

Yerushalayim, al-Quds and the Wizard of Oz: Facing the Problem of Jerusalem after Camp David II and the al-Aqsa *Intifada**

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In the famous American movie “The Wizard of Oz,” Dorothy, her three companions, and her dog, brave innumerable dangers to petition the Wizard — the Wizard of Oz — for his help. But although they have believed with full faith in the Wizard’s omniscience and omnipotence, in the movie’s climax they learn the truth. Dorothy’s dog Toto pulls a curtain away from a booth to reveal an old man working controls and shouting into a microphone. The old man is using smoke and mirrors to create an awesome image of “the great and powerful Oz.” The truth, that the wizard is no Wizard, but rather a clever, but weak and desperate man, and that their elaborate beliefs about the Wizard are nothing but fantasy, shocks Dorothy and her friends. But once the façade of majesty and mystery has been stripped away, they quickly learn that this normal man can actually give them each just exactly what they need — the self-confidence to make practical decisions for themselves and to use the real resources they have to accomplish their goals.

The story of Dorothy and the Wizard is the story of reality emerging from behind a sound-and-light show. Considering that nothing has been so emblematic of official Israeli policies towards Yerushalayim as the Hollywood-style sound-and-light show displayed on “King David’s Tower” — a tower, next to the Jaffa Gate, which of course was never King David’s at all — we can see that the story of Dorothy and the Wizard is also very much the story of what has happened to the question of Yerushalayim and al-Quds.

The Fetish of Yerushalayim

From 1967 on, but in particular since the Begin government’s promulgation of the Basic Law—Jerusalem, Capital of Israel in 1980, almost all Jewish Israeli politicians were constrained to act and speak in accordance with an artfully and seductively contrived fetishization of Yerushalayim and its borders as enlarged in 1967. This project was intended by its wizards to hide the reality of a drastic and bizarre expansion of the city’s municipal boundary to include

more than 70 square kilometers of land from West Bank Arab villages and to hide as well realities of segregation, discrimination and occupation. A crucial element of this project included the settlement of 200,000 Jews in massive new neighborhoods in expanded East Jerusalem, choking restrictions on Arab building, expulsion campaigns against Arab residents of al-Quds, and severe inequalities in the delivery of municipal services to Jewish versus Arab neighborhoods. Just as important, however, for the fetishization of expanded Yerushalayim in Israeli political discourse were a variety of devices used to implement its psychological, cultural and political intent. These devices included an anthem (Naomi Shemer's "Jerusalem of Gold"), Jerusalem Day, the Jerusalem Parade, the Jerusalem Covenant, a Jerusalem Ministry, the revival of the cult of the Jerusalem Temple, and the Jerusalem 3000 extravaganza.

A not untypical example of this type of elaborately organized expression of political passion was the invitation issued to American Jews to participate in "The Jerusalem Solidarity Encounter." Sponsored by Ateret Cohanim's Jerusalem Reclamation Project, American Jews who could not come to Israel to express their devotion to the actual city on Jerusalem Day could pay \$500 per couple for a virtual visit. The elaborate show awaiting those ready to buy these tickets was explained in a press release issued in May 2001:

The lights dim, a hush settles over the ballroom, giant video screens light up and you are transported to the hubbub and bustle of the El-Al Terminal at JFK airport. "Last call for flight 008 direct to Jerusalem." The El-Al Pilot welcomes his passengers aboard his plane and with a roar of the engines he takes off, leaving the New York City skyline behind. Within seconds the most picturesque sights in Israel come into view, climaxing in an awesome breathtaking view of the ancient walled Old City of Jerusalem.

After landing, you are driven through the streets of Jerusalem and are greeted at the Western Wall by Jerusalem Mayor Ehud Olmert. Enter the quarters of the Old City, and meet authentic Modern Day Maccabees — the men, women and children of Ateret Cohanim including Mattityahu (Mati) HaCohen Dan, Rabbi Shlomo HaCohen Aviner and other unique Jerusalem personalities. Visit Prime Minister Sharon in his Old City home. Thrill to an unprecedented visit behind the scenes to see the new high tech Old City Security Control Center in action — never before revealed to the American public — including actual police footage of a firebomb attack on Ateret Cohanim's newest home in the Old City.

"It's hard to describe the unique mixture of joy and awe which characterizes the special Yom Yerushalayim [Jerusalem Day] services

at Yeshivat Ateret Cohanim,” claims Executive Director Yossi Baumol. You will be there yourself — for the intense prayer of thanks, the joyous dancing and the blowing of the Shofar. The camera will then cut to the streets and alleys of the Old City, filled with people singing and dancing. On Jerusalem Day, in the wee hours of the morning, thousands upon thousands of people, young and old, march down Jaffa Street and enter the Old City through all the gates, converging on the Kotel [Western Wall] to dance and sing for an hour or two before sunrise prayers begin. You too will join the students of Ateret Cohanim dancing at the Kotel ending with a burst of fireworks over the Old City.¹

