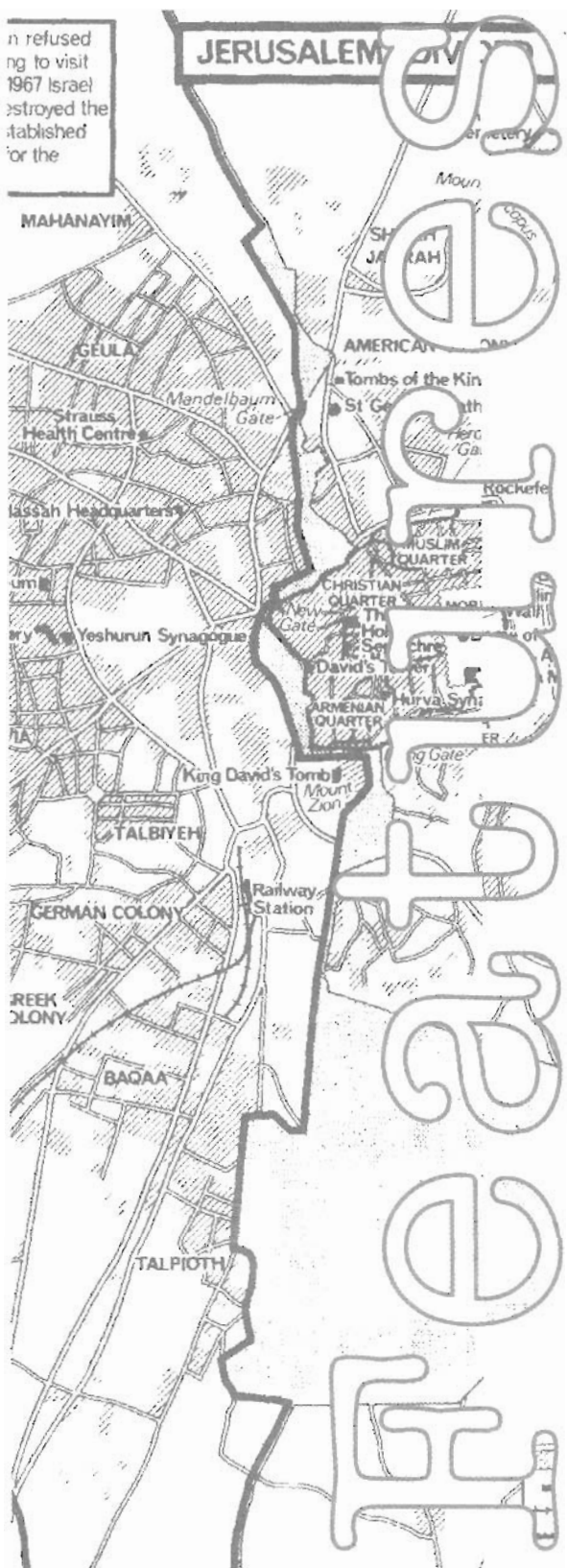


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Visions of Peace, Realities of Occupation

John Dixon

As the term "disputed territories" gains currency, it is becoming increasingly easy to forget that under international law, Israel's occupation of East Jerusalem is illegal. Even if one accepts Israel's argument that it occupied the city as a defense against Jordanian attack, its continued occupation of the city since then violates the Fourth Geneva Convention, UN Resolution 242, and the original UN partition plan.¹ The General Assembly and the Security Council have consistently deemed any alteration in Jerusalem's status to be illegal, and have condemned Israel both for its extension of Israeli law,

jurisdiction, and administration to East Jerusalem on 28 June 1967 and for its enactment of the "basic law" on Jerusalem, which officially annexed East Jerusalem to Israel on 30 July 1980.² Israel argues that the Fourth Geneva Convention does not apply to the occupied territories since at the time of occupation those territories were not under legitimate sovereignty and had not been so since the end of the British Mandate. The rest of the international community, however, in numerous UN resolutions since 1967, has affirmed that the Fourth Geneva Convention does apply to the occupied territories, and has repeatedly stipulated that the occupied

territories include Jerusalem.³ Only two nations have recognized Jerusalem as the legitimate capital of Israel and established embassies in the city.⁴

Given this international consensus, the solution to the Jerusalem question as embodied in international law would seem to be clear-cut. In the context of multilateral international pressure, Israel must return the territory it occupied in 1967, relinquish its administrative control to the rightful claimants, restore all the property illegally expropriated (or provide fair compensation), and recognize the Palestinian right to national self-determination and to sovereignty in East Jerusalem.

Since Oslo, however, debates concerning solutions to the Jerusalem question have shifted away from the framework of international law, and calls for multilateral international negotiation have faded. Politicians, negotiators, and plan-makers have accepted certain facts on the ground as irreversible, such as the Israeli settlements in East Jerusalem, and, yielding to pressure from the United States and Israel, have agreed that any solution should

¹ UN Security Council Resolution 242 (22 November 1967) does not address the status of Jerusalem, but it states that the acquisition of territory by war is inadmissible, calls on Israel to withdraw from the territories it occupied in the war, and calls for the sovereignty, territorial integrity, and political independence of every state in the region to be respected. Article 47 of the Fourth Geneva Convention (enacted on 12 August 1949 and to which Israel is a party) prohibits the annexation of territory by an occupying power. Article 49 outlaws the transfer of the occupying power's population into the occupied territory. In 1988 the Palestine National Council accepted General Assembly Resolution 181 (the UN partition plan), calling for the internalization of the city as a *corpus separatum*. In a recent letter, the European Union reiterated that it regards Jerusalem as a *corpus separatum* according to the terms of the 1947 partition plan. This means that it does not officially recognize Israel's claim to sovereignty over West Jerusalem any more than over East Jerusalem (See Akiva Eldar, "EU asserts Jerusalem is not Israeli," *Ha'aretz*, 11 March 1999, p. 1).

² See General Assembly Resolutions 2253 (ES-V) of 4 July 1967 and 2254 (ES-V) of 14 July 1967; and Security Council Resolution 252 of 21 May 1968, 259 of 27 September 1968, 267 of 3 July 1969, and 298 of 25 September 1971. UN Security Council Resolution 478 (20 June 1980) rejects Israel's enactment of the basic law on Jerusalem as does UN General Assembly Resolution 35/207 (16 December 1980).

