

# The East Jerusalem Municipality

## Palestinian Policy Options and Proposed Alternatives

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The Jerusalem Municipality was established by the Ottomans in 1863. At that time it was composed of five members: three Muslims, one Christian, and one Jew.<sup>1</sup> With the start of the British Mandate in 1917, the municipal council was appointed by the British in 1918 to include equal numbers of Muslims, Christians, and Jews.<sup>2</sup> In 1920 the British decided to establish a Consultative Municipal Council that included ten British officials, four Muslims, three Christians, and three Jews. This composition was changed again to twelve members when elections to the council were conducted in 1927, with five Muslims, four Jews, and three Christians.<sup>3</sup> In the following years the number of Jews in the council was raised to six, or half of its membership. In 1945 the British dissolved the council due to Palestinian rejection of the rotation of the mayor between Palestinians and Jews.<sup>4</sup>

After 1948 the Jordanians held four elections for the Jerusalem Municipality (Amanat al-Quds), in 1951, 1955, 1959, and 1963.<sup>5</sup> The Israeli occupying authorities dissolved this council on 21 June 1967, a few days after they imposed Israeli law in East Jerusalem, and extended the Israeli municipal responsibilities to include East Jerusalem.<sup>6</sup> Nevertheless the 1963-elected city council continued operating from Amman and until today two members of that council who are alive (Zaki al-Ghoul and Subhi Ghosheh) still represent East Jerusalem in the Arab, Islamic, and international federations of capitals and cities. On other hand, elections for the Israeli municipality of Jerusalem have been boycotted by East Jerusalem Palestinians, with the voting percentage declining from 15–20 percent in the 1969, 1978, and 1983 elections, to 2.75 percent in the 1989

elections, and 7 percent in 1993. In subsequent elections the percentage dropped to 1–3 percent only, according to Israeli data published in *Ha'aretz*.<sup>7</sup>

This policy report summarizes the Palestinian opinions on options and alternatives discussed during ten weeks of intensive debates on the subject of the Municipality of East Jerusalem prior to the local elections in Palestine that had been scheduled to take place on 8 October 2016. The information as it is presented below in the shape of policy orientations might help in providing the raw material required for deeper academic research on this issue.

The 2016 municipal elections were stopped temporarily by the Palestinian Supreme Court on the basis of a judicial challenge to the legitimacy of its administration in the Gaza Strip and exclusion of East Jerusalem. Several months later the local elections were held only in the West Bank and not in either Jerusalem or the Gaza Strip, a matter that raises many questions.

The publication of this policy report in 2018, an election year for a new municipal council for the Israeli municipality of Jerusalem, also aims to highlight the continuing presence of another municipality in Jerusalem – despite all the hardships – that existed from before the 1967 occupation. This report also suggests ways forward for the improvement of the work of this municipality and on how to make it more active and representative, as much as possible, to the Palestinians of East Jerusalem as a democratic alternative towards the fulfillment of their needs, rather than just joining the elections of the Israeli municipality that has been imposed on them against their will in order to meet these needs.

Also it is significant that this policy report is published in the year of the transfer of the U.S. embassy from Tel Aviv to Jerusalem, following a decision by U.S. president Donald Trump in this regard on 6 December 2017. The report is another kind of response by showing to the U.S. administration that the Palestinian presence in Jerusalem is not a slogan, but is expressed by Palestinian facts in the ground including on the municipal and administrative levels.

In the course of preparing this report, previous studies, reports, and articles on the subject were reviewed. We relied specifically on the deliberations of more than two hundred Palestinian personalities, mainly from Jerusalem, who participated in three seminars held at the Planning Center of the Palestine Liberation Organization (PLO), in addition to dozens of individual and collective deliberations and meetings, held between July and October 2016. I published two short articles in *al-Ayyam* newspaper in August 2016, and was interviewed by *al-Quds* newspaper on 5 September 2016, about this issue.<sup>8</sup>

This report begins with a brief historical review of the subject of the Municipality of East Jerusalem, its importance, and its lessons during the Palestinian Authority (PA) era, followed by presentation and discussion of alternatives in preparation for the local Palestinian elections, and ends with presenting various options for follow up on this issue.

## **The Palestinian Experience and Lessons Learned Concerning the Municipality of East Jerusalem**

East Jerusalem Municipal elections are of great importance because they reflect the restoration of the right of Palestinian Jerusalemites to vote for their municipality. This right was taken away by the Israeli occupation when it dissolved the Jerusalem Municipal Council in 1967 and imposed the West Jerusalem Municipality on Palestinians – who rejected it, as shown above. Accordingly, it is a priority to give back to Jerusalemites their municipality that was dissolved in clear violation of international law.

