisfactory solution to the question of Jerusalem is found, then he would grant Ben-Mi the authority to determine the percentage of area to be annexed by Israel and the percentage of area for a land swap. Ben-Mi, *My Life* New York: Alfred A. Knopf, 2004, p. 914. Ben-Mi, in his book, claims that Rafat's letter was given a generous interpretation. He relates that he gathered from the Americans that the main Palestinian concession in the document was the willingness to accept Israel's annexation of 8 - 10% of the West Bank, but that later he was told that the Palestinian pledge on this matter was based on an assumption that in exchange all their demands regarding Jerusalem would be met. Ben-Mi, pp. 11, 209.

Indyk, pp. 301, 310. Sher, pp. 1, 186. Urie, p. 204.

⁶ See Ben-Mi, pp. 198-199. Ross, pp. 682-683.

Indyk, pp. 311-312.

⁸ Urie, pp. 204-205.

On the Israeli side as well, Jerusalem became the top agenda item at this stage. On July 1 a dramatic discussion took place among members of the Israeli delegation, which initiated, as Ilan Sher described it, a process that marks the beginning of change in the thinking of a significant portion of the delegation members and a process of peeling away the outer layers, the slogans.⁵⁹ According to Ben-Mi, the discussion conveys the sense of an exceptional historical, political experience that made it possible to release a barrier within our collective consciousness.⁶⁰

During the same discussion some of the speakers voiced doubt about Israel's need to maintain sovereignty over all parts of Jerusalem. Danny Atom said that the municipal borders of Jerusalem are not sacred in terms of nationality or religion. Shahak stated that large portions of Jerusalem today are not my Jerusalem and Eran asserted that Israel has no historical or religious interest in certain portions of the city.⁶¹ Some of the delegation members expressed support for granting the Palestinians symbols of sovereignty in the old city, having concluded that no agreement could be reached without this element.⁶²

Meridor and Rubinstein were the token right-wingers in the discussion and had difficulty agreeing to Palestinian sovereignty within Jerusalem.⁶³

Despite the dramatic discussion that took place within the Israeli delegation, Arafat presented Linton with a paper that evening in which Israel effectively retreated on the positions that Ben-Mi had presented during the nighttime negotiations. According to Arafat's proposal, the Palestinians would be granted sovereignty only in one of the eternal neighborhoods of East Jerusalem, in addition to a corridor to a diplomatic Palestinian compound that would be established in the Muslim quarter, adjacent to Al-Haram / Al-Sharif.⁶⁴ Linton was furious with Arafat: I cannot go to Rafat with such an entrenched position... It is not serious.⁶⁵

After this scolding, Arafat changed his position and offered Linton new areas of latitude, resulting in a significant shift from the traditional Israeli stance regarding

⁵⁹ Sher, p. 1.

⁶⁰ Ben-Mi, p. 13.

⁶¹ Sher, pp. 17-180 Ben-Mi, pp. 13-18.

⁶² Sher, pp. 17-182 Ben-Mi, pp. 13-180.

⁶³ Sher, pp. 18, 189-190.

⁶⁴ Indyk, p. 318 Sher, pp. 184-18 Ben-Mi, p. 182. Linton tried to persuade Arafat to grant the Palestinians some form of sovereignty within the old city Atom, p. 386.

⁶⁵ Ben-Mi, p. 182 Ross, p. 864 Indyk, p. 316 Linton, p. 914.

Jerusalem. Under Arafat's proposal external Palestinian neighborhoods in East Jerusalem would come under Palestinian sovereignty.⁶⁶ Israeli sovereignty would be maintained in internal Palestinian neighborhoods, but they would be granted the rights of self-rule in matters of planning and zoning as well as enforcement of the law.⁶⁷ The identity would be divided, with the Muslim and Christian quarters subject to Palestinian sovereignty and the Jewish and Armenian quarters subject to Israeli sovereignty. Israeli sovereignty would apply to the Temple Mount, but the Palestinians would have custodianship of the compound. A transportation solution to be found enabling movement between external neighborhoods and Al-Haram without crossing Israeli territory. The proposal also included the possibility of Jewish prayer on the Temple Mount.⁶⁸ Arafat suggested that Clinton present the proposal to the Palestinians as an American idea.⁶⁹ Clinton was surprised by Arafat's position and told him, you are the greatest man I ever met.⁷⁰