³ For instance, UN Security Council Resolution 465 (1 March 1980) affirms that the Fourth Geneva Convention "is applicable to the Arab territories occupied by Israel since 1967, including Jerusalem."

⁴ Before Israel's official annexation of Jerusalem in 1980, eleven countries had moved their embassies to the city. Afterwards, all embassies moved to Tel Aviv, except those of El Salvador and Costa Rica. Currently, countries such as the U.S. maintain two consulates in Jerusalem, one in the Western and one in the Eastern part of the city. Although refusing to maintain embassies in the city, most countries allow their ambassadors to present their credentials to Israel's president in his official residence in Jerusalem. This fact points to a tension between the *de jure* and *de facto* international positions regarding the city's status.

be reached through bilateral negotiations (with the exception of negotiations concerning the holy places).⁵ A similar shift towards acceptance of facts created on the ground occurred after the 1967 war. Calls for peace based on UN Security Council Resolution 242 implicitly accepted the irreversibility of Israel's conquests in 1948, despite their illegality under international law. In this sense a willingness to negotiate on the basis of 242 already represents a major concession by Palestinians on the issue of borders.⁶ Current peace plans concerning Jerusalem adopt a similar position that some of Israel's illegal gains may have to be accepted in order to arrive at a solution

⁵ After 1967 the U.S. abandoned its support for internationalization based on UN Resolution 181. Instead, it simply maintained that the city should remain undivided and that its future should be determined by the parties themselves, meaning, at that time, Israel and Jordan. At the same time, it continued to refer to the city as occupied territory, to demand that its status not be changed unilaterally, and to cite the Fourth Geneva Convention. Since Oslo, the official U.S. position has been that all final status issues including Jerusalem must be resolved in the context of bilateral negotiations between Israel and the Palestinians. This emphasis on letting the parties themselves negotiate the city's status has meant a retreat from the U.S.'s earlier condemnation of Israeli settlement in East Jerusalem based on the Fourth Geneva Convention. U.S. officials have been increasingly using the term "disputed territories" to describe their status, implying that the Fourth Geneva Convention no longer applies there. And since 1995 the U.S. began vetoing UN Security Council resolutions condemning Israeli settlement construction in occupied East Jerusalem.

⁶ As Donald Neff has argued: "This shifting of the borders issue from the original conquests to the conquests of 1967 was cemented in passage of UN Security Council Resolution 242 on November 1967.... The implication, perhaps not widely understood at the time, was that the old conquests of 1948 were a fait accompli essentially beyond negotiation." See Donald Neff, *Fallen Pillars: U.S. Policy towards Palestine and Israel since 1945* (Washington, D.C.: Institute for Palestine Studies, 1995), p. 100.

acceptable to both sides. Thus they generally assume the negotiations will concern only East Jerusalem, not West Jerusalem, and that any wholesale evacuation of Israeli settlements in East Jerusalem is out of the question.

The history of the Palestinian-Israeli conflict is littered with plans to solve the Jerusalem question. The Oslo agreement, however, has stimulated a great deal of new debate about how to solve it among Palestinian and Israeli political personalities, academics, international legal scholars, and others. The reasons for this renewed interest are obvious. With the Oslo negotiations, Israel began negotiating directly with Palestinians for the first time, agreeing that the negotiations should proceed within the framework of UN Security Council Resolution 242. While 242 does not explicitly recognize the Palestinian right to national self-determination, or even mention Jerusalem, it does affirm that Israel should withdraw from territories occupied in 1967. Moreover, in the Oslo accords Israel has for the first time officially agreed to discuss Jerusalem as part of the final status negotiations, despite having declared it non-negotiable for decades.

This willingness to negotiate reflects an adjustment by both sides to recent developments on the ground. The intifada effectively exploded the Israeli myth of Jerusalem as a unified city. The struggle of Palestinians to resist co-optation into the Israeli municipality and to preserve their own civil institutions has also helped shatter this myth.⁷ Far from becoming integrated into Israeli society, as Israeli social engineers had originally hoped,

Palestinians in Jerusalem have developed an increasingly strong nationalist consciousness through the years of occupation. While in public Israeli officials may toe the party line that Jerusalem is the indivisible and eternal capital of Israel, unofficially many recognize that they have an enormous problem on their hands, namely, the presence of nearly 200,000 non-citizens within the city who see themselves as the citizens of a different nation. With studies continuing to show that decades of demographic engineering have failed to maintain the desired 72-28 percent demographic balance, these officials are forced to accept that current policies are not a realistic way to protect the "Jewish character" of Jerusalem.⁸ Therefore, to solve the "demographic problem," Israeli doves are increasingly ready to entertain the idea of allowing Palestinians in the city to become citizens of a Palestinian state. Indeed as a step towards this, Oslo has already recognized the right of Palestinians in the city to vote in the elections to the Palestinian Legislative Council. Finally, most of the plan makers reviewed here adopt the "pragmatic" position that any "realistic" peace plan will have to grant Israel

sovereignty over the Jewish settlements in East Jerusalem. Flouting the international community, Israel built them foreseeing precisely that their presence would make impossible any return to the pre-1967 division of the city. In this case might has made right. The best the peace proposals can do is offer various forms of compensation for this institutionalized theft on a grand scale.

The plans to solve the Jerusalem question that have been proposed over the last century can be subdivided into three broad categories: those that recommend the internationalization of the city, those that advocate a single sovereign power ruling over the city, and those that call for divided or shared sovereignty over the city.⁹ Recent proposals generally reject the first two possibilities. First of all, both sides in

⁷ For the argument of Israeli doves that Jerusalem is in reality a divided city and that Israelis therefore have no choice but to negotiate with Palestinians concerning its future, see Amir Cheshin and Bill Hutman, "A City with Two Masters," *New York Times*, 10 May 1999, op-ed.

⁸ According to a recent study by the Jerusalem Institute for Israel Studies, Jews make up approximately 68.5 percent of the city's 633,700 residents. More alarmingly for Israel, the report showed that the Jewish population in 1998 grew by only 1 percent, compared with 3.5 percent for Arabs. See Nadav Shragai, "Jews now less than 70% in Jerusalem," *Ha'aretz*, 27 July 1999, p. 1.