In addition, the election, or restoring the Palestinian Jerusalem Municipality in conjunction with the Palestinian local elections, maintains the unity of the Palestinian territories occupied in 1967, including East Jerusalem. It also reflects the attention of the PLO and the PA to Jerusalemite Palestinians, boosts the confidence between Jerusalemites, the PLO, and the PA, and reinforces the attachment of Jerusalemites to the Palestinian political, social, and economic structure.

In this context, reference should be made to the restrictions imposed by the Oslo Accords on the work of the PA in Jerusalem. The text of the agreements allow the PLO to operate its institutions in East Jerusalem but the text was not respected, as in many other texts that Israel signed and then breached, or did not implement, and is overdue. The restrictions did not prevent the PLO from dealing with the issue of Jerusalem and its municipality, legally and practically. The following events took place during the terms of President Yasir Arafat and President Mahmoud Abbas:

In 1998, during the term of Yasir Arafat, an eleven-member Jerusalem Municipal Council was appointed to include the surviving members of the municipality elected prior to 1967, and additional members. Zaki al-Ghoul, a member elected before 1967, was appointed mayor of Jerusalem (Amin al-Quds), in order to continue representing the municipality in Arab, Islamic and international capitals and cities.

Also during Arafat's term, the Capital Law No. 4 of 2002 was issued which included six articles asserting that Jerusalem is “the capital of the Palestinian state, the main and permanent headquarters of the three legislative, executive, and judicial authorities. The Palestinian state has sovereignty over al-Quds al-Sharif (Jerusalem) and the holy sites, and is responsible for their preservation and for ensuring freedom of worship and the exercise of religious rites.” The law also provides for the allocation of a share of the Palestinian general budget for the city of Jerusalem, and programs and plans are initiated to promote public and private investment in Jerusalem, considered development area “A” for special priority.

In addition to the Capital Law, on 10 June 2001 the Interior, Security, and Local Government Committee of the Legislative Council presented the draft law of Amanat al-Quds. The project was referred to the Legislative Council Committees on 24 June 2001, to the council on 5 January 2002, then for the first reading by the council on 21 July 2003 and finally for the second reading on 5 May 2004.<sup>9</sup> It was transmitted to the president on 30 May 2004, but never issued. The ten-item draft stipulated the election of the municipality and its appointment in accordance with a proposal by the Minister

of Local Government and by a decision of the Council of Ministers for approval by the president (Article 6). It also stipulated that the boundaries of the municipality should be defined as the borders of 4 June 1967, although the Council of Ministers has the power to extend the boundaries of the municipality (Article 2). Concerning the powers of the municipality, it included, inter alia, the competence of the Organizing Committee for the zoning and construction of cities and villages (Article 9).<sup>10</sup> On the front page of the draft law President Arafat wrote with his own handwriting “temporarily postponed for political reasons.” In view of the importance of this draft law, it was used during the above mentioned discussions as the basis for the drafting of a proposed decree on the Jerusalem Municipality, which was sent to President Mahmoud Abbas. Components of that decree are presented at the end of this policy report.

In the time of President Mahmoud Abbas, an amended law No. 10 of 2005 was passed for the election of local authorities. Article 69 of the law stipulates that “members of the Municipal Council shall be selected in accordance with the Law of the Municipality of the Capital (Amanat al-Quds Law).” This article reflects a problem since, as mentioned above, the Law of the Municipality was not issued after it was referred by the Legislative Council to the President in 2004.

In January 2012, President Mahmoud Abbas issued Decree No. 2 appointing a new municipality for Jerusalem from the seventeen members who comprised the remaining members of the elected secretariat before 1967, in addition to new members. The decree included the subordination of the municipality to the PLO, provided that the National Popular Congress<sup>11</sup> carries out its executive follow-up missions. It should be noted that the appointment of this Council of East Jerusalem Municipality came fourteen years after the appointment of the first municipality in 1998 during the period of the PA under President Arafat. A proposal is to give priority from now on to establish a democratic tradition by reallocating the membership of the municipality of Jerusalem every four years.

It should be noted here that: first, two different methods of appointment for the municipality of Jerusalem were adopted, in 1998 and in 2012; and second, the Law of the Municipality of Jerusalem was never issued in 2004 by the president, but issuance is required to address the above-mentioned legal gap.

Further, the Local Authorities Election Law of 2005 was based on the 2004 Jerusalem Municipality Law, which was not issued, and this is another legal gap that requires to be filled. Additionally, the Capital Law of 2002 stipulates that Jerusalem should be regarded as development area “A,” which requires implementation.

In both cases, the municipality was effective only with regards to the representation of Jerusalem by Mayor Zaki al-Ghoul in the Arab, Islamic, and international capitals and cities federations, while the Jerusalemites themselves did not know about the existence of the municipality and there were no actions on the ground. The municipality worked according to the decree of President Abbas under the PLO and not under the PA. In addition, Article 69 of the Law on the Election of Local Authorities for the year 2005 stipulated that the election of the municipality shall be subject to its own law. This legal context shows obvious overlap that needs to be resolved, as will be discussed below.

