

Status of Jerusalem and Palestine

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Abstract

It is difficult to imagine a rule-based order for the coexistence of the people of Israel and Palestine, when the law of the strongest seems to rule in reality. However, peace can only be accomplished and remain sustainable if solutions are just and balanced. This text attempts to show a feasible way for such sustainable peace.

A solution for the future status of Jerusalem and of the State of Palestine is proposed. It fulfils the reasonable claims and aspirations of the Israelis and Palestinians. The proposal gives the Palestinians far-reaching equal rights, comprises full Israeli security control, and leaves Jerusalem undivided. In contrast, the division of cities into different zones of influence has never brought peace and has only ever led to new conflicts.

The proposal features instead the division of state sovereignty into administrative sovereignty, security sovereignty, and representation of sovereignty.

Administrative sovereignty exists for the State of Israel and shall be granted to the newly established State of Palestine, but administration of Jerusalem shall be excluded for both states. The State of Israel maintains full security sovereignty west of the Jordan river. Israel shall therefore protect itself and also the State of Palestine. In Jerusalem, representation of their sovereignty shall be granted to both states. This allows for calling the undivided city of Jerusalem the capital of Israel and the capital of Palestine.

¹ This text was published online in September 2010 and has been revised several times since then. The latest version is available at www.uideas.org/jerusalem.

The people of Jerusalem shall obtain administrative sovereignty over their undivided city. An independent city parliament shall be set up with two chambers: The first chamber reflecting the principle of majority rule for the citizens of Jerusalem, with the second chamber reflecting equal representation of the two states hosted in Jerusalem. One seat in the second chamber of Jerusalem's city parliament shall be given to a representative nominated by the United Nations.

On the one hand, the concept of this proposal could elegantly resolve one of the core problems – the status of Jerusalem – without having to divide the city. On the other hand, the proposal turns stereotypes of possessiveness on their head, and refrains from any blame game. Instead, it prioritizes a solution inspired by democratic possibilities, taking equal sides with both Israelis and Palestinians. All of this is rather rare in this decades-long conflict.

Introduction

Political and economic stability can only arise if the most important issues for the cohesion of societies are resolved amicably and constructively. If this succeeds in the political center, then the field of alleged problem solving will no longer be left to extreme political forces.

The proposal described below therefore aims to counter the conflicting ideas on both sides, each of which often being accompanied by the force of arms, with a balanced, democratic, and peaceful solution, the result of which should be much more sustainable and viable than any enforcement through violence or humiliation.

Such a solution must do justice to essential aspects:

1. The State of Israel wants to remain primarily Israeli / Jewish in character. A one-state solution (Hamdan, 2011) that includes the Palestinians appears therefore not feasible.
2. Against this background, peace between Palestinians and Israelis appears only conceivable if the Palestinians can live in equality, dignity, self-determination, and security in a viable state of their own.
3. Some Palestinians, some other extremist organizations, and the leadership of Iran are threatening the State of Israel with complete extinction. As long as such threats persist,

any solution between Israelis and Palestinians must take full account of Israel's profound security interests.²

4. On the one hand, Jerusalem will remain the capital of the State of Israel and must also become the capital of the State of Palestine, on the other hand, Jerusalem must not be divided under any circumstances. The division of cities into different zones of influence has never brought peace and has only ever led to new conflicts.³

The peaceful solution proposal set out below does full justice to these essential aspects. By demanding and accepting this proposed solution, both sides could strengthen their own position and weaken the position of their radical opponents politically as well as morally and psychologically: For the Israeli side, constructive solutions for the status of Jerusalem and the Palestinians' right to self-determination could weaken their extreme political opponents more than military means. The Palestinian side could find support for democratic solutions to the status of Jerusalem and the State of Palestine among most of those who stand firmly by Israel's side and thus make its justified demands for political and economic equality much more effective than by confrontational means.

The following proposed solution can therefore strengthen the political centers on both sides and weaken the respective extreme political forces. The aim is to bring about a largely peaceful coexistence of Israelis and Palestinians within a stable long-term framework.

Aspects of sovereignty

State sovereignty consists of multiple aspects and can therefore be divided into administrative sovereignty, security sovereignty, and representation of sovereignty.