⁹ One scholar claims to have found 90 such plans (Benvenisti 1996, p. 204). Baskin lists 19 major ones since 1916 (1994, pp. 70-72). The most important include the Sykes-Picot agreement of 1916, which called for an international administration over both the city and all of Palestine that would guarantee the independence of all the holy places in the region; the British Mandate, under which Palestine became a separate geopolitical unit with Jerusalem as its capital; and the Peel commission report (1937), which recommended dividing Palestine into two states, while preserving Jerusalem as an independent enclave under British mandatory rule. The Borough plan (1947) bears remarkable resemblance to recent recommendations. It preserved the physical unity of the city, but divided it into two separate Arab and Jewish municipalities. It recommended devolving as much power as possible to the local borough councils, but still envisioned final administrative control resting with a county administrative council under British control. Finally, there was the *corpus separatum* plan for Jerusalem proposed as part of the UN Partition plan. This envisioned the internationalization of Jerusalem, whose borders were enlarged to include territory well beyond the existing municipal borders, including Bethlehem. The city was to be ruled by a trusteeship council under international control in cooperation with a legislative council elected by eligible Jerusalem citizens.

the current negotiations oppose internationalization. Moreover, a bilateral settlement is built into the very structure of the current peace process. Thus internationalization is ruled out. As for Israel retaining single sovereignty, this would deny any recognition to the Palestinian claim to Jerusalem as its national capital. Asserting the right of all peoples to national self-determination in their homeland and affirming UN Resolution 181, which recognizes their right to a state, Palestinians reject this option as unacceptable. Speaking from a more pragmatic perspective, Israeli doves argue that denying Palestinians a national presence would be a recipe for a future intifada and would leave Israel saddled with an intractable demographic problem. The only remaining possibility, then, is some solution based on divided sovereignty.

Of course the majority of Israelis do not accept the Palestinian moral and legal claim to national rights in the city or give much weight to the pragmatic arguments of Israeli doves. They still oppose divided sovereignty. They believe that it will inevitably lead to a return to the pre-1967 physical division of the city. As Teddy Kollek has said, "I do not believe that having two sovereignties in one city is a feasible idea. Two sets of laws, two rates of customs and taxation, two police forces—they are an invitation to a boundary, and a boundary is an invitation to a wall. I for one have not forgotten what a sad city Jerusalem was when it was divided" (1990, p. 18). Rehearsing this argument, the mainstream Israeli vision for the future of Jerusalem refuses to yield on

the issue of sovereignty. As compensation, however, Israelis offer two concessions, one to the international community, the other to Palestinians. First, they stress that the status quo regarding the holy places will be preserved, meaning that the various religious denominations will continue to have autonomous administrative control over their holy sites. Second, they commit themselves to granting and encouraging functional autonomy at the municipal level for Palestinian institutions.

The idea of giving Palestinians functional autonomy as a solution to the Jerusalem question has been around a long time, from Meron Benvenisti's 1968 plan calling for limited Arab self-rule to Teddy Kollek's 1977 and 1988 *Foreign Affairs* proposals to the Peres-Holst letter of October 1993.¹⁰ Underpinning the idea is the Zionist notion that Jerusalem is simply more important to the Jews than to the Palestinians. Israelis make this claim on religious grounds, arguing that for Muslims the city only ranks third in importance after Mecca and Medina, while for Jews the city is central both in terms of their religious identity and their identity as a political nation. In making the latter claim, Israelis also invoke an historical argument that the city was never a Muslim capital as it was once the

¹⁰ For a summary of Benvenisti's proposal, see Hirsch et al. 1995, pp. 52-56. See also Cheshin et al. 1999, pp. 226-229. For Kollek's vision of functional autonomy, see Kollek 1977, pp. 706-10 and 1988/89, pp. 164-65. For the original text of the letter of Israeli Foreign Minister Shimon Peres to Norwegian Foreign Minister Yohan Holst, see *Palestine Report*, 12 June 1994, p. 4. Peres affirms 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."

capital of the ancient Jewish state.¹¹ Leaving aside the question of the validity of these claims, at the core of both the religious and the historical arguments is an anachronistic conflation of Judaism with Zionism as if the ancient religious attachment were a form of proto-nationalism and the tiny tribal city-state of Jerusalem under the "United Monarchy" (whose Biblical status as a great capital is controverted by the archeological evidence) were a proto-modern national capital.¹² The arguments are classic examples of nationalist ideology and the

way it invents narratives of continuity with an ancient past to justify a purely modern phenomenon, the nation-state. Like other such fictive narratives, the Israeli one suppresses counter-claims, denying the central place that Jerusalem has held in Palestinian national life for centuries. Recent Israeli diplomacy concerning Jerusalem reflects this belief that there is a limited Muslim claim to the city, but no Palestinian national claim. In the 1994 Washington agreement between Israel and Jordan, Israel made a point of recognizing Jordan's role in administering Islamic sites in Jerusalem.¹³ In doing so Israel was aiming to sever any relation between the Palestinian National movement and Jerusalem as a holy city. This parallels their consistent effort to ignore the place Jerusalem has held since the late 19th century as the center of the Palestinian national movement and to cast the Arabs of the city as just another minority ethnic community in a multi-ethnic city under Israeli rule. At the height of the intifada, when the entire Palestinian population of Jerusalem was mobilized behind the Jerusalem-based Unified National Leadership of the Uprising, Teddy Kollek was still able to make the extraordinary claim that "at present no leaders can be said to represent the Jerusalem Arabs" (1988, p. 166).

¹¹ Thus W. Michael Reisman argues that Israel should retain sovereignty because whereas Islam and Christianity require free access to and protection of Holy Places in Jerusalem, Judaism "requires its political control as the capital of the Jewish commonwealth" (Hirsch et al. 1995, p. 63). Similarly, the Likud MK Limor Livnat debunks the Palestinian national claim to the city by saying, "Just as Jerusalem was our only capital ever, so too it was never anyone else's" (*Jerusalem Post*, 24 September 1999, op-ed, p. A8).

¹² In a summary of the archeological findings from intensive excavations throughout the area of Mandate Palestine over the last fifty years, the Israeli archeologist Ze'ev Herzog recently wrote that "No remains of buildings have been found from the period of the united monarchy (even according to the agreed chronology), only a few pottery shards. Given the preservation of the remains from earlier and later periods, it is clear that Jerusalem in the time of David and Solomon was a small city, perhaps with a small citadel for the king, but in any event it was not the capital of an empire as described in the Bible ("Deconstructing the Walls of Jericho," *Ha'aretz Magazine*, 29 October 1999, pp. 6-8). See also Thomas L. Thompson, *The Mythic Past: Biblical Archaeology and the Myth of Israel* (London: Basic Books, 1999), pp. 164-168, 185-190, and 206-07. Thompson argues that the biblical story of Jerusalem as the glorious capital of a "United Monarchy" during the early Iron age, however meaningful and important as myth, has no basis as history and is positively refuted by existing archeological evidence.