In part the elaborate celebration of manufactured images, epitomized by this particular event, has been meant to compensate for a timid, jerry-built and unconvincing legal position. In June 1967 the Eshkol government decided not to annex the Jordanian municipality of al-Quds. Under Israeli law this could have been done straightforwardly by using the same statutes employed to annex the Western Galilee into the new state after the 1948 war, and then to incorporate the Little Triangle in June 1949. But the government chose not to annex Arab Jerusalem, nor to declare Israeli sovereignty over the city. There were three reasons for this decision. First, the government feared a coalition crisis with the National Religious Party who would have objected to what would have been an implicit decision not to annex the other portions of the Land of Israel that had been “liberated.” Second, Levi Eshkol and his Cabinet feared a political confrontation at the United Nations and a legal battle at the International Court which it certainly would have lost. Third, it did not want to enfranchise the more than 60,000 Arabs remaining in al-Quds and the portion of the West Bank freshly demarcated as part of “reunited Yerushalayim.”

Accordingly, the government adopted a clever but complex ruse. In June 1967 it promulgated a series of amendments to existing legislation and administrative orders. Together they were designed to extend Israel’s law and jurisdiction to a greatly expanded area of East Jerusalem and a gerrymandered swath of its hinterland. The trick was to accomplish this without granting Israeli citizenship to the Arab inhabitants of the affected area and without having officially to declare an act of annexation or sovereignty extension. Only by understanding the extraordinary complexity of these acts can it be appreciated how calculating and definite was the effort to avoid the actual imposition of Israeli sovereignty. Only on that basis, in turn, can one understand the gap that subsequently opened up between the rhetoric of the mythmakers of “reunited Yerushalayim” and the legal, political and practical realities of what may be called “occupation through municipal expansion.”

Part of avoiding any clear act of annexation or sovereignty extension was the avoidance of any one act that could be held up to symbolic, legal or political scrutiny. Instead the government of Israel enacted or implemented a series of separate measures — two amendments to pre-existing statutes and one administrative declaration. The desired outcome was to be the effect of the interaction of these separate measures. Neither of the two laws as amended even mentioned Jerusalem. Neither of the two laws, nor the administrative declaration, contained the word “annexation” (*sipu’ah*) or “sovereignty” (*ribonut*).

First, on 27 June 1967, the Knesset passed an amendment to the “Law and Administration Ordinance” which had been published in the Official Gazette on 22 September 1948. As it stood before this amendment, that Ordinance declared that all laws applying within the State of Israel would apply to “any part of Palestine which the Minister of Defense has defined by proclamation as being held by the Defense Army of Israel.” The 1967 amendment to this ordinance reads as follows:

In the Law and Administration Ordinance, 1948, the following section shall be inserted after section IIA: “IIB. The Law, jurisdiction and administration of the state shall apply in any area of *Eretz Yisrael* designated by the government by order.”

Three things are changed here. First, it is not the Minister of Defense that is specifically and solely named as having the power to make the necessary declaration, it is “the government.” Second, no specific importance is attached to the Defense Minister’s designation of an area as “being held by the Defense Army of Israel.” Third, the larger area within which this power is capable of being exercised is within “Eretz Yisrael” rather than “Palestine” (a provision of some semantic but no operative significance). This amendment thereby made it possible for the Minister of Defense to consider some parts of the Land of Israel (Gaza or the larger West Bank, for example) as held by the Israeli army but without Israeli law in force, while other areas (i.e. the 71 square kilometers of expanded East Jerusalem), also held by the army, could be designated, by “government order,” as areas wherein Israeli law could be enforced.

A second Knesset action, also taken on 27 June 1967, was to amend the “Municipal Corporations Ordinance” by inserting a paragraph which would add to the powers of the Interior Minister to act, “at his discretion and without holding an inquiry...” The power added by this law allowed the Interior Minister to “enlarge, by proclamation, the area of a particular municipal corporation by the inclusion of an area designated by order under section IIB of the Law and Administration Ordinance, 1948” (referring to the above-described amendment to that law). It is significant to note that

although this law also gave the Interior Ministry the right to appoint municipal councilors from among the inhabitants, there was no mention of whether these inhabitants would need to be Israeli citizens.

The third crucial measure taken was the publication on 28 June 1967, by the Interior Minister, of the following declaration:

In accordance with my powers under paragraph 8 of the Municipal Corporations Ordinance [i.e. that amendment, passed the day before, and described above] I declare as follows:

1. The Boundaries of the Jerusalem Municipal Corporation will be the inclusion of the area described in the Annex. [This "Annex" was a three-page list of latitudinal and longitudinal points describing the current, but never pre-existing, municipal border in the North, East, and South.]
2. This declaration shall be referred to as "The Jerusalem Declaration (extension of the boundaries of the municipal corporation), 1967."²

The immediate explanation for these measures offered by the Israeli government emphasized what it characterized as the practical requirements of the inhabitants of the affected area — a rationale directly in keeping with the logic and requirements of "belligerent occupation" as described in the Hague Regulations of 1907, which the Government of Israel and the High Court of Justice accepted as binding on the manner in which the occupied territories were to be governed. The Hague Regulations permit no change in the permanent status of occupied territory but do permit and require the occupier to assume responsibility for the basic needs of the inhabitants. An official government press release, dated 28 June 1967, read (in part) as follows:

In order to dispel any possible misunderstanding the Foreign Ministry spokesman declared tonight that the basic purpose of the ordinance concerning the fusion of the Jerusalem municipal areas is to provide full municipal and social services to all inhabitants of the city. The fusion of the municipal services will ensure that no social inequality and legal differences in respect of services, welfare and education enjoyed by all inhabitants of Jerusalem will exist. From now on all residents will be in a position to receive all the services normally extended by the municipality such as water, electricity, public health, welfare, education, etc.