In July 1993 Clinton met with Arafat and presented a comprehensive proposal based on Arafat's ideas.⁷¹ According to Ayalia it was presented as a private proposal by Clinton to grant Arafat custodianship of other holy places, under the auspices of the United Nations and Morocco, and the right to buy the Palestinian flag in the area of Al-Haram Al-Sharif. In exchange for agreement, Clinton said that he would put pressure on Arafat to agree to Palestinian sovereignty in the Muslim and Christian quarters, and perhaps also in external Palestinian neighborhoods of East Jerusalem. It was also proposed that internal neighborhoods would enjoy Palestinian autonomy under Israeli sovereignty and a corridor under their own sovereignty between the West Bank and the Identity.⁷² Arafat voiced objection to the proposal, claiming that these were ideas that Dennis Ross cooked up with Arafat, but he promised to consider it. That same night the Palestinians presented

⁶⁶ According to Ross, Arafat was referring to Palestinian sovereignty in respect to external Palestinian neighborhoods. Ross, p. 688.

⁶⁷ According to Ayalia, Arafat proposed that a special regime be established in these neighborhoods, where the neighborhood administrations would be granted municipal authorities by the Israeli sovereignty. Ayalia, p. 39.

⁶⁸ Indyk, pp. 316-317. Ross, p. 68. Ayalia, p. 183. Ayalia, p. 39. Clinton asked Arafat to consider the option of Palestinian custodianship in the Temple Mount, and Arafat expressed a willingness to do so but made it clear that he would not relinquish Jewish sovereignty over the Temple Mount.

⁶⁹ Indyk, pp. 316-317. Ayalia, p. 39. Ross, pp. 68-690.

⁷⁰ Ayalia, p. 39. Indyk states that he too was surprised by the offer. Indyk, p. 31.

⁷¹ Ross, pp. 688-690. Indyk, pp. 31-319. Clinton, p. 91. Ayalia, p. 184. Sher, p. 18.

⁷² Ayalia, pp. 211-213.

questions for clarification regarding the proposal, yet they eventually rejected it.³

At this stage the Americans made clear to the Palestinians that there are two proposals on the table that can prevent collapse of the summit: continued negotiation on the basis of Clinton's proposal, or a partial agreement in which it is accepted that the issue of Jerusalem in its entirety or only the Old City would be postponed to later, while the two sides maintain their demands regarding the issue.⁴ The Palestinians rejected both proposals. The Americans tried to put pressure on Arafat through Arab countries as well. Clinton contacted a series of Arab leaders: President Hosni Mubarak of Egypt, Prince Abdullah of Saudi Arabia, King Abdullah of Jordan, and President Ben Ali of Tunisia, but to no avail.⁶

In July 1993 Clinton left Camp David and flew to the 8 summit. Despite the crisis in the talks, they continued under the management of Secretary of State Madeleine Albright. After Clinton's departure Arafat closed himself off, staying in his room, enraged that the Americans had not lived up to their commitments to obligate Arafat to accept Clinton's proposals as a condition for continuing the negotiations. He refused to meet with Arafat as long as the latter did not in principle accept the proposal's ideas regarding Jerusalem.⁸ Simultaneously, the Israeli media published reports claiming that Ben Ami and Shahak were pressuring Arafat to make concessions regarding Jerusalem. Ben Ami argues that

³ Ben Ami, p. 189; Ross, pp. 689-690; Urie, 212-213; Hanieh, pp. 8-88. Arafat claimed that Albright and Ross were working hand in hand with the Israelis. He further asserted that he could not return to his people without Jerusalem and would rather die. Sher, p. 18; Urie, p. 213.

⁴ Ross, pp. 692-693; Ben Ami, p. 186; Urie, p. 21.
Ross, p. 693; Ben Ami, p. 194.

⁶ Ross, p. 694; Indyk, pp. 318-319; Urie, p. 21; Sher, p. 192; Hanieh, p. 89; Swisher, pp. 306-309.

Ben Ami, pp. 196-19; Hanieh, p. 91. Arafat informed Clinton that he was prepared to continue negotiations but not on the basis of the American proposals, and he suggested suspending the Summit for two weeks while continuing with the talks. The Israeli delegation strongly opposed this suggestion and threatened to leave unless they received a Palestinian response in principle to Clinton's proposal. Sher, p. 193; Urie, pp. 214-21; Ben Ami, pp. 188-19.