¹³ Recently, however, Jordan has announced that it plans to relinquish its religious authority over Muslim holy sites in Jerusalem to the Palestinian Authority. See "Jordan says ready to cede Jerusalem sites," Reuters, 30 August 1999; and Danny Rubenstein and Yair Sheleg, "Jordan ready to cede holy Jerusalem sites to Palestinians," *Ha'aretz*, 31 August 1999.

Proponents of divided sovereignty—whether Israelis, Palestinians, or others—also believe Jerusalem should never again be physically divided. But they reject the claim that a division of sovereignty will lead to physical re-division of the city. And they dismiss the idea of merely granting Palestinians functional autonomy. In their view any peace plan must recognize the deeply felt Palestinian claim to Jerusalem as their national capital. Consequently, they call for both a geographically unified city and a city in which both sides to the conflict retain a claim to sovereignty. They all envision some form of open borders within the city, though few of them spell out the exact nature of the cross-border security regime to be instituted.

As we will see, to dispel concerns that dividing sovereignty means a re-division of the city, they all seek to redefine sovereignty, removing its associations with aggressive and centralized national control over territory. To this end they often advocate steps to weaken national control over the city and to encourage the decentralization and democratization of municipal government. At the same time, they all recognize the need for some centralized administration of the city and the need for each national group to have a distinct national institutional presence. Each solution reflects different ideas on how to balance these competing imperatives. Finally, they all consider ways of redrawing the boundaries of the city as a way to solve the problems of sovereignty, municipal government, and demography.

Both John V. Whitbeck (1998) and Ove Bring (1996) advocate the so-called condominium solution. In international law the term "condominium" refers to joint sovereignty. The condominium solution for Jerusalem assigns equal sovereignty over the city to both parties. At the same time, it divorces sovereignty from control over specific patches of territory. The latter is assumed by the municipal administrations of each side. The idea is that by de-linking sovereignty from territory, the former can be defused as an issue. Sovereignty is redefined as "floating" or "relinquished." Each side can then claim the city as its national capital. The business of rule becomes a functional matter for municipal administration, not a highly politicized affair involving antagonistic nation-states. Thus both Whitbeck and Bring recommend devolving as much of the city's affairs as possible to the district council level, with Palestinians subject to Palestinian administration and Israelis to Israeli administration. An umbrella municipal council would handle those "major matters which can only be administered efficiently at a city-wide level (1998, p. 174). Whitbeck suggests having equal representation of Palestinians and Israelis on the umbrella council regardless of changes in population to neutralize demographic differences as a political issue (1998, p. 174). As for legal jurisdiction, the city would have neither its own distinct laws nor laws tied to territory, but a "more flexible system pursuant to which the law applicable in any specific instance would depend on the subject matter, the parties involved and the municipal district in

which the issue or dispute arises" (1998, p. 179).

This scheme envisions Israel assuming control over Jewish settlements in East Jerusalem. Indeed most of the recent plans see this as a necessary concession for any arrangement to work. This contrasts with many earlier plans from a Palestinian or Arab perspective that envisioned the return of all of East Jerusalem to the Palestinians, which is still the official Palestinian position.¹⁴ While making this large concession, the plan would grant Palestinians equal say in matters of residency, housing, zoning, urban development, capital investment, and taxation. Presumably, with an equal voice in municipal government, Palestinians would be able to reverse discriminatory Israeli policies in all these areas; for instance, they would be able to develop the Palestinian land currently designated as "green areas" and speed up the zoning process so as to build in a way that meets their needs. A flaw in this scheme is its failure to explain what bargaining power the Palestinians would have to be able to get the Israeli side to give up power in these areas. Since 1967, through sheer

military force, the Israelis have arrogated to themselves complete control over all decisions on these matters. As a reason for Israel to accept the plan, Whitbeck only mentions that Israelis would finally gain international recognition of Jerusalem as their capital, enabling them to achieve real, if diminished, sovereignty for the first time (1998, p. 176). But in the final status negotiations, would the international community, and especially the United States, really agree to withhold its recognition of Jerusalem as Israel's capital in support of these particular sorts of Palestinian demands? Even assuming that Palestinians were able to bring international and U.S. pressure to bear in favor of such a plan, would the rewards of international recognition of Jerusalem as Israel's capital—in terms of tourism, trade, and investment—be substantial enough to push the Israelis into making such major concessions? The plan hardly raises any of these questions about its own chances of succeeding in the real world.

The condominium solution stresses the need to keep Jerusalem unified by not making neighborhood divisions into national ones, but rather treating them as functional units. This plan faces the ideological hurdle of convincing Israelis to accept the idea of "joint sovereignty." Mark Heller and Sari Nusseibeh (1991) suggest a plan similar in many ways to those of Whitbeck and of Bring, except on the issue of "joint sovereignty." Jerusalem would be divided into Arab and Jewish sections according to existing ethnic divisions (this implies that Israel will control the Jewish settlements in East Jerusalem and that these will become a

¹⁴ More precisely, the official position is that Jerusalem should be the undivided capital of two states, that all territories seized by Israel in 1967 should be returned, and that East Jerusalem should come under the sovereignty of the new Palestinian state. For statements of this position, see Abigail Levene, "Jerusalem can contain two capitals, says Arafat," Reuters, 18 February 1999; an interview with Faisal Husseini in the *Palestine Report*, 25 August 1999; Nina Gilbert, "Tibi: Palestinians want sovereignty over east Jerusalem, but no physical separation," *Jerusalem Post*, 12 July 1999, p. 3; and Gideon Allon, "In historic visit, Abu Ala says 'share capital,'" *Ha'aretz*, 27 July 1999, p. 2.

legal and recognized part of the city). There will be separate Arab and Jewish municipal councils to govern each set of neighborhoods. Like Bring and Whitbeck, they call for greater autonomy at the local level, but emphasize that this should be balanced by some kind of "metropolitan or roof municipality" at the city-wide level (1991, p. 122). The latter would have an electoral system structured "to ensure that the demographic imbalance in the metropolis does not reflect itself in discriminatory measures or planning policies" (1991, p. 122). Similarly, they envision a system whereby national governments are removed from internal Jerusalem politics as much as possible, and whereby demographic inequalities are prevented from becoming political inequalities that perpetuate current forms of discrimination (1991, pp. 122-123). The major difference from Whitbeck and Bring is that they seem less confident that the idea of "joint sovereignty" will be acceptable to Israel. Therefore they suggest deliberately obfuscating the idea of sovereignty. Palestinians and Israelis should each have "distinct title to different parts of the city" (1991, p. 120). Concerning the border lines that would "demarcate these titles by defining the boundaries of Jewish and Arab neighborhoods," however, they suggest that Palestinians could regard them as "sovereignty lines," while Israelis could view them merely as lines marking "the limits of jurisdictional responsibility for two local councils" (1991, p. 121).