## Options and Alternatives

The options that were considered in the 2016 debates regarding the Palestinian Municipality of Jerusalem ranged as follows:

1. Maintain the current municipality, which was appointed by President Abbas in 2012, and add members to it.
2. Appoint a new municipality.
3. Call for elections for a new municipality.
4. Select a new municipality based on representatives elected by their sectors (trade unions, women, youth, etc.).

In order to arrive at the best options on the subject of the municipality of Jerusalem, the options are presented here as Weberian “ideal types,” and the views that were put forward have been broadened to clarify their hidden and revealed assumptions, and their consequences, to help us select among the options. The names of the people who put forward each idea are deliberately not mentioned, to dismiss the idea of personalization, and to discuss the ideas in a purely neutral, scientific way. However, readers who want to explore the genesis of some ideas, and the people who presented them, can review the minutes of the three seminars at the Planning Center of the PLO.<sup>12</sup> The following is a reading of these options:

### ***Option 1. Maintain and add to the current municipality***

Different ideas emerged, and other ideas were unanimous under this option. Overall, those who put forward this option believe that the current municipality that was appointed in 2012 has not had the appropriate conditions and capabilities to enable it to perform its role. In addition to the obstacles by the Israeli occupation, no budget for the work of the municipality has been allocated nor its powers specifically defined. Municipal members were advised by the PLO to work only symbolically and to be invisible to the Israeli occupation (that is, in the shadows), and that the municipality’s role is moral and symbolic only – this enables the PLO to say that it did its best to maintain the representation of Jerusalem despite obstruction by the Israeli occupation

On the other hand, this option is divided into two groups. The first group sees that it is not necessary to announce the existence of the municipality – in order to avoid the arrest and abuse of its members by the Israeli occupation. The external role of the municipality should be fulfilled by representation through the personage of the mayor of Jerusalem Zaki al-Ghoul (and whoever is selected to help him) in the Arab, Islamic, and international capitals. This view was expressed by a minority of those who participated in the deliberations.

The second group sees that the municipality has not been activated in the past because of the absence of an appropriate budget by the PA, necessary to enable the municipality to play its roles. These roles varied according to different views presented, ranging from

roles of a services nature, a development nature, or a “creative character” (as it was called) in the context of the clash with the occupation with the stage of national liberation in which we still live. All of this group’s members who participated in the debate saw that the services role in Jerusalem itself to be a subject of conflict with the occupation, since the Israeli occupation authorities illegalize any attempt to provide services, such as waste collection services using garbage bags carrying the name of the Palestinian Jerusalem Municipality. There is no pure services role in Jerusalem that does not become politicized in light of the policies of the occupation.

In response to this issue, three trends appeared in the debate: One called for making the work of the municipality a matter of confrontation and friction with the occupation, with its members ready to pay the consequences; the second trend called for avoiding direct and public confrontation with the occupation, and to use long term silent and quiet working methods to create Palestinian facts on the ground in Jerusalem that would accumulate day after day without bringing attention or being promoted by the media; the third trend sees that we need to work within the margins allowed by the Israeli occupation and try to expand them, for this is the only possible way to succeed in doing things and to ensure their sustainability under the heavy restrictions imposed.

As part of the assessment, this option (the option of maintaining and adding to the existing council) has positive features that may include: maintaining and strengthening the work at the international level by the Palestinian mayor of Jerusalem, together with the silent work on the ground to build new projects for the service and development of Jerusalem, once budgets are allocated by the PLO and the PA, as is requested by members of the municipality.

However, there are a number of problems that need to be followed up and resolved in this option:

First, there is a lack of consensus among this group on the functions that can be performed by the municipality. Some want to limit the work of the municipality to the international front only, while the rest do not speak in a unified language on the three options: direct confrontation with the occupation, or work long term silently to build Jerusalem, or work within the margins available by the occupation.

Second, some who support keeping the current municipality and adding to it envisioned that the PLO and the PA would provide the necessary budget for their work, but they did not accomplish their task to identify the developmental needs of Jerusalem and its local communities, develop funding plans for them, and work with available internal and external sources to finance these projects. In contrast, the Municipality Council lacked a Jerusalem development plan and merely devised an administrative work plan for its work. It also lacked follow-up and periodic meetings based on clear agendas and work methodology. It only held some meetings immediately after its appointment but did not follow up afterwards.

Third, the option of maintaining the previously appointed municipal body and adding to it does not raise the issue of periodic power rotation as a popular and democratic right through the reelection or reassigning the authority from time to time, and only maintaining

the idea of adding to the current Municipality Council without clarifying the mechanism and method for the addition.

Fourth, the option raises the method of appointing additional members whose names will be presented to the president. However, this method of appointment may not be the best way regarding the subject of the Jerusalem municipality, as will be clear in the following presentation.