² Israel also threatens Hamas with complete extinction, which in return results in comparable security interests by Hamas. The main differences, however, are that (1) Hamas seeks the destruction of the entire Israeli people and manifested this with its massacre on 7 October 2023, while the Israeli side initially claimed targeting a clearly defined terrorist organization, that (2) the Israeli side at least officially recognized, for example, the religious freedoms of the Palestinian side, while Hamas does not, see Section "Claims for capital", and that (3) the Israeli government must face free elections in order to maintain its power, while this is not the case for Hamas. The Israeli attempt to extinct Hamas by force, however, seems to have the exact opposite effect: "Hamas now has even more support than before the war" (Barghouti, 2024). The collective punishment of an entire society for the misdeeds of its terrorist leadership does not defeat terrorism. Instead, it lays the foundation for even greater terrorism. Only when state power is exercised justly and without arbitrary power can it defeat terrorism.

³ Examples of conflict-ridden divided cities: Berlin (1945-1990), Nicosia (since 1974), Belfast (1960s-1998), Mostar (since 1990s), Kirkuk (since 1950s).

Administrative sovereignty contains elements such as public administration, economic and social policy, law, police, and jurisdiction. Two authorities cannot share equal administrative sovereignty over one and the same regional sphere of influence.

Security sovereignty contains elements such as defense of territory, secret services, as well as internal and external security. One authority can protect two entities if fair and just accountability of the security sovereignty is granted, such as accountability under international law.

Representation of sovereignty contains elements such as seat of the president, parliament, government, and supreme court as well as flying of the national flag. Two authorities can coexist within the same undivided regional sphere in the representation of their sovereignty.

Establishment of the Palestinian state

Administrative sovereignty remains for the State of Israel and shall be granted to the newly established State of Palestine. The administrative sovereignty shall cover, among others, those elements outlined in Section “Aspects of sovereignty” above. Administration of Jerusalem shall be excluded for both states. Numerous issues need to be resolved through negotiations, where guiding ideas could be as follows:

1. The State of Palestine needs a defensible democratic constitution, which could be drawn up in a constitutional process with international assistance.
2. The State of Palestine should be large enough to be viable and should have two fully contiguous state territories: West Bank and Gaza.
3. Those Israelis living in the State of Palestine and Palestinians living in the State of Israel, they shall be subject to the administrative sovereignty applicable in their respective regions.⁴
4. Democracy should become a main subject in media, schools, and universities.

⁴ For example, Israelis in the West Bank should pay taxes to the State of Palestine and legally - even retroactively - purchase properties on the local real estate market. In the absence of legal acquisition, such properties should either be rented from the rightful owner or abandoned.

Security sovereignty for Israel

Security sovereignty shall be granted to the State of Israel for its own territory, for the territory of the State of Palestine, and for the city of Jerusalem. The security sovereignty shall cover, among others, those elements outlined in Section “Aspects of sovereignty” above.

The State of Israel shall therefore grant security to both states and people. Its own profound interest in doing so without arbitrariness in the pursuit of security and justice should be based on the insight that the long-term existence of the State of Israel is realistically only conceivable if both peoples, Israelis and Palestinians, can live side-by-side in peace and security.

The execution of security sovereignty must be subject to accountability. Based on international law, the international court of justice in The Hague could be a suitable institution for this.

Claims for capital

The Basic Law (1980) entitled “Jerusalem, Capital of Israel” describes the official Israeli position concerning the status of Jerusalem:

1. Jerusalem, complete and united, is the capital of Israel.
2. Jerusalem is the seat of the President of the State, the Knesset, the Government and the Supreme Court.
3. The Holy Places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings towards those places.

The State of Palestine Declaration of Independence (1988) contains the corresponding Palestinian position: “The Palestine National Council, in the name of God, and in the name of the Palestinian Arab people, hereby proclaims the establishment of the State of Palestine on our Palestinian territory with its capital Jerusalem (Al-Quds Ash-Sharif).”

The Hamas Charter (2017) describes a Palestinian position, which excludes the Israeli side: “Jerusalem is the capital of Palestine. (...) Its Islamic and Christian holy places belong exclusively to the Palestinian people and to the Arab and Islamic Ummah. (...) The measures undertaken by the occupiers in Jerusalem, such as Judaisation, settlement building, and establishing facts on the ground are fundamentally null and void.”

Proposal for the Status of Jerusalem

A proposal for the status of Jerusalem is described below (Hueck, 2000). The proposal draws on the idea of balancing power and uniting the people in such a way that the reasonable claims and aspirations of the different parties are fulfilled to the greatest extent, including freedom of access to the sacred places of the different religions.

Jerusalem city parliament

To date, Jerusalem is governed by a Municipal Council that is composed of 31 members who are elected every four years. The council is headed by the mayor, who since 1975 has been elected by direct popular vote (Dumper, Britannica). The Palestinian minority has, so far, hardly any balanced influence in Jerusalem’s Municipal Council.