While I agree that Israel is unlikely to accept shared sovereignty, I am not so sure that Israeli aversion to the idea represents

the greatest hurdle to achieving peace. In imagining a metropolitan municipality based on shared power, Heller and Nusseibeh suppose that Israel will give up unilateral control over development planning, housing, capital investment, and the like. Arguably, however, it is more plausible that Israel would be willing to grant Palestinians some nominal form of sovereignty than give up control over such key levers of power. After all, "sovereignty" becomes largely symbolic without the latter. History suggests that regimes or economic classes are typically more willing to make concessions regarding political than economic power. Consider, for instance, the recent apartheid regime in South Africa, which yielded political control but retained ownership of capital, or the bourgeoisie in 19th-century England, which was willing to grant to the aristocracy continued hegemony in the political sphere in exchange for policies favorable to bourgeois interests in the economic sphere. Indeed the criticism of the Oslo accords has been precisely that they cede to Palestinians the right to superficial forms of national and political expression without granting them any control over such resources as land, borders, and water necessary for real independent economic development.

Like Heller and Nusseibeh, Cecilia Albin, Moshe Amirav, and Hanna Siniora (1991/92) are deliberately vague on the issue of sovereignty and seek to diminish its importance. To do so, they suggest greatly expanding the borders of Jerusalem in order to achieve demographic parity and then regulating immigration and growth (1991/92, pp. 13-15). This would put an

end to the war for demographic advantage. It would also make possible the division of the metropolis into twenty municipalities, ten Israeli and ten Palestinian. This inclusion of Palestinian areas into the city would compensate Palestinians for land and property taken by Israel. At the same time, of course, the Jewish settlements in East Jerusalem would come under Israeli control and would receive legal recognition from Palestinians and the international community. Under the plan the new municipalities would have greater independence from their respective national governments than Jerusalem has today because they would be given broad powers to raise taxes and to decide on issues concerning education, health services, courts, and planning and development. And "because the role of central governments in the metropolis itself would be vastly reduced, so would the importance of sovereignty" (Amirav 1992). Each national government will still play a role, however. There will be national courts in the areas of respective national jurisdiction. National representatives will also serve in the joint Israeli-Palestinian Assembly of Metropolitan Jerusalem. This body will run citywide services, and approve of and help fund the development plans of the local municipalities (Albin et al. 1991/92, pp. 17-18). In addition to national delegates there will be municipal delegates selected by each city council, consisting of an equal number of Palestinians and Israelis (1991/92, pp. 18-19).

Again we see the same concern to devise a system which allows for both municipal integration and the separation and

autonomy of each national group. We also see the same failure to address the core issues of housing, zoning, development planning, taxation, and capital investment. Their plan foresees that these will come under the control of the decentralized municipal authorities and the joint Israeli-Palestinian metropolitan assembly. They do not address why any of the vested Israeli interests that benefit from centralized Israeli control over these policies—from settler groups to real estate companies—would cede such power to the Palestinians. They do recommend steps for Palestinians to take to build their own independent municipal institutions and suggest, more controversially, that they take part in the Israeli municipal elections as a way to begin seizing political power (1991/92, pp. 25-28). It is still hard to see why Israel would allow these moves to develop beyond mere functional autonomy toward the actual sharing of power that Albin, Amirav, and Siniora envision. All they mention as a reason for such Israeli concessions is that for Israel peace will bring international recognition of Jerusalem as their capital along with "economic, social, and cultural opportunities" (1991/92, p. 21). No doubt it is true that international recognition would bring such benefits. But that hardly means their plan is likely to succeed, because Israel might well be able to win international recognition of their sovereignty in the city without making such concessions. And even if international recognition were withheld on behalf of such a plan, it is not clear that this would be enough to push Israel into yielding so much real power. The outcome all depends

on the existing balance of power between the two sides in the final status negotiations and on the internal dynamics within each society. Like the other plans, this one offers no serious practical analysis of its own chances for success.

Critics of the above models argue that attempting to separate sovereignty from territory is unworkable and will produce incessant legal disputes over property and land ownership, legal jurisdiction, and the like (Baskin June 1994, p. 10). A group associated with the Israel/Palestine Center for Research and Information (IPCRI) calls for "scattered sovereignty," in which "every piece of land in Jerusalem" will be "clearly delineated on lines of sovereignty" (Baskin 1994, p. 87). In other words, national borders will be drawn around all the different, geographically dispersed and intermixed Palestinian and Israeli neighborhoods dotting the city.¹⁵ Like the other plans, this one recognizes the irreversibility of Israeli settlements in East Jerusalem. These will come under Israeli sovereignty. As compensation for this and for past Palestinian losses of property and land, however, the new sovereignty lines will incorporate much of the territory currently designated as "green areas" into Palestinian zones along with several Palestinian neighborhoods arbitrarily excluded by Israel in 1967, such as al-Ram,

¹⁵ Against this "scattered sovereignty" model Whitbeck argues that "it is conceptually inconsistent with the uplifting vision of a single undivided city serving as the capital of both states, would produce practical results which both peoples would consider undesirable and would tend to lock in indefinitely the pervasive segregation of the city's existing neighborhoods" (1998, p. 6).

Ezariyyeh, and Abu Dis (Baskin 1994, p. 87). This plan has the merit of addressing more directly than most the issues of the Palestinian right to control their own urban development and land use. Again, however, it fails to explain what incentives Israel might have to accept such a peace or what pressures might be brought on them to do so. Like many of the other academic plan makers, they assume that the sheer elegance, justness, and rationality of their model will be enough to carry the day.