For these reasons, it seems that the option of maintaining the existing municipality, even if it is expanded, does not uphold the democratic principle of the rotation of power. It may be more appropriate to allow for free competition, including granting the members of the two former municipality councils the right to run for the next municipality if they wish or feel that they have the ability to do so.

### ***Option 2. Appoint a new municipality***

The petitioners argued that the PLO, being the legitimate and sole representative of the Palestinian people and having the unanimity of all the Palestinian people, has the right to appoint a third municipality council for Jerusalem, taking the principle of the rotation of power and not limiting it to individuals previously appointed, especially that there are many among the Palestinian people who are energetic and competent.

In the point of view of the people that presented this option, the appointment should include retaining members of the elected council before 1967, with the addition of new members, some of whom may have been members of the former council.

As in the previous option, this proposal has positive aspects, as well as some shortcomings. On the positive side, this option puts representation in the municipality of Jerusalem outside the realm of political and family rivalries, by giving the final word to the PLO to resolve these rivalries and disputes through appointment.

The second positive aspect is separating the municipality of Jerusalem from subordination to the PA, and keeping it connected with the PLO. This in turn maintains the priority of the issue of the Judaization and Israelization efforts in Jerusalem, and does not limit the work of the municipality to the issue of services. Another point of view is that the municipality should be linked to the PA and its ministries, especially since PA is no longer an authority but the State of Palestine, after recognition by the United Nations in 2012.

However, many shortcomings and questions face this option:

Does the PLO, being “the sole and legitimate representative of the Palestinian people,” have the right to impose from above its directions and decisions on its people as an alternative to democratic participation?

Will the political factions, symbols and figures in Jerusalem be reviewed before the appointment process by the PLO? What are the guarantees that this process will be representative and comprehensive?

The next question is whether this proposed municipality will include independent competencies, as was the case, relatively, when the two previous municipalities were appointed, or would it be formed by representatives of the factions, as a mix of factions

and competencies? Or would it be a competency-based municipality that the factions accept? How can any of these methods be successful?

Then there is the question of powers. The question of whether the necessary budgets will be allocated by the PLO for the work of the municipality, especially in the case of lack of resources of the PLO and its dependence on the PA for funding.

A meeting of Jerusalem figures held at al-Dar Cultural Foundation on 5 September 2016 pointed to the rejection of “attempts to reconstitute the Jerusalem Municipality by a higher level resolution.”<sup>13</sup>

This option requires the consent of the widest possible number of Jerusalemite sectors over the proposed names and a suitable formula for reaching this consensus before the appointment. This option may also be merged with the fourth option (the choice of selecting members of the municipality) to hold an extensive Jerusalem convention for voting for new municipality members that would offer them the basis for community legitimacy to enable them to perform their duties.

Moreover, this option, similar to other options, requires clear terms of reference for the powers of municipality, as well as allocating budgets for their work.

### ***Option 3. New municipal elections***

This option stems from the political basis that Palestine became a state recognized by the United Nations in 2012. Accordingly, the State of Palestine, which came into existence from the former National Authority, has to call for local elections in all its territory including East Jerusalem, regardless if it succeeds or not.

Different scenarios were put forward for this option to ensure the success of the municipality election. The first scenario involves elections taking place in the local communities, and making sure to invite the ambassadors of the European Union and others to be present in order to provide protection from interference of the Israeli occupation.

The second scenario suggests that the ballot boxes be set up in the surrounding Palestinian areas of Jerusalem. Jerusalemites would be called to vote for the municipality according to the voter registration of the 2005 Palestinian Legislative Council elections and the 2006 presidency, while finding a way to update and add to these records. This could be done through registration for elections to the municipality in the same period, to coincide with the local elections in the other cities and villages of the State of Palestine, if reopened after the last postponement of the elections.

The third scenario involves conducting elections via electronic voting.

Finally, the fourth scenario, presented by the late Faysal Husayni at the time, provides for the establishment of a joint shareholder company belonging to Jerusalemites where the elected board of directors becomes the municipality council of Jerusalem.

All these scenarios face a major problem regarding the possibility of Palestinian Jerusalemites refraining from participating, especially if they are afraid of possible Israeli sanctions, particularly those related to the loss of residency rights and the withdrawal of identity cards. Some of the people interviewed also pointed to what they called the “Israeli trend,” linked to and benefiting from the occupation authorities. This may even



be directed by the occupation authorities to sort out candidates for the elections of the municipality – and succeeding.