The purpose and result of the interaction of these measures was to expand the municipal boundaries of Yerushalayim to include al-Quds and a freshly demarcated, oddly shaped swath of the West Bank containing lands from 28

different Arab villages. While the border was mainly intended to exclude as many Palestinian Arabs as possible while including as much land, it was also a compromise between bureaucratic players, some of whom favored much larger and some of whom favored smaller boundaries for the city. In any event these actions, including publication of the three-page list of latitudinal and longitudinal points representing the new municipal boundary across the Green Line, did impose Israeli law and jurisdiction on an area much larger than any that had ever been included within a Jerusalem municipality or had ever been included within Jewish or Israeli emotional, historical or psychological meanings of “Yerushalayim.” Just as important, this imposition had been accomplished without extending Israeli citizenship to enlarged East Jerusalem’s Arab inhabitants, without officially claiming or extending Israeli sovereignty over the area, and without declaring an act of annexation.³

But for those in Israel who at the time, or subsequently, have favored reaching a territorial compromise with the Palestinians based on two states for two peoples, this arrangement was too clever by half. Exploiting precedents set by Labor Party governments, right-wing activists came to an important realization about the political potential of this vast expansion of the politically potent category of “Yerushalayim.” Why bother trying to persuade Israelis of the need to stay forever in Nablus and Gaza, when it would be sufficient and much easier to persuade them of the need never to leave “Jerusalem?” Indeed Israel’s annexationists have always known that it would be difficult if not impossible to prevent at least a slim majority of Israelis from supporting a trade of occupied territory for lasting peace. To realize the dream of *Eretz Yisrael ha-shlemah* (the whole Land of Israel) or at least as much of it as possible, they knew that eventually they would have to establish Israel’s permanent control of the West Bank and Gaza as an unquestioned fact of Israeli political life. But they knew and know that they are very far from being able to accomplish this transformation in the consciousness of Israeli Jews. On the other hand they have also known that no Arab partner would sign a comprehensive peace agreement permitting Israel to maintain exclusive sovereignty over expanded East Jerusalem.

Hence the compelling political logic of fetishizing “Yerushalayim.” The strategic political logic of the annexationist right was as follows. If the permanent absorption of a large “united Jerusalem” can be established as a hegemonic (unquestioned) belief, it would constitute an enormous obstacle to progress towards negotiating any type of solution, thereby letting wars and expulsions, as well as settlements and other components of *de facto* annexation, accomplish their political, cultural, demographic and psychological objectives.

The political dynamic associated with this cult of Jerusalem was vividly displayed in May 1982 when the Begin government issued an ultimatum that

further negotiations with Egypt and the United States over autonomy for Palestinians would be “inconceivable” unless the talks were held in three capitals of these countries, Cairo, Washington and Jerusalem. The demand was refused by the Egyptians as part of their protest against Israel’s treatment of expanded East Jerusalem as part of its capital. The negotiations were never resumed.⁴ Thus Begin was able to conceal his desire to destroy any real negotiating process towards compromise with the Palestinians behind a publicly unassailable façade of protecting the “unity of Yerushalayim.”

The same dynamic was evident more than a decade later in the post-Madrid rounds of Israeli–Palestinian negotiations. Use of the Jerusalem issue to block a general deal with the Palestinians based on land for peace was the purpose of the last Shamir government’s encouragement of the media event known as “the Jerusalem Covenant.” This parchment document is on display now in an obscure Knesset reception hall. Its rapturous words about “united Jerusalem” are underlined by the signatures of 1,300 diaspora Jewish leaders flown to Israel to mark the end of “Jerusalem Year,” a celebration of 25 years of Israeli rule over the “united city.” The spectacle was the one and only accomplishment of the “Ministry for Jerusalem Affairs” established in 1990 by the Shamir government. The ministry was disbanded when the Labor Party took power in 1992, but the Covenant project — a financial boondoggle and political embarrassment to the new government — could not be scuttled.

From an annexationist perspective, however, events demonstrated the profitability of this kind of political investment. In early 1993 Israel’s anti-annexationist government and Palestinian negotiators developed positions on key issues, including security, land, and water, that encouraged many to think an interim agreement might actually be achievable. Right-wing threats of mass mobilization against the surrenderist government seemed to fall flat. Demonstrations against the peace process were poorly attended. The spring 1993 closure of the territories was very popular for most Israelis. Despite the misery it inflicted on their Arab inhabitants, the move was also interpreted positively, as a kind of prelude to the political separation of Israel from the occupied lands.