Like the others, this plan wrestles with how to balance the need for national independence and local autonomy for each group with the need for some form of city-wide unity and integration. It thus recognizes the need for some form of joint Palestinian-Israeli municipal government at the city-wide level (1994, pp. 89-91). At the same time it attempts, like the other plans, to diminish the power of each national government over city affairs and to ensure that neither national group can dominate the other (1994, pp. 92-93). Two options are proposed to meet these aims: either two separate municipalities, one Israeli and one Palestinian, with joint planning commissions to recommend action on city-wide matters of joint concern; or a single joint municipal authority to handle such matters. Here representation on the governing council of the joint municipality would be proportional to the respective ethnic populations (1994, p. 91). Redrawing the municipal boundaries to equalize the demographic balance would therefore be especially important. After a thirty-two year history of Israel redrawing boundaries to achieve demographic predominance, it is

not clear why they would suddenly agree to redraw them to give Palestinians equal representation and political power.

Of all the plans under review here the so-called Beilin-Abu-Mazen plan has received by far the most attention and arguably most closely approximates what the final settlement will look like.¹⁶ The plan was originally developed in back-channel talks between then Labor MK Yossi Beilin and Arafat's deputy Abu Mazen (Mahmoud Abbas). According to *Ha'aretz*, "the final agreement was arrived at on Oct. 30, 1995, in a meeting between Israeli academics Ron Pundak and Yair Hirschfeld—key figures in the back-channel talks that resulted in the 1993 Oslo accord—and two Palestinians [sic], Ahmed Khalidi and Hussein Agha, from the Palestinian delegation to the 1991 Madrid peace conference."¹⁷ While the text of the agreement is not available, the outline of the plan is clear from press reports and summaries and from Beilin's own discussion in his book *Touching Peace* (1999).

¹⁶ Rumors about the plan have kept resurfacing over the last two years. On 20 May 1998 Israeli TV Channel Two reported that the construction of a new building in Abu Dis was intended as the eventual location of the Palestinian Legislative Council (Alessandra Antonelli, "Abu Dis: The Capital Never to be," *Palestine Report*, 29 May 1998, p. 4). More recently, the *USA Today* newspaper reported that Yasser Arafat and Ehud Barak had reached a secret accord on Jerusalem in line with the Beilin-Abu Mazen plan (see Matthew Kalman, "Deal is close on Jerusalem," *USA Today*, 24 May 1999, p. 1A; and Matthew Kalman, "Palestinians ready village for statehood," *USA Today*, 24 May 1999, p. 21A. Of course both Israeli and Palestinian officials have denied that any such agreement has been reached.

¹⁷ Akiva Eldar, "Beilin-Abu-Mazen deal saw two capitals in Jerusalem," *Ha'aretz*, 31 March 1999, p. 1.

Like many of the other plans, the key idea is to overcome existing obstacles to peace by redrawing the boundaries of the city. To satisfy the Palestinian demand for a sovereign capital in East Jerusalem, an area outside the current municipality in Abu Dis and Ezariyyeh will be incorporated into the city. This area, which is within the old administrative boundaries of the city recognized by the Ottoman Empire, will become the Palestinian capital of al-Quds. To satisfy the Israeli demand that they retain sovereignty over an undivided city, Israel will continue to claim sovereignty over the whole of the area within the existing municipal boundaries, including the Arab neighborhoods of East Jerusalem. Moreover, the Jewish settlements within greater Jerusalem such as Ma'ale Adumim will be incorporated within the new boundaries and will come under Israel's sovereignty as well.

Although Israel will claim sovereignty over Arab East Jerusalem, the Palestinians living there will be allowed to become citizens of the Palestinian state. Nor will Palestinians be required to recognize Israeli sovereignty over Arab East Jerusalem, whose final status will be determined through subsequent negotiations. The plan does propose, however, that Palestinians, along with the international community, recognize Israel's sovereignty over West Jerusalem and the Jewish settlements in East Jerusalem. As for the holy places, they will continue to be governed according to the existing status quo arrangements. The new Palestinian state will not be able to claim the Haram al-Sharif as part of its national territory, but it will be allowed to fly the Palestinian flag

on its precincts. On the level of municipal government, there will be two municipalities, an Arab and a Jewish one, each governing the local affairs of its respective areas, determined according to existing ethnic and neighborhood divisions. To compensate Palestinians for not having sovereignty over Arab East Jerusalem, they will be granted as much municipal autonomy as possible.

While under this plan Israel would win international recognition of Jerusalem as its capital and solve its demographic problem, it is not so clear what benefits it offers for Palestinians. First of all, Palestinian sovereignty over the Arab neighborhoods of East Jerusalem is rejected, although Israel agrees to negotiate the final status of these areas. More significantly, the administration of the whole area within the current boundaries would be in the hands of an umbrella municipality with a Jewish majority. Unlike all the other plans, therefore, this one makes no pretense of equalizing the balance of power within the city. While Palestinians would be able to claim sovereignty over "al-Quds," they would gain no more control over development planning, investment, zoning, "green areas," and housing than they have now.¹⁸ It is perhaps not surprising, then, that some version of this plan is considered the most likely shape of any final settlement.

In *City of Stone* Meron Benvenisti questions the basic premises behind the whole planning enterprise. In his view, the conflict is too complex for any one "solution" to be imposed. For him, any resolution must emerge out of a painstaking engagement with ongoing developments

and exigencies (1996, p. 223). To ground the discussion in such realities, he charts the breakdown of the Israeli myth of a unified Jerusalem since the intifada and the emergence of independent Palestinian institutions in and around the city before and after Oslo (1996, pp. 224-232). For Benvenisti these developments constitute a de facto Palestinian autonomy that a "process-oriented" approach to the Jerusalem question must deal with. He predicts that the Israeli desire for segregation (based largely on the fear generated by the intifada) will lead them to accept the idea of separate areas of Palestinian control (1996, pp. 224-225). At the same time he predicts that the necessity for municipal cooperation will produce coordination on the city-wide level. The difference between Benvenisti and the others is that he declines to say anything about the particular institutional shape that this combination of separation and integration should take. He is simply silent on the whole question of sovereignty, municipal borders, and the like, on the grounds that proposing "solutions" does not

¹⁸ Consider what Menachem Klein observed in the last issue of the *Jerusalem Quarterly File* in response to Graham Usher's question about what "geographic solution" the plan offered to Palestinians: "There is the idea of an umbrella borough system in the understandings, although the head of the umbrella municipality will always be an Israeli—if only because of the Jewish majority electorate in Jerusalem. But, yes, your criticism is fair and issues of Palestinian housing and urban development must be addressed in any final agreement on Jerusalem. And this will be tough because discrimination is built into the Israeli system. I don't see any Israeli government granting control over the 'green areas' in East Jerusalem to the Palestinians, for instance" (*Jerusalem Quarterly File* no. 5 (Summer 1999), p. 13).

respect the complex process on the ground.