Therefore, this option cannot be established unless the following conditions are met:

- First: Elections cannot be held automatically. Rather they must be preceded by a national campaign among Jerusalemites to be attended by all the activists of the national and Islamic factions in Jerusalem in order to restore the spirit of the Jerusalemite community and restore confidence in the PLO and the factions. In order to ensure the success of this campaign, it is necessary to include concrete proposals for what the municipality can offer to the Jerusalemite citizen in the area of maintaining their presence and endurance in the city. In light of the success of this campaign, the Jerusalemites' engagement will increase – and the opposite is true.
- Second: Formation of a national consensus around electoral lists in order to confront any lists that might be constituted by the Israelis.
- Third: This option should be followed up in dealing with additional issues, such as voter registration and how to prepare it, and how to include the Jerusalem deportees and displaced persons and their descendants who participated in the pre-1967 elections. Other issues concern the inclusion of the pre-1967 elected members of the municipality in the newly elected formation.
- Fourth: Among the above mentioned scenarios, the first one is the option of confrontation. It is desirable not to resort to it without providing the conditions mentioned above in advance, otherwise it becomes a suicidal option. The voting option in the West Bank requires incentive factors that would drive Jerusalemites to go to the polls outside their city. With regard to the option of electronic voting, and while young people can do it, arrangements should be made to enable and encourage older generations, who may not know how to use the Internet, to vote through electronic voting.

#### ***Option 4. Select a municipality***

This option presents a midcourse between elections and appointments, based on what this option sees as the inability to conduct elections and the undesirable method of appointment. The choice involves selecting the municipality council by various representatives of local geographical communities, plus the representatives of the social groups (such as youth and women), and finally the representatives of the sectors (such as tourism, health, education, and other sectors).

Three detailed ways were suggested for the selection process:

- The first method is to hold an expanded conference for representatives of Jerusalem from current and former ministers, current and former legislators, and Jerusalemite members of the Palestinian Central and National Councils. Other

participants include representatives of local communities and sectors: religious, economic and academic figures; civil society organizations; members of the two former municipalities; and representatives of Jerusalemite refugees and deportees. According to this method, the conference is to be held outside Jerusalem. With this method, the conference elects the members of the municipality and constitutes an expanded council. The municipality's programs and services for the sectors, groups, and geographical locations shall be implemented through this enlarged council.

- The second method involves holding a representative congress outside of Jerusalem, with the participation of a number of Jerusalemite communities, each according to its percentage of Jerusalem's total population, and the congress selects the municipality council.
- The third option is to select a local council in each of the 22 localities in East Jerusalem from the representatives and the sectors and groups in each locality. This will be followed by the formation of a municipal council of 22 people representing all the localities and the surviving members of the municipality who were elected before 1967.

Concerning the mechanisms, it was suggested that the list of members of the municipality be selected in agreement before the conference, so that they win by commendation in the conference. This is to prevent the council and the conference from becoming two platforms for conflict between the candidates, which may lead to failure in sorting out a new municipality for Jerusalem. There are also those who believe that no one should be running for office, but should be nominated by others in order to protect candidates from the occupation. They can claim, when questioned by the occupation authorities, that they did not run for office and that they did not accept the nomination by others.

On one hand, we consider that this option goes beyond the shortcomings and gaps of the option of appointment, but in turn it avoids the option of entering into a clash with the occupation, as could occur in the option of elections.

The third method of this option is the closest to the election option, while the first and second methods have problems relating to how representatives are chosen, who represents, and who does not represent. In the end, there will be those who will challenge the legitimacy of these methods.

## **Policy Recommendations**

This review might lead one to recommend the option of elections as a first option. If it is not possible, and if the means cannot be provided in order to ensure the strengthening of Jerusalem's link to the Palestinian national political, social, and economic structure, this policy report recommends using a bottom-up selection by geographical locality councils to be followed by the formation of the municipal council from representatives of these localities' councils. This policy report does not recommend this option because it is the best option in

the absence of elections, but because it is the least damaging compared to the other methods and options. This option provides the following advantages compared to other methods:

- Geographical locations are also the housing locations for all social groups and sectors, which can therefore enable them to obtain representation from their own locations.
- This method enhances broader democratic participation more so than in the case of the enlarged conference. It forms a broader popular supportive base for the work of the municipality which will be formed, and will strengthen links and trust between the authorities of the State of Palestine and Jerusalemites.
- This method reduces the proportion of those who are dissatisfied because it excludes them from the process.
- The municipal council is constituted by equal representation of all the Jerusalem communities.
- With the reduction of the size of the units to be chosen bottom-up, the ability to cope with obstacles such as the existence of the “Israeli trend” is strengthened since making agreement on local consensus blocs is easier than agreement on Jerusalem as a whole.
- Representatives of the Jerusalemite deportees and displaced persons, as well as the members of the municipality council elected before 1967, may be added to the formed bottom-up municipal council according to this method.

## **Cross-cutting Issues between All Options**

Finally, there are a number of political overlapping issues shared by all the options. This policy report recommends that the Executive Committee of the PLO adopts these issues for study to take the necessary positions and decisions. These issues, along with relevant recommendations, are as follows:

### ***1. The Geographical Jurisdiction***

Prior to 1967, the Jerusalem Municipality exercised power over the six square kilometers of Jerusalem which then constituted the borders of Jerusalem. Outside these borders, village councils, such as in the village of al-Tur, al-‘Isawiyya, Bayt Hanina, Bayt Safafa, Sur Bahir, ‘Anata, and Shu’fat, were functioning. The two councils of Shu’fat and al-‘Isawiyya still exist today even though their work has been limited to resolving disputes within their communities.