But because the Israeli government felt constrained to honor the image of a “united Jerusalem” by barring West Bank Arabs from the eastern sector of the city and its hinterland (inter alia, the ceremonial signing of the “Jerusalem Covenant” was in May 1993), the closure had the unintended consequence of forcing the issue of the fate of expanded East Jerusalem to the center of the negotiations. Privately willing to compromise on various aspects of the issue in the future, but unwilling to say so now because of the public fetish of “united Jerusalem,” the Rabin government was stymied in its efforts to find wording on the Jerusalem question that could allow the negotiations to proceed towards an interim agreement — an

agreement that both Israeli annexationists and Hamas fundamentalists agreed would have led to a two-state solution.

Failure of the Fetishization Project

Despite the success this fetishization strategy enjoyed as an obstacle to advancing negotiations with the Palestinians on various occasions, the fundamental objective of the project was not attained. As this author has documented elsewhere, the image of a greatly enlarged “Yerushalayim,” which no Israeli could conceive of ever dividing, was not implanted successfully as a common sense of Israeli psychological or political reality. This was fully apparent by the mid-1990s. Consider the following examples of how Israel and Israelis regularly acted in accordance with the knowledge and implicit understanding that “al-Quds” was not part of “Yerushalayim.”⁵ At least since 1988, the Arab neighborhoods, villages and refugee camps of al-Quds and its environs, including most of the Old City, have been treated as unknown, foreign, “occupied” territories. When not trying hard to recite the official catechism about the city’s “reunification,” politicians commonly referred to the Arabs of East Jerusalem as Palestinians within the West Bank or Judea and Samaria. The *Statistical Abstract of Israel* continued to place an asterisk next to East Jerusalem to indicate its inclusion within the area of the state as listed. The municipal *eruv*, which runs along the boundary of the city within the Green Line, was constructed carefully in the eastern sector to divide the city, excluding most Arab neighborhoods and villages.⁶ Particularly telling was the drumfire of accusations by right-wing parties and politicians that “Rabin,” “Peres,” or “the Left” were ready “lehalek et Yerushalayim” (to divide Yerushalayim), thereby giving the lie to the claim that the city was “indivisible” and its partition “inconceivable” to virtually all Israelis. Early in 1995 Yossi Beilin and the PLO’s Abu Mazen reached an unofficial, unpublished but widely reported agreement to deal with the Jerusalem issue by establishing a Palestinian capital of al-Quds in East Jerusalem Arab neighborhoods and in the adjacent towns of Abu Dis and Azariyah. Systematic and sophisticated polls of Israeli Jewish attitudes towards the city, which survey researchers in Israel had failed to conduct ever since 1967, were conducted in late 1995. The results showed that even in the absence of favorable discussion of the prospect by leading politicians or government ministers, large pluralities of Israeli Jews were ready to transfer Arab neighborhoods in expanded Jerusalem to Palestinian sovereignty, especially if these such were seen to reduce Arab demographic presence in the city and if they were part of an overall peace agreement.⁷

Against this background it was not surprising to informed observers that no large explosion of opposition greeted trial balloons launched by

the Barak government in late 1999 and early 2000 with regard to the possibility of treating portions of Arab East Jerusalem as “area B” and, eventually, even recognizing Palestinian sovereignty in those areas.⁸ In response to these developments, newspaper editorials and even center and center-right commentators such as Shlomo Gazit and Elisha Efrat began describing Palestinian rule of Arab areas in enlarged “Yerushalayim” as inevitable or even necessary.⁹ Then, at the July summit at Camp David, Prime Minister Ehud Barak built upon the Beilin-Abu Mazen plan by proposing the principle that the municipal boundary for Yerushalayim stipulated in 1967 would not be considered the final boundary of Israel’s capital, and that very substantial Arab areas within what had been fetishized as “Yerushalayim” would indeed be treated as “al-Quds.” As is well known, that effort collapsed, although subsequent negotiations between Israeli and Palestinian negotiators at Taba closed most of the gaps that had appeared between the Barak government’s position and that of the Palestinians regarding the basic nature of the political and territorial solution to the Jerusalem question.¹⁰

Prior to Barak’s treatment of Yerushalayim’s municipal boundaries as encompassing areas of al-Quds that would eventually be relinquished to Palestinian rule, perhaps the clearest sign that the fetishization project had failed at the psychological and deep political level was a bill introduced by a Likud Member of Knesset, Yehoshua Matza, in March 2000. This bill proposed an amendment to the Basic Law-Jerusalem, Capital of Israel, that would introduce a legal barrier to the transfer of Arab neighborhoods within expanded East Jerusalem to Palestinian rule. Recognizing that expanded East Jerusalem had not been annexed, or otherwise placed under Israeli sovereignty, Matza’s bill proposed that no area within the new municipal boundary established in 1967 could be transferred to any body whose powers did not derive from the State of Israel unless a two-thirds majority of the Knesset (80 MKs) voted to do so. On one level this move was simply another in a long list of attempts by opponents of a Palestinian state to use the putatively sacrosanct issue of “not dividing Yerushalayim” in order to rouse public opinion against efforts to reach a peace agreement with the Palestinians — this time as part of the Oslo negotiations. But much more importantly, this bill signaled the complete failure of the whole fetishization project.