It is therefore proposed to transfer the administrative sovereignty over Jerusalem to the people of Jerusalem in such a way that the Palestinian minority gains reasonable balanced influence. The people of Jerusalem shall therefore elect an independent city parliament with two chambers as depicted in Figure 1. That city parliament shall maintain the administrative sovereignty over Jerusalem with those elements outlined in Section “Aspects of sovereignty” above, among others.

The members of the first chamber of the city parliament shall be appointed through majority rule. These representatives may elect the mayor of Jerusalem or direct popular vote shall remain. Furthermore, the representatives confer and vote on laws and regulations concerning the city of Jerusalem.

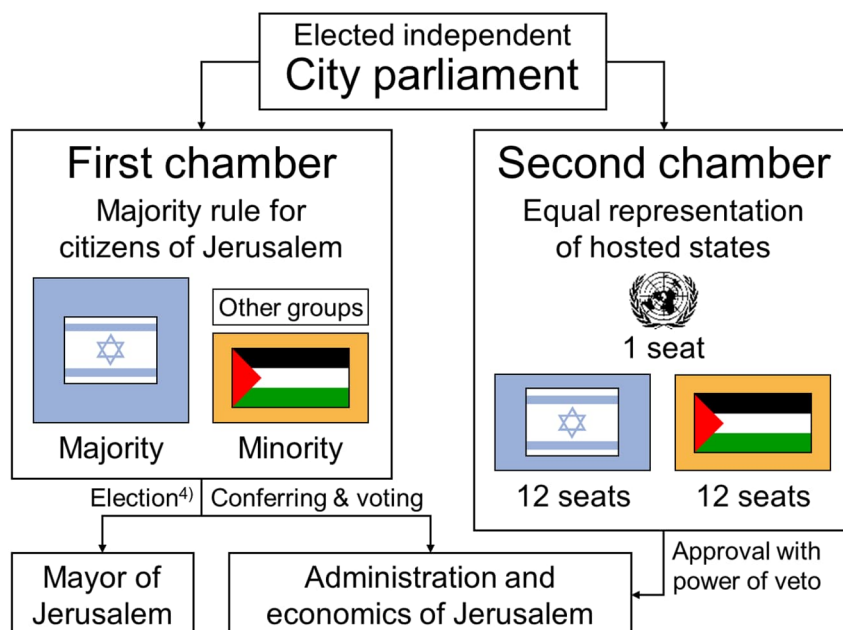


Figure 1. Jerusalem city parliament (Hueck, 2004)

The second chamber shall reflect equal representation of the two states hosted in Jerusalem. So, the Jewish state and Palestinian state shall both appoint an equal number of seats to residents of Jerusalem. A representative of the United Nations shall take an additional seat in the second chamber of the city parliament to avoid stalemate situations with a balanced voice. The second chamber shall approve laws and regulations for the city of Jerusalem, and it shall have the power of veto concerning the acts of the first chamber.

Representation of sovereignty in Jerusalem

Two authorities can coexist in the same city for the representation of their state's sovereignties. Through this, Jerusalem shall become the undivided capital of both, Israelis and Palestinians.

The representation of sovereignty shall cover, among others, those elements outlined in Section "Aspects of sovereignty" above.

⁵ Direct popular vote of the Mayor of Jerusalem may remain.

The locations of the Israeli state institutions are already clear. Suitable representative locations in Jerusalem should be determined for the Palestinian state institutions. Flying of both national flags could, in the best case, even take place side-by-side in Jerusalem.

Conclusion and prospect

The described proposal for the status of Jerusalem and the newly established State of Palestine is democratic, peaceful, reasonably simple, appears theoretically sound, and might be implementable in practice. Israelis and Palestinians could benefit from the support that the proposal will find in the entire democratic world and possibly beyond. The concept also has the potential for global recognition of Jerusalem as the undivided capital of both states.

Nevertheless, in the current situation, rejection of the proposal by relevant acting local stakeholders is more than likely. The proposal may therefore primarily serve as a blueprint for civil society on both sides, stakeholders not yet in power, future leaders, and influential outside parties.

The practical implementation of the proposal would require that the negotiating parties show interest in considering the idea, further illustrative presentation and publication, political support from inside and outside of Israel and Palestine, as well as emphatic discussion and fair negotiations, whereas details of the proposal could be carefully adapted where appropriate.

The proposal “Status of Jerusalem and Palestine” might potentially lead to a profound and lasting agreement on the status of an undivided Jerusalem and the establishment of the State of Palestine alongside to the State of Israel. It may therefore have the potential to contribute to the safety and security of the Israeli people, the Palestinian people, and beyond.

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