The Israeli occupation authority created new political and administrative boundaries by annexing areas from the West Bank to Jerusalem in contravention of international law.

On the Palestinian side, the PA has identified two tracks to deal with the question of the geographical jurisdiction of Jerusalem: The first is a negotiating political track that insists that Jerusalem is negotiated as a whole for both East and West Jerusalem, while East Jerusalem is defined as the six square kilometers it was before 1967.

The second track is a service track, to provide municipal services to all the territory that falls within the geographical mandate of the Palestinian Ministry of Jerusalem Affairs and the Governorate of Jerusalem, encompassing the entire governorate according to its Palestinian definition. This is including areas such as al-‘Ayzariya, Abu Dis, al-Sawahira al-Sharqiyya, and villages northwest of Jerusalem, Dahiyat al-Barid, al-Ram, and others. In both tracks, the State of Palestine does not recognize the borders that were created by the Israeli occupation for the city of Jerusalem.

In the deliberations that took place, there are those who see political danger in determining the area of work of the municipality outside the six kilometers occupied in 1967. There are others who believe that the Jerusalem areas forcibly annexed under the Israeli municipality of Jerusalem are the most targeted directly by occupation measures and where the Palestinian municipality should focus its efforts. Finally, there are those who think that the specific Palestinian definition of the governorate boundaries is the limits of the work of the municipality. This is provided that there are several local and village councils in the governorate, but they all follow the Municipality Council as an umbrella. For example, the sign at the entrance of the village council of Abu Dis could read: “The Municipality (Amanat) of Jerusalem – Abu Dis Village Council.”

Based on these views, this policy report recommends the Executive Committee of the PLO to take a political decision in one of two directions:

First: To limit the work area of the municipality to what it was before 1967, with the formation of other village and local councils outside this area while maintaining networking and cooperation relations with the municipality council.

Second: The formation of Greater Jerusalem Municipality, similar to the Greater Amman Municipality, on a governorate-wide basis, to be controlled by all village and local councils throughout the governorate. This idea is consistent with the third method



Figure 1. Map of East Jerusalem extended municipal boundary - after 1967. Courtesy of OCHA.

of selecting the municipality described above, with the addition that whenever it is possible, local elections should be held such as in the case of Abu Dis and al-‘Ayzariya. Where that is not possible, the third method of selection of the municipality described above can be adopted. Finally, this formula will require that the municipality, in the course of the exercise of its work, prioritize the areas that are most directly targeted by the occupation’s measures, while considering them Development “A” areas, as stated in the “Jerusalem Capital Law 2002.”

The second approach will provide for follow-up between the municipality and the local councils better than the non-binding mode of networking and coordination, according to the first approach, which does not provide a framework to solve the intertwined issues between the city of Jerusalem and its surroundings at the county level. This trend goes beyond recognition of the Israeli municipal boundaries of Jerusalem, and provides a framework for confronting Israeli plans to expand Jerusalem through the construction of E1 settlements and others. Meanwhile, the prospective municipality should prioritize its work in the Old City of Jerusalem and its environs, in addition to areas targeted by the wall or that ended up behind the wall. The bill, which was submitted to President Arafat in 2004, reinforces this trend, giving the Council of Ministers the authority to expand the boundaries of Jerusalem as described above.

## ***2. The Municipality’s Authority***

The debate on the question of the municipality has raised questions as to whether it is another reference source of legitimacy to be added to the previous sources for Jerusalem; the question therefore is whether there was a need for an additional reference source. Questions about whether the role of the municipality is instrumental in the national struggle, or whether it should confine itself to issues of development or service functions, then become more complicated. Is it necessary to choose a municipality with an external and moral role or a municipality with an active role on the ground?

First of all, the municipality is not another reference source of legitimacy like the series of reference sources of legitimacy that were formed to care for Jerusalem and the Jerusalemites and to take decisions and actions that guarantee their national future, such as the High Presidential Committee for Jerusalem and the Jerusalem Department of the PLO. In contrast to these reference points, the municipality stems from a different role of serving Jerusalemites and their development needs. In this context, the Jerusalemites are the reference for the municipality that they elect and choose, and not vice versa. Other bodies, by the way, such as the Ministry of Jerusalem Affairs, are also not a reference as they are intended to serve Jerusalemites, while the references for Jerusalem are limited to the two PLO bodies mentioned above. As for the Unit of Jerusalem Affairs in the presidency, it is also not a reference source but an executive tool of the president and the Higher Jerusalem Committee that assists in drawing up plans for the advancement of the status of Jerusalem. The governorate of Jerusalem is also not a reference but an executive body coordinating the work of ministries and security services in Jerusalem. Finally, the National Popular Congress for Jerusalem is not a source of legitimacy, but

a popular tool of the PLO that connects it with Jerusalemites.