The introduction of the bill was *prima facie* evidence that supporters of a united, enlarged Yerushalayim, as demarcated in 1967, had abandoned even the pretense that dividing the city was politically inconceivable. The perceived need to pass a law to prevent it showed clearly that opponents of dividing Yerushalayim from al-Quds believed that without such a law an elected government in Israel would not only consider the idea but implement it.¹¹ More than that, Matza’s decision to

entrench the law as an amendment to the Basic Law—Jerusalem, Capital of Israel, and his inclusion of a requirement that the law could be amended only by a large special majority of the Knesset, suggested that he and his supporters believed that a dangerous possibility existed that not only a government or prime minister, but a plurality or even a majority of members of Knesset were liable to be ready to support Israeli recognition of an al-Quds, comprised of sections of the enlarged municipality of Yerushalayim, as the capital of a Palestinian state.

The fear of being tarred with the brush of weakness on the issue of Yerushalayim still dissuaded Labor Party and most other left-of-center politicians from arguing directly against Matza's bill, even though they opposed it. Throughout the long debates on the different readings of the bill and on various amendments, the Barak government studiously avoided speaking officially on the matter and sometimes absented itself entirely from the debate. The only government minister to speak at length about the bill was Haim Ramon, whose scathing repartee with the Bill's proponents made up in sarcasm what it lacked in substance. His strongest argument was that the bill was actually weakening Israel's chance of maintaining its rule over all of expanded Yerushalayim by telling the world that the Israeli parliament was so afraid of Israeli readiness to compromise on the issue that they had to entrench its provisions behind a two-thirds majority to amend the law. It was partially in response to this type of criticism that Matza agreed to change the terms of the bill so that a simple majority of the Knesset (61) rather than a two-thirds majority would be necessary to amend it.¹²

Effects of Camp David II and the Al-aqsa Intifada

The tone and substance of debate in Israel over directions towards a solution of the Palestinian problem have changed markedly since the collapse of Camp David II. A plunge into Palestinian–Israeli violence involving numbers of fatalities on either side higher than any suffered since 1948 pushed practical proposals for compromise far away from the center of political discourse. Mea culpas from leading doves are reproduced and broadcast far and wide by stalwart hawks and settler spokesmen. Analytical approaches that would parse what actually was offered by the Barak government are drowned out, temporarily at least, by a simplistic but emotionally satisfying belief that the Palestinians actually were offered a viable state and turned it down, embracing instead, as the conventional wisdom goes, the dreams of full refugee return and Israel's demise. While public sentiment among Arabs and Israelis has seemed to converge on the two-state solution with Yerushalayim and al-Quds as the capitals of different sovereign states, political calculations of the key policy-makers — Sharon, Arafat and Bush — have militated against the resumption of

political negotiations that could lead rather quickly to this outcome. Under such conditions, neither Right nor Left discusses the outlines of solutions which it would deem acceptable. Though early in 2002 signs of change were apparent, the Left was still emotionally exhausted with its spokesmen largely having shrunk from the task of analyzing just how difficult a realistic solution to the Palestinian problem will be for most Israelis. The Right, for its part, remains trapped by its own indignation and fury at Palestinian violence and perceived intransigence. It can neither espouse the wholesale transfer options that are the logical implications of its rhetoric nor offer ideas about a negotiated settlement it can even try to defend as capable of satisfying Palestinian aspirations in the long run. Prime Minister Ariel Sharon's proposal of a mottled semi-state for the Palestinians in less than half the territories falls into this latter category.

However, here my specific concern is with Jerusalem. How different is the question of the future of the city than it was before the Camp David debacle, the al-Aqsa *Intifada*, the amendment to the Yerushalayim Basic Law, and Sharon's election as prime minister? With one exception the simple answer is, not too different. The exception has been widely noted. Previously, delicate and even elaborate techniques of discourse analysis had been necessary to argue that Israeli elites really did *not* believe, expect or even desire that all of Yerushalayim as established in 1967 would forever remain under Israeli rule. Now such techniques are unnecessary. The negotiating positions of the Barak government at Camp David and at Taba, which focused directly and explicitly on the question of where and how to change the boundaries of Israeli jurisdiction, not whether to do so, will never be forgotten — not by the Palestinians, not by the international community and not by the Israeli public itself. That cat is out of the bag. Whereas previously confidential arrangements were necessary with think-tanks such as the Jerusalem Institute for Israel Studies to lay out possible scenarios for solutions based on the contraction of the putative boundaries of Yerushalayim, now it is known to all observers that these studies had been commissioned and that the work of their authors and other scholars laboring in this vineyard had been much on the mind of leading politicians. Although polls done in the mid-1990s had strongly suggested that the Israeli Jewish public was ready for significant amendments to the official catechism on the future of the city,¹³ after the Camp David/Taba negotiations there is no need to extrapolate from polling results. Indeed, one of the most instructive aspects of the Camp David episode was that fervent and widespread grassroots Israeli opposition to changing Yerushalayim's borders did not materialize.