Benvenisti is right to suggest that the plans for "solving" the Jerusalem question give scant consideration to the practical questions of how they intend to get from present realities to the utopian visions proposed. As he points out, the planners often seem to imply that their plans will win approval by the sheer force of rational argument. They provide little in the way of institutional analysis of the existing structures of economic and political power in the city that have a vested interest in preserving the status quo of Israeli domination. Nor do they provide any serious analysis of the balance of power between the two parties to the negotiations. Therefore, their plans lack any conception of which forces and structures within the present context might have the power and leverage to effect change. By contrast, Benvenisti points to emerging institutional structures on the Palestinian side, hoping to move beyond utopian model-building to a grasp of existing social dynamics. Yet it is questionable whether his account is really the sober and practical assessment of the "mud" of reality that he claims it to be (1996, p. 224). On the contrary, his account is suspiciously mud-free. Silent about existing structures of institutionalized exploitation, it suggests far more symmetry on the ground between Israelis and Palestinians than actually exists. He describes the conflict as "a municipal, ethnic dispute with an interreligious flavor" that "includes a macro-national dimension, which intensifies existing local antagonisms" (1996, p. 206). This depiction suggests a level playing field between two equal combatants in a conflict

that is essentially ethnic, religious, and nationalist, and implies that the "peace process" is simply a mutually agreed upon negotiation between two sovereign entities. Implicitly denying that the conflict has anything to do with colonial conquest, it erases the whole dimension of past and current exploitation, including the massive transfer of wealth and resources that has been effected by Israeli policies through land expropriation, the proletarianization and de-skilling of Palestinian labor, and the general de-development of the Palestinian economy.¹⁹ It also disregards the power of those individuals and institutions with a vested interest in perpetuating these very relations of exploitation. In ignoring these

¹⁹ The process by which Israel has systematically subordinated the Palestinian economy in Jerusalem to its own interests is described in Michael Romann and Alex Weingrod, *Living Together Separately: Arabs and Jews in Contemporary Jerusalem* (Princeton, New Jersey: Princeton University Press, 1991), chapters 5 and 6. For an argument that the colonialist framework is indispensable for understanding the Israeli-Palestinian conflict, see Sara Roy, *The Gaza Strip: The Political Economy of De-Development* (Washington, D.C.: The Institute for Palestine Studies, 1995), chapter 5. She notes the importance of the idea of "underdevelopment" deriving from dependency theory in understanding the colonial nature of the conflict. However, she introduces the term "de-development" in order to more precisely describe the character of Israel's de-structuring of the Palestinian economy and related social and political institutions. Driven primarily by a political and ideological agenda of land acquisition for Jews only, Israel has used economic policies to further its political and ideological ends. By cutting Palestinians off from their own productive resources, the resulting "de-development" has thwarted capital accumulation and the development of productive capacity, leaving Palestinians highly dependent on wage labor in Israel. This contrasts with "underdeveloped" economies, which have been allowed some forms of capital accumulation, however distorted the process has been in favor of Western interests.

obstacles to a truly lasting peace, his "process-oriented" approach would seem to be just another rationalization of the status quo cloaked as hard-nosed "pragmatism."

I agree with Benvenisti that rational arguments are unlikely to prevail over deep-seated public attitudes and fears. But many of the planners considered above are aware of the problem of overcoming existing public attitudes and actually have a more practical sense than him of what would be required to change them. Benvenisti suggests that the Israeli attachment to Jerusalem is not open to rational argument, which cannot influence "the emotions that lie deep within a community attached to the physical site of its homeland" (1996, p. 222). This formulation suggests that Israeli sentiments will never change, being rooted in an essential ethnic, national, and religious identity. Writers like Gershon Baskin (1994), Jerome Segal (1997), and Ian Lustick (1993/94) argue, more convincingly, that these attitudes are not fixed in ethnic identity, but inculcated through hegemonic political ideology. Therefore, they are subject to change through counter-hegemonic efforts to inform and educate.

Almost all the plan-makers stress the need to change existing public attitudes if their plans are to have any hope of implementation. Only a few studies, however, devote themselves specifically to the question of public opinion. Baskin calls on activists to break down the "myth of consensus," the notion that Israelis

unanimously want a unified, undivided Jerusalem under sole Israeli sovereignty. In reality they agree only that Israeli settlements in East Jerusalem should remain under Israeli sovereignty, that Jewish holy places should be under Jewish control, and that the city should not be physically divided again (1994, pp. 104-106). This real consensus leaves much room for compromise and does not rule out shared sovereignty and redefinition of what really constitutes Jerusalem for Jews. For Baskin—along with Naomi Chazan, Hanna Siniora, and others—Palestinians and Israelis need to promote discussion and debate about Jerusalem in the media and build institutions of civil society on both sides that can project alternative ideas and visions that break down the prevailing consensus.

Lustick's study confirms that the current consensus is not fixed in stone. In contrast to Benvenisti, he argues that the idea of "united Jerusalem" is in fact a "carefully cultivated fetish," the product of ideological campaigns instituted by powerful political groups within Israeli society associated with the Likud party (1993/94, pp. 42-44). Unfortunately most Israeli politicians regardless of party now feel compelled to publicly embrace this ideology as a matter of political survival. But as Lustick shows, beneath the official rhetoric, the idea is often questioned. As he puts it, it has never become "a 'hegemonic' belief—a conception of reality operating at the level of common sense that prevents people from even contemplating alternatives" (1993/94, p. 44). Indeed, as he shows, in their off-the-cuff or unofficial remarks, many officials do view some

areas of the current municipality as less a part of Jewish Jerusalem than others and do contemplate yielding control of these areas to Palestinians (1993/94, pp. 48-51).