As for the general framework of the role of the municipality, in normal circumstances, it carries out service and development tasks as it did prior to the Israeli occupation. It is also essential that the municipality continues to perform these tasks and focus on providing them notwithstanding the occupation. The municipality should not be asked to take on political burdens that, in any event, it could not cope with. The political leadership on the issue of Jerusalem is the High Presidential Committee for Jerusalem, the Jerusalem Department of the PLO, and, above all, the Executive Committee of the PLO.

Therefore, the role of the municipality should be primarily in the domain of services and development. If this role turned out to become political, this is due to the occupation that politicizes development and services. This should not lead us to demand the municipality to play the role of political leadership; this is the role of others and not the role of the municipality.

This leads to an understanding that the municipality should play an active role on the ground and not be a municipality with a moral authority only. In this context, this policy report recommends adopting that the following tasks for the municipality be added and modified:

1. Receiving the developmental needs of the Jerusalemite groups, communities, and sectors, and work to meet them.
2. Representing Jerusalem in the federations of the Arab and international capitals and cities, and lobby these federations to provide funding for the development needs of Jerusalem, in addition to the funding received by the municipality from the budget of the State of Palestine, as well as from its own income.
3. Follow up the needs of Jerusalem with the various Palestinian ministries in coordination with the Ministry of Jerusalem Affairs.
4. Provide some services to Jerusalemites in the form of assistance in providing support for the construction of housing in Jerusalem, even without Israeli permits, to impose Palestinian facts on the ground under the slogan (“We build more than their ability to demolish”).
5. Establishment of community service centers facing and confronting the public centers of the municipality of the occupation.

In order to facilitate its work, the municipality can establish bodies and frameworks such as the municipal court. It can also collect some fees for the follow-up and granting of building permits without Israeli approval and fees to assist associations and companies to register in the PA. The registration for all these institutions shall be through the municipality by a decision of the president.

These tasks include programs implemented by the municipality for youth and women, tourism programs, health, education, and other sectors, and programs for all Jerusalem communities. The municipality shall prepare periodic development plans and follow up the implementation process.

Finally, the powers of the municipality require redefining the powers of the Ministry

of Jerusalem Affairs to relate to the coordination of the work of the Palestinian ministries in Jerusalem, and coordinate the issues of the municipality with the ministries. The ministry's website states that: "It helps those affected by the policies of the occupation, construction violations, total and partial demolition of the buildings, providing support for the engineering clinic, legal clinic, humanitarian assistance, and strengthening the steadfastness of the merchants in the Old City."<sup>14</sup> These are all tasks that should be referred to the municipality. With referral of all these services, the ministry can be transformed into a higher planning and coordinating body that will plan and follow up the work of the Palestinian ministries in Jerusalem, on the one hand, and facilitate the meeting of the municipality's needs from the ministries on the other hand.

### ***3. Sources of Power and Authority for the Municipality***

Discussions on this subject involved old and updated debates. The old debate is the one based on the separation between the PA and the PLO. This debate has been subject to new developments: after the United Nations recognized Palestine as a state in 2012, and the PA is no longer an authority, but has become a state government, albeit a state under occupation. In this context, the updated debate suggested that the discussion is no longer the PLO versus an authority, but rather a state that should seek to extract its freedom and its liberation on the ground and to extend its control over all areas of its sovereignty, including East Jerusalem.

As for specific issues, questions of a concrete nature have emerged in the form of which body should follow up the work of the municipality? What is the nature of the relations with the bodies of the State of Palestine, especially the Ministries of Local Government, Jerusalem Affairs and the governorate of Jerusalem?

Regarding the subsidiarity of the municipality, this policy report recommends keeping it as stated in the presidential decree of 2012, where the municipality is subject to the PLO Executive Committee, and to be followed by the National Popular Congress for Jerusalem that was established in 2006 by the late Othman Abu Gharbiyya, the former member of the Central Committee of Fatah, to follow up the popular work in Jerusalem jointly and in coordination with the Ministry of Local Government. The ministry can follow up on the Greater Jerusalem Municipality as mentioned above, and this will involve the arrangement to extend the powers of the Ministry of Local Government of the State of Palestine to Jerusalem, despite the occupation.

The relationship can be coordinated so that the members of the Municipal Council are members of the National Popular Congress, through which they are connected to the PLO, while the municipality is pursuing its services and developmental tasks from the point of view of the Ministry of Local Government. This is a kind of follow-up that the National Popular Congress cannot provide because it lacks the expertise in planning, construction, development, and services. Moreover, some of the local councils that will follow up the municipality in the governorate have been under the supervision of the Ministry of Local Government since the establishment of the PA.