In other respects, changes are apparent, but they are less dramatic. The failure of the Camp David/Taba negotiations and the lengthy period of violence that ensued have ended any hope in the near term for an agreement based on drawing a boundary between Yerushalayim and al-Quds. But this is

no more true of the Yerushalayim/al-Quds issue than it is for any of the other pieces of the Israeli-Palestinian puzzle — borders, statehood, settlements, refugees, and so on.

In the absence of active negotiations about the future of the city, the fact-creation struggle continues as it has in the past. On the one hand, under the Sharon government, the Jerusalem municipality has quickened the pace of its demolition of unlicensed houses in Arab neighborhoods while it seeks to accelerate construction and settlement in new Jewish neighborhoods (Har Homa and Ras el-Amud). On the other hand, one result of the al-Aqsa *Intifada* has been to dissuade potential buyers from moving to these neighborhoods. Indeed there has been an exodus of Jewish-owned businesses from the Atarot industrial zone (in the northern tip of expanded East Jerusalem). As was the case prior to the Camp David summit, talk of implementing the “Eastern Gate” plan, to expand the boundaries of Jerusalem eastward towards Ma’aleh Adumim, continues in the face of concerns about international reactions and the threats that would arise to delicate legal arrangements in Israel. But as of this writing work continues on a barrier which, although not lying directly on the 1967 municipal borders, is positioned to cut the ties between the Arab hinterland of the city and the core of al-Quds within the barrier.¹⁴

Oscillating between unprecedentedly forward talk of “Palestine” and of a two-state solution, when Arab/Muslim goodwill was required prior to the victory over the Taliban, and a posture of letting the Sharon government handle Palestinian terrorism and resistance according to its own devices, the current Bush administration in Washington has displayed all of the typical characteristics of American foreign policy on Israeli–Palestinian matters. On the other hand, the decision to cancel plans to locate a future US embassy on a plot of mostly Arab refugee-owned land in West Jerusalem signaled Washington’s intention to avoid doing anything that could be interpreted as moving the US position on this issue closer to Israel’s than it has been. In general, the tone of its comments and the personnel it has in place suggest the same combination of timidity and abstract principle that has marked US policy on this issue, including the specific question of Jerusalem, for decades.

In terms of Israeli legal constraints, it is true, as mentioned above, that an amendment to the Basic Law—Jerusalem: Capital of Israel was passed. But the actual effect of this law as a constraint on future political decisions is less than one might think. The bill was passed on 27 November 2000, with the formal, but coldly silent, support of the government. In its final version the bill declares Yerushalayim “for the purposes of this Basic Law, to include, inter alia, the entire area designated in the appendix to the declaration on the expansion of the area of the municipality of Yerushalayim” in 1967. Article 2,

section 6, forbids non-Israeli authority of any kind, whether temporary or permanent, in any part of the municipality of Yerushalayim as defined by its current boundaries. Anticipating that efforts would be made in the future to do just this, section 7 requires a majority of Knesset members (61) in order to override its provisions. The final vote on the bill was 84 in favor, 19 against, with no abstentions and 17 MKs not present.¹⁵

In a celebratory declaration immediately following the vote, the bill's sponsor, Yehoshua Matza, described the significance of its passage. Matza told the Knesset that his heart was "filled with pride" at the "unity of this house and its support of the Bill." But he immediately blamed the government for turning some of that joy and pride into sadness because of its "continuing negotiations dedicated to transferring neighborhoods in Jerusalem to a foreign element, to Palestinians, and its efforts to turn over the holy of holies, the Temple Mount, to Palestinian sovereignty." In the continuing struggle to block such compromises, the newly amended Basic Law, said Matza "would correct expectations and destroy illusions entertained by the Palestinians and stave off threats to neighborhoods in Yerushalayim." However, using a full-throated expression of the traditional fetishizing catechism, Matza made clear that the real target of the new amendment was not "foreigners" but Israelis — indeed elected representatives of Israelis:

Henceforth this basic law will stand before every government; this law will stand before every prime minister, and before every minister.

Mr. Prime Minister, for you and for all Prime Ministers after you, there will be no authority to act according to any plan for concessions on Yerushalayim, neither with respect to a permanent or a temporary arrangement. I am referring to such ideas as we have been hearing recently. United Yerushalayim, will remain as the capital of Israel, under Israeli sovereignty, forever and ever. If I forget thee O Yerushalayim, may my right hand forget its cunning. In less flowery language — Yerushalayim is the essence of our life, the essence of the life of Zionism.¹⁶

However, Matza's use of his victory celebration to score points against ongoing efforts by the government to reach an accord with the Palestinians by changing Yerushalayim's boundaries shows just how little, in fact, had been changed by the law. Indeed the immediate response to Matza's declaration was an outburst from a One Israel (Labor Party) MK, Ofer Pines-Paz, that "it [the newly amended Basic Law] changes nothing." Indeed the law had not changed the legal status of the territories added to the Israeli municipality of Yerushalayim in 1967, but only insured that attempts by future Israeli leaders to take advantage of the absence of Israeli sovereignty over those areas for purposes of reaching an agreement with the Palestinians would require either

a majority of 61 MKs or an amendment to the Basic Law as amended. As is well known, such an amendment to the provision requiring 61 members of Knesset to make a change in the Law would itself require only a majority of MKs present and voting.