⁸ Sher, pp. 19, 19-198; Ben Ami, pp. 19, 202, 206; Urie, p. 223; Hanieh, p. 93. Arafat understood from Clinton that there would be no progress without a response from Arafat to these ideas and therefore agreed to remain at Camp David. But this understanding was not made clear to Arafat, and the document was in fact removed from the agenda. Albright explained to Arafat that Arafat had not known that accepting the American proposals was a condition for continuing the negotiations even though this had been conveyed to Arafat, and she apologized for the misunderstanding. See Sher, p. 200; Ben Ami, pp. 19-198; Clinton, p. 91.

arak's people were responsible for planning these rumors in order to create a scapegoat for the failure to come.⁹

Clinton left the talks in a state of deep crisis, yet in his absence unofficial meetings between the parties continued, and efforts were made to develop creative ideas regarding the Temple Mount.⁸⁰ Ben-El-Mechaieq and Jonathan Frankel, the State Department's legal advisor, discussed a series of potential formulas for resolving the Temple Mount / Al-Haram Al-Sharif issue. One of these was to develop the concept of custodianship, possibly through an agreement between Israel and the United Nations, by which an international commission comprising the permanent members of the Security Council would be established, and this body would grant custodianship to the Palestinians in Al-Haram Al-Sharif, with the international community overseeing the implementation. Such an arrangement enables circumventing the question of sovereignty, and therefore Israel would not be required to state that it relinquished sovereignty, and the Palestinians would not announce that they had acquired sovereignty. In the event of a violation of the agreement, the international commission would intervene.⁸¹ Additional solutions that were suggested included a horizontal division of sovereignty: Palestinian sovereignty in the upper area and Israeli sovereignty in the underground chambers beneath the Temple Mount and in the eastern wall area; joint sovereignty that would delineate a division of areas of responsibility; division into Palestinian religious and administrative sovereignty versus general Israeli sovereignty; and a solution in the form of a lease, by which Israel would lease the compound to the Palestinians, granting the permission to exercise their sovereign authority.⁸²

Simultaneously Ben-El-Mechaieq proposed the use of the term custodial sovereignty, assuming that the Palestinians would not accept any formulation that did not include the word sovereignty. Yet he conditioned this solution on Jews being permitted to pray at the Moroccan compound on the Temple Mount and on the establishment of a mechanism that would ensure the prevention of any escalations at the site.⁸³

⁹ Ben-El-Mechaieq, p. 202.

⁸⁰ Sher, pp. 200-201. Regarding the talks about the Temple Mount between Ben-El-Mechaieq and the Americans, see Ben-El-Mechaieq, pp. 198-200. According to Ben-El-Mechaieq, Arafat issued instructions not to discuss Jerusalem at this stage unless the Palestinians respond to Clinton's proposal, but soon negotiations over the issue resumed. Ben-El-Mechaieq, p. 201.

⁸¹ Ben-El-Mechaieq, pp. 198-200. See also Ben-El-Mechaieq, p. 204.

⁸² Ben-El-Mechaieq, pp. 199-200. Klein, *Breaking the Taboo*, pp. 48-49.

⁸³ Indyk, p. 328. Ben-El-Mechaieq, pp. 206-207. Arafat rejected this proposal.

These suggestions, alongside other ideas raised during meetings between the negotiating teams, did not lead to a breakthrough.

Upon Rabin's return to Camp David, Arafat announced that he was withdrawing his proposal regarding Jerusalem because Rabin had rejected it and that his position had now changed. Arafat's position regarding the external neighborhoods had not changed, but he announced that he would not accept Palestinian sovereignty in the Old City, though he would show some flexibility regarding a few internal neighborhoods.⁸⁴ According to Atom, Arafat informed Rabin that he would agree to Palestinian sovereignty only in one internal neighborhood and to a small sovereign Palestinian compound within the Muslim Quarter.⁸⁵