Segal's study (1997) bolsters this conclusion that Israeli attachment to the current borders is more flexible than usually claimed. He shows that in the mental maps that Israelis and Palestinians have of the city some areas are invested with far more emotional, national, and religious significance than others are. Still, in the current context public attitudes do not bode well for compromise. The survey found that substantial Israeli majorities (approaching 80 percent) currently reject both the idea of joint sovereignty over the city as a whole and the idea of Palestinian sovereignty over downtown and peripheral areas, over the Arab quarters of the Old City, and over the Temple Mount/Haram al Sharif and the Mt. of Olives. He does believe that campaigns of "public education" and a more positive political climate might bring about "enhanced Israeli confidence" in the possibility of peace and "enhanced Palestinian and Israeli recognition of each other's rights in regard to Jerusalem" (1997, p. 27). Since his survey shows that these beliefs correlate with support for compromise solutions, he believes that changes in these basic attitudes will shift the balance of public opinion in favor of compromise. Of course some attitudes will persist: Israelis will continue to reject the idea of Palestinian sovereignty over the area of the Haram al-Sharif, the Jewish neighborhoods of East Jerusalem, and the Arab neighborhoods of the Old City. But they will come to accept other ideas, such as Palestinian sovereignty

over other downtown and outlying Arab neighborhoods. The study found that Palestinians were even more open to redefinition of what constituted Jerusalem than Israelis. For instance, while overwhelmingly rejecting the idea of Israeli sovereignty over Jewish settlements in East Jerusalem, they were quite open to the idea of redrawing the city's boundaries so as to exclude these settlements from Jerusalem.

In Segal's scheme the success of any compromise solution will depend on various campaigns of "public education" initiated by leaders and politicians. Unfortunately, he fails to explain under what circumstances Israeli leaders would implement such campaigns, given the existing relations of power and the Israeli electorate's hostility to any talk of compromise. The behavior of the leadership will depend on the balance of power in the final status negotiations, and it is not at all clear in the current context that enough pressure will be brought on Israel to make it seek compromises of the sort Segal envisions. Since his plan lacks any practical analysis of this balance of power, it is hard to be convinced that the Israeli government would suddenly reverse course and try to allay fears and prejudices rather than pursuing its customary course of aggravating them. As Lustick has argued, the Israeli public's hostility towards any division of sovereignty in Jerusalem has much to do precisely with "public education" campaigns proceeding from the organized political parties and other organized interest groups. If anything, as Segal's own study suggests, ordinary popular consciousness is more open to change than are the various ideologues of

these groups. Moreover, it is hardly evident that a broad change in public attitude would be enough in and of itself to ensure compromise, as Segal misleadingly implies. Majority support for a policy offers no guarantee of its implementation because organized minority groups with greater political and economic power have political and media influence out of proportion to their numbers. A good example was the attempt in the United States to reform the health care system during Clinton's first term. While polls showed that the majority of Americans supported a single-payer, Canadian style system, big business and insurance interests ensured that the idea was widely dismissed in the media and barely mooted in the political arena. In assessing the possibility of social transformation, public opinion polls have limited value and must be supplemented by institutional analysis of existing relations of power.

Regarding the proposals reviewed above, Segal's survey leads him to support plans that obfuscate or "sidestep" the sovereignty issue. He believes both sides are more likely to favor a condominium solution involving joint sovereignty than a solution that links sovereignty to particular pieces of territory. Thus he envisions a solution in which the borders of the city are redefined and the sovereignty question is blurred regarding areas of greatest dispute. The Palestinians will be able to claim al-Quds as their capital, which will include the Old City, the Mt. of Olives, the Arab populated areas of East Jerusalem, and Abu Dis. The Israelis will claim "Yerushalayim" as theirs, which will include the Old City, Mt. Scopus, the Mt. of Olives, West Jerusalem,

and the Jewish neighborhoods of East Jerusalem. Both states will retain their claim to sovereignty over the Old City, the Temple Mount/Al Haram al-Sharif, and the Mount of Olives. Administrative control, however, will be divided. Palestinians will control the former two areas (except for the Western Wall) and Israelis, the latter area. Significantly, in discussing this potential division of sovereignty in the city, Segal never mentions such thorny questions as what will happen to the "green areas." As I suggested earlier, I think it would be easier to get Israelis to accept the idea of a watered-down Palestinian "sovereignty" over some parts of a redrawn city than to get them to cede control of such matters of urban development. Segal, however, never once addresses the question of who will control urban development or offers any ideas about the future shape of municipal government and the degree of Israeli control over it. This evasion suggests that the resolution he has in mind is intended to offer the Palestinians satisfactions on the level of political rhetoric and symbolic "sovereignty" as compensation for lost control over land and development.

Unlike other plan-makers, Segal does not construct his plan on the basis of what he as an individual researcher considers just and reasonable in the current context. Rather, he bases his ideas on what is most likely to be acceptable to each side, supposing some significant changes in attitude in favor of compromise. In this sense his approach is more grounded in practical considerations than the others are. But it still lacks any analysis of the institutional structures within which the process of attitude formation takes place.

He recommends efforts to change public opinions and attitudes without considering either the government, media, and public relations institutions that currently work to shape attitudes or the interests behind these institutions. Nor does he consider the current balance of political forces in the city. For instance, any serious study of the prospects for peace in the city would have to analyze the rise of the political right and the growing power of the haredim, their hostility to Oslo, their alignment with Mayor Ehud Olmert and the Likud, and finally the novel alliance taking shape in recent years between these traditionally non-Zionist groups and the religious Zionists of the settler movement precisely over the issue of Jerusalem. Nor does Segal ask what institutions exist that might counter the hegemonic influence of these forces. Moreover, while his survey charts the public's general sentiments on issues of sovereignty and their varying degrees of attachment to particular areas, it does not track down the particular ideological themes and strategies that actually shape people's experience of the city.

This review of current peace plans, then, suggests three areas for future work that could move the debate beyond model building towards a more practical grasp of the prospects for a just peace. First, there is a need for institutional analysis of the balance of forces on both the local and international level, analysis that will pinpoint structures within the present context that might have the power and leverage to effect change. Second, as part of this broader analysis there is a need for a particular focus on the cultural and media institutions that currently shape public

attitudes, both here and abroad. Finally, there is a need for semiotic analysis that unpacks and denaturalizes the prevailing projections of the city circulated by all these institutions. Such work would help us better understand how we might move from the current realities of occupation and exploitation to some approximation of the ideal visions reviewed in this essay.

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