To be sure, some particulars of the issue have changed as a direct result of the discussions at Camp David. For example, these deliberations produced a new term in the discourse regarding the future of Jerusalem: “the sacred basin.” This term, referring to a zone surrounding the Temple Mount/Haram el-Sharif but not coextensive with the walls of the Old City, is meant to signify an area containing the holy sites of all three religions. This concept, and some other technical formulas that emerged from the failed summit, may yet prove useful in future negotiating encounters. In addition, “Arab neighborhoods for Palestinian al-Quds, Jewish neighborhoods for Israeli Yerushalayim,” as a formula for the future of the city, was given weight by occupying center stage at Camp David and at Taba. The dramatic and explicit formulations of President Clinton regarding Jerusalem effectively inscribed this proposal in the minds of all future negotiators on this issue: “What is Arab should be Palestinian and what is Jewish should be Israeli. This would apply to the Old City as well.”¹⁷ Moreover, “Jerusalem should be the internationally recognized capital of two states, Israel and Palestine” and, on the ground in Jerusalem: “What is Arab should be Palestinian, for why would Israel want to govern in perpetuity the lives of hundreds of thousands of Palestinians?”¹⁸ In essence, this formula — distinguishing between Jewish Yerushalayim and Palestinian al-Quds — has emerged as a “Schelling point” or a “focal point” — an arrangement that all future negotiators will begin by imagining is the world’s expectation for a satisfactory outcome.

The al-Aqsa *Intifada* has also had consequences that have changed the Jerusalem issue in small but significant ways. On the one hand, the situation is similar to that during the first *Intifada* in that despite the initial bloodshed on the Temple Mount/Haram el-Sharif in September 2000, expanded East Jerusalem has not been a site for regular violent or semi-violent clashes between Israeli security forces and Palestinian Arabs. On the other hand, Gilo has been fired upon regularly from Beit Jala, pushing the Israeli public and its own inhabitants into imagining it as the settlement it has always been seen as in Palestinian eyes, rather than as the “Yerushalayim neighborhood” it has always called itself. Fear, insecurity and logistical difficulties associated with the *Intifada* have also led to a virtual closure of the airport in the northern finger of the Yerushalayim municipality and a sharp reduction in Israeli economic activity in the Atarot industrial zone. In general, as Israeli police have withdrawn what scant attention they paid in the past to criminal activity in Arab sections of the city, and as the pauperization and desperation that have afflicted so many West Bank Palestinians have spread to East Jerusalem, Arab

neighborhoods there have become much more dangerous than ever before. In 2002, thieves and muggers operated with frightening impunity, even in areas, such as Salah e-din Street and the Damascus Gate, which prior to the *Intifada* were seldom if ever considered unsafe. Evidence indicates that the efforts of suicide bombers to target Jaffa Street and Ben-Yehuda Street, in the heart of Yerushalayim, have been assisted by the ease of movement of Palestinians from al-Quds to Yerushalayim under the current arrangement of a formal unity between the two cities. Such evidence led to demands by Jewish residents not just for a wall between the Yerushalayim municipality and the West Bank but also for walls to be built separating Jewish and Arab neighborhoods. All in all, the *Intifada* has made Arab areas of expanded East Jerusalem “no-go” zones, or at least “foreign territory,” for the overwhelming majority of Israeli Jews.

Conclusion

Neither Palestinians nor Israelis are wearing the kind of magic slippers Dorothy had at the end of the movie to whisk her away from Oz and back to Kansas. On the other hand, as did Dorothy, so do Israelis and Palestinians who want a solution to the conflict over Jerusalem have the design of one readily at hand. Psychologically, many seekers of peace in Yerushalayim are afflicted by the same kind of shock and despair suffered by Dorothy and her friends once they discovered the Wizard was no wizard, but a product of smoke, mirrors and their own illusions. But the failure at Camp David, the successes of Taba, and the pain associated with the al-Aqsa *Intifada* are helping to clear away much of the smoke that for so long obscured the problem of Jerusalem’s future. The elements of a solution to this important part of the Israeli-Palestinian puzzle are now apparent, even though it will take sacrifices, hard work and a certain amount of political wizardry to bring it about.

NOTES

* The original version of this article was submitted in summer 2002.