In short, and in light of the new reality, the municipality is following the State

of Palestine through the PLO, and helping the ministries of this state to extend their sovereignty over Jerusalem.

#### ***4. Participation of the Council Members***

This policy report recommends dealing with the membership of the Greater Jerusalem municipality in the same manner as dealing with the local councils in the northern and southern governorates, by leaving the door open to nominate or choose the competent participants. If factions want to participate, it is through competent people within the factions and not through suggesting political figures that lack professional competence. Besides that, it is appropriate that political figures with high positions in the PLO and the State of Palestine retreat from participating in the membership of the municipality council.

#### ***5. Managing the Conflict with the Occupation***

This policy report also suggests that the municipality should not be given the task of confronting the occupation. This is a task for the PLO and for the political factions in the national level. The municipality should handle the developmental and services responsibilities. The occupation will undoubtedly seek to obstruct the work of the municipality by multiple means, although the municipality is not assigned the role of political leadership. The occupation will try to confront and prohibit its activities. The members must be ready and can take some actions that will prevent the occupation from disrupting their work, such as working silently and without promotion and media, avoiding declarations about the implementation of their projects, and utilizing the assistance of Jerusalem social groups, local communities and sectors in the implementation of programs and projects as an alternative to direct implementation by the municipality.

#### ***6. Coordinating with Jordan***

This policy report recommends keeping the door open for Jordan to support the municipality in all relevant Arab and international forums, as well as assisting the General Secretary of the Jerusalem Municipality Zaki al-Ghoul to obtain financial support for the projects of Jerusalem from these forums. It is appropriate to formulate a joint-action method between Jordan and Palestine in this regard.

On the other hand, this policy report recommends asking Jordan to remove the items that are still cited in the Jordanian Municipalities Law for the year 2015<sup>15</sup> regarding the Jerusalem Municipality, since it became the municipality belonging to the State of Palestine as recognized by the United Nations since 2012.

## **Conclusion**

This policy report recommends that the Executive Committee of the PLO takes decisions on the issues discussed above towards their integration within the framework of the 2004 Municipality Capital Law. This should be followed by issuing the law in preparation for



the selection of the municipality of Jerusalem according to the formula proposed above.

The intensive work reviewed in this report was crowned by a resolution of the Palestinian Central Council of the PLO in its last session held in 15 January 2018,<sup>16</sup> followed by a resolution of the Palestinian National Council that was held from 30 April to 3 May 2018 in Ramallah. The resolution of both called for “the re-composition of the Palestinian Jerusalem Municipality in accordance with the best democratic and representative ways possible.” After U.S. president Trump’s decision regarding Jerusalem, this year might be the time for the implementation of the Central Council resolution with the objective of creating Palestinian facts in the ground on behalf of the Jerusalem Municipality.

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#### Endnotes

- 1 Usama Halabi, *Baladiyat al-Quds al-'Arabiya* [Arab Jerusalem Municipality], (Jerusalem: PASSIA, 2000), 7.
- 2 Halabi, *Baladiyat al-Quds*, 19.
- 3 Halabi, *Baladiyat al-Quds*, 9–10.
- 4 Halabi, *Baladiyat al-Quds*, 12–14.
- 5 Halabi, *Baladiyat al-Quds*, 24–30.
- 6 Halabi, *Baladiyat al-Quds*, 39–40.
- 7 Halabi, *Baladiyat al-Quds*, 51.
- 8 Walid Salem, “Jerusalem and the local elections,” *al-Ayyam*, 15 August 2016; Walid Salem, “On the need for a new decree for Amanat Al Quds,” *al-Ayyam*, 5 September 2016; and Walid Salem, “Interview with *al-Quds* Salon about Amanat al-Quds,” *al-Quds*, 5 September 2016.
- 9 Website of the Palestinian Legislative Council, online at [www.pal-plc.org](http://www.pal-plc.org) (accessed 5 July 2018).
- 10 Website of the Palestinian Legislative Council, online at [www.pal-plc.org](http://www.pal-plc.org) (accessed 5 July 2018).
- 11 Established in 2006 as a result of a congress held in Ramallah with the participation of hundreds of Jerusalemites. This body followed the PLO Executive Committee.
- 12 The PLO Planning Center, “Minutes of Workshops about Amanat al-Quds Elections,” 2016.
- 13 *Al-Quds*, 7 September 2016, 3.
- 14 Ministry of Jerusalem Affairs, online at [www.jerusalemgov.ps](http://www.jerusalemgov.ps) (accessed 5 July 2018); and [www.palestinecabinet.gov.ps](http://www.palestinecabinet.gov.ps) (accessed 5 July 2018).
- 15 See the Jordanian local elections law (2015), online at [www.mma.gov.jo](http://www.mma.gov.jo) (accessed 5 July 2018).
- 16 For the text of the Palestinian Central Council resolution 15 January 2018, see online at [www.paltoday.ps](http://www.paltoday.ps) (accessed 5 July 2018).