On July 24 a decisive meeting took place at which, in the words of Ben-Mi, the curtain came down on the summit and its fate was sealed to collapse beyond repair.⁸⁶ Jerusalem was the central issue at the meeting. Arafat refused to participate in a three-way meeting of leaders with Rabin and Ben-Mi, and therefore, in its place, a meeting was held with Rabin, Ben-Mi, and Erekat participating. Rabin placed a map on the table and participants discussed various ideas for solutions within the city.⁸⁷ Among other possibilities, the option of postponing an agreement on Jerusalem was raised, but Erekat opposed it, arguing that if all other problems are resolved, then Israel will have no motivation to see a deal on Jerusalem. His proposal that a postponement apply to the questions of both Jerusalem and the refugees was rejected by Ben-Mi.⁸⁸ At the conclusion of the meeting Rabin presented three alternatives for a solution:

⁸⁴ Ross, p. 102 Ben-Mi, pp. 210-212 Eitan, Final Moments of Dialogue, p. 2 Indyk, p. 326. Arafat told Ben-Mi that he wanted to retreat from his position tactically, in order to make Rabin pay for his refusal. Ben-Mi suggested that Arafat withdraw his agreement regarding Palestinian sovereignty in the Christian Quarter but instead offer Palestinian sovereignty in the neighborhoods beyond the Old City walls Ben-Mi, pp. 210-211.

⁸⁵ Atom, p. 419. Arafat told Ben-Mi that he would agree to consider sovereignty in Silwan if convenient access to the City of David is assured Ben-Mi, p. 211.

⁸⁶ Ben-Mi, p. 21.

⁸⁷ At this meeting Ben-Mi proposed granting limited Palestinian sovereignty over internal neighborhoods in exchange for a special regime in the Old City with a sovereign Palestinian area in the Muslim Quarter. Dennis Ross proposed granting custodial or religious Palestinian sovereignty in the Temple Mount / Al-Haram Al-Sharif with remaining sovereignty granted to Israel. Erekat raised the idea of both sides relinquishing sovereignty in Al-Haram Al-Sharif. See Ben-Mi, pp. 21-221 Ross, pp. 10-108.

⁸⁸ Ben-Mi, p. 221 Ross, pp. 10-10.

1. postponement of the agreement on the issue of Jerusalem or only on the issue of the Holy Basin for five years
2. custodial Palestinian sovereignty over Al-Haram Al-Sharif, and residual Israeli sovereignty a special regime in the Old City with limited Palestinian sovereignty in the internal neighborhoods of East Jerusalem and Palestinian sovereignty in the external neighborhoods
3. Palestinian sovereignty in the Muslim and Christian quarters, Israeli sovereignty in the Jewish and Armenian quarters, Palestinian sovereignty in the external neighborhoods, functional Palestinian autonomy in internal neighborhoods.⁸⁹

Erekat was sent to receive a reply from Rafat and returned with a letter to Clinton rejecting proposals⁹⁰ and telling him that the Palestinians would not agree to a formulation that proposes Israeli sovereignty in Al-Haram Al-Sharif or any Muslim or Christian holy place. He claimed that such a proposed solution would be rejected by Muslims and Christians, Arabs and non-Arabs alike, and would lead to escalation. Rafat emphasized in his letter to the president that a solution for Jerusalem must preserve the unity of the city and that segmentation would harm residents and lead to Palestinian hostility to the agreement.⁹¹

The following day the Camp David Summit concluded.

After the failure of the summit, many observers pointed to the question of Jerusalem, and the issue of sovereignty over the Temple Mount / Al-Haram Al-Sharif in particular, as the decisive cause of failure and the principal barrier to an agreement. Upon conclusion of the summit, Arafat told the members of the Israeli delegation, "We made a diligent effort to make peace with the Palestinians.... The process came to a stop with the demand of the other side to transfer sovereignty over the Temple Mount to it."⁹² At a press conference he held after the summit, Arafat said that Rafat's positions on Jerusalem were what prevented reaching an agreement.⁹³ Ben-Mi said that Rafat wanted the Temple Mount

⁸⁹ Sher, p. 230; Ben-Mi, p. 221; Urie, p. 23; Hanieh, p. 96.

⁹⁰ Sher, p. 231; Ben-Mi, p. 223; Hanieh, p. 96.

⁹¹ The letter is available in Urie, pp. 246-247. See also Hanieh, p. 96.

⁹² Sher, p. 231; Ben-Mi, p. 22; Atom, pp. 422-423.

⁹³ Remarks by Prime Minister and Defense Minister Ehud Arafat at the press conference upon conclusion of the Camp David Summit, in *Foreign Ministry Yearbook of Official Documents, December 2000* (Jerusalem: Foreign Ministry, 2000), p. 306.