- 1 Text circulated as a press release via email from Yossi Baumol, Executive Director Jerusalem Reclamation Project–Ateret Cohanim jbaumol@yahoo.com, 9 May 2001.
- 2 On 27 June 1967 the Knesset also passed the “Protection of Holy Places Law.” Like the other two laws, this law does not mention Jerusalem. Its main purpose was to make desecration of a holy place or interference with free access to a holy place (anywhere where Israeli law was in force) punishable by substantial prison terms.
- 3 For a detailed legal and administrative analysis of the amendments and declarations that put this state of affairs into effect, see Ian S. Lustick, “Has Israel Annexed East Jerusalem?” *Middle East Policy*, Vol. 5, No. 1 (January 1997), pp. 34–45.
- 4 The ultimatum was delivered by Menachem Begin in a speech before the Knesset on 3 May

- 1982 and a Cabinet Resolution adopted on 9 May 1982. For exact texts see Foreign Broadcast Information Service (FBIS), 4 May 1982, p. 11; 6 May 1982, p. 11; and 10 May 1982, p. 18. For an analysis of the ulterior motive (to sabotage the negotiations) involved in this sudden emphasis on Jerusalem as a venue for the talks, see Poles, "Camp David: The Second Half," *Ha'aretz*, 7 May 1982. For other examples of the use of this technique in connection with various diplomatic attempts to move the "peace process" forward, see public remarks by National Religious Party Member of Knesset Hayim Druckman, 10 October 1982, IDF Radio Broadcast, transcribed by FBIS, 12 October 1982, p. 19; Moshe Zak, "A Magic Word Called Federation," *Ma'ariv*, 13 October 1982; reports from *Ma'ariv*, 5 November 1985, and Jerusalem Domestic Service Radio Broadcasts, 5 November 1985, of objections by Ariel Sharon and Gush Emunim (Bloc of the Faithful) settlers against the contradiction between proposals to negotiate with Jordan and the terms of the 1980 "Jerusalem Law," in FBIS, 5 November 1982, pp. 12–13, and remarks by Ariel Sharon to his political associates while celebrating the establishment of a personal residence in the Muslim Quarter of the Old City, *Ha'aretz*, 25 May 1989.
- 5 For an extended treatment of this fetishization project as a failed effort to establish the hegemony of politically profitable images of Yerushalayim, see Ian S. Lustick, "The Fetish of Jerusalem: A Hegemonic Analysis," in Michael N. Barnett (ed.), *Israel in Comparative Perspective: Challenging the Conventional Wisdom* (Albany, NY, 1996), pp. 143–72.
 - 6 An "eruv" is a ritually acceptable fence, usually a combination of wire, existing walls, and other markers, which can be used to demarcate zones within which, according to *Halakhah* (Orthodox Jewish law), observant Jews are permitted to carry things on the Sabbath. For a map of the *eruv* as it divided the city in 2000, see Ian S. Lustick, "Yerushalayim and al-Quds: Political Catechism and Political Realities," *Journal of Palestine Studies*, Vol. 30, No. 1 (2000), p. 17.
 - 7 Jerome M. Segal, Shlomit Levy, Nadar Izzat Sa'id and Elihu Katz, *Negotiating Jerusalem* (Albany, NY, 2000) p. 66.
 - 8 "Yisrael hitzi'ah la-reshut shlitah ezrahit bi-shkhunot tzfoniyot bi-Yerushalayim" (Israel Suggests the PA Exercise Civilian Authority in North Yerushalayim Neighborhoods), *Ha'aretz*, 31 December 1999; Leslie Susser, "You Say Jerusalem, We'll Say Al-Quds," *The Jerusalem Report*, 28 February 2000.
 - 9 Shlomo Gazit, "Divide Jerusalem," *Jerusalem Post*, 1 February 2000; Elisha Efrat, "Why Should We Provide For Them?" *Ha-Tzofeh*, weekly supplement, 28 January 2000.
 - 10 M. Moratinos, "Minutes of the Negotiations at Taba — January 2001," *Ha'aretz*, 2 March 2002.
 - 11 The bill was similar to a proposal advanced in 1995 by Likud and National Religious Party Knesset members worried about then Prime Minister Rabin's willingness, they thought, to negotiate a change in the status or boundaries of Yerushalayim.
 - 12 *Divrei ha-Knesset* (Knesset Record), debates during March–November 2000, *passim* (<http://www.knesset.go.il/tql/mark01/H0005391.html>).
 - 13 Segal et al., *Negotiating Jerusalem*.
 - 14 If in fact the barrier is extended to include Ma'aleh Adumim, to the east of the city, the essential features of the "Eastern Gate" will have been implemented.
 - 15 Votes on the crucial individual parts of the legislation, prior to the final vote, featured majorities in favor of between 62 and 67 as against 13–18 opposed and the rest either absent or not voting.
 - 16 *Divrei ha-Knesset*, 27 November 2000 (<http://www.knesset.go.il/tql/mark01/H0005391.html>).
 - 17 <http://www.cnn.com/2001/WORLD/meast/01/05/israeli.notes/#3>
 - 18 David Makovksy, "Time Running out on Clinton Proposals," *Peacewatch*, No 303 (11 January 2001) (<http://www.washingtoninstitute.org/watch/Peacewatch/peacewatch2001/303.htm>).