

## Regional Master Plan 30/1 –Jerusalem Regional Master Plan

Researcher's Opinion – Part A, The Overall Region And Planning Areas of Jerusalem, Beit Shemesh and Harel  
May 2011

### 15 – Tfakaji Halil and 72 Others

Represented by:	Adalah: The Legal Center for Arab Minority Rights in Israel	Jerusalem		
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#### **1. The purpose of the plan is political - to ensure control of the area and a Jewish majority in Jerusalem.**

**Recommendation:** To reject the objection.

**Explanation:** Even if it becomes apparent that there are grounds to the claim that the goal of the plan is political, this is not its purpose.

[...]

The architects of this plan assumed that Jerusalem "is on the negotiating table in the talks between the Palestinians and the Israelis on a permanent arrangement" and, therefore, "the planning of the city and the region necessitates flexibility in view of the possibility of future geo-political arrangements". Consequently, "the planning team must also be open to the needs of the Palestinian population, in order to prepare for various geopolitical possibilities that will be agreed upon by the negotiators of a permanent agreement."<sup>93</sup>

Jerusalem is situated on a continuous, built up Palestinian line of development, which begins in Bir Zeit in the north and ends in Bethlehem in the south. A part of this area is located in the region of Jerusalem and the other constitutes the core of the Palestinian Territory. The Arab population in Jerusalem resides, for the most part, in neighborhoods that are suburbs of Jerusalem and are included in its area of jurisdiction. These neighborhoods are undergoing accelerated processes of urbanization and are expanding primarily due to a natural increase of population.

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<sup>93</sup> Edna and Raphael Lerman – Architects and city planners, Moti Caplan – master and regional planning, Israel Kimchi – the Jerusalem Center for Research of Israel and Ari Cohen – architects, **The Regional Master Plan for the Region of Jerusalem, Summary of Stage A':the Background of the Planning, Analysis of existing Situation, Forecast and Scenario**, submitted to the steering committee, the State of Israel, the Ministry of the Interior, the planning director, 23.2.00, page 80.

The planners were aware of the restrictions imposed on the institutional and administrative development in the eastern part of the city, but related to the eastern part of the city as the center of the wider Palestinian periphery and of the labor and commercial relations that exist between the city and the Palestinian Authority, and to the consequential commuting issues.

The area of Jerusalem, in the view of the architects of the plan, is a duality comprised of the north-south artery of development where the Arab population resides, and the east-west line of development characterized by a Jewish population. Secondary areas which have different political and municipal identities and which maintain various degrees of ties were created within this fabric. Staunch ties exist primarily in relation to the road network, the water, electricity and sewage infrastructures, garbage collection, sanitation and environment. In regard to other matters, there are distinct areas in which Palestinian and Israeli activities are carried out separately both from the aspect of areas of residence and from the perspective of services.

The following table on the population of Jerusalem, and the distribution of Jews and Arabs within the total population, reveals that the ratio between the Jewish population and the Arab population has changed over the years. In 1972, the Jewish population of Jerusalem comprised approximately 73.5% of the city's population. Since then, the proportion of the Jewish population decreased and, in 2008, it stood at 63.4%.

Table: **The population of Jerusalem in thousands, and its distribution between Jews and Arabs**<sup>94</sup>

Year	Total Population	Jewish population	Arab population	% of Jews	% of Arabs
1972	313.90	230.30	83.60	73.37	26.63
1983	428.70	306.30	122.40	71.45	28.55
1995	602.70	417.10	185.60	69.21	30.79
2007	747.60	476.10	271.50	63.68	36.32
2008	763.60	484.00	279.60	63.38	36.62

The population forecast that was made in this plan<sup>95</sup> examined various projections of the future population of Jerusalem that were constructed on the basis of different assumptions. Among them, it examined the assumptions made by Della Pergola's

<sup>94</sup>The Central Bureau of Statistics, Statistical Abstract of Israel 2009, no. 60, table 2.15

<sup>95</sup> Edna and Raphael Lerman – Architects and City Planners; Moti Caplan – Master and Regional Planning; Israel Kimchi – The Jerusalem Center for Research of Israel and Ari Cohen – Architects, **The Regional Master Plan for the Region of Jerusalem, Report no. 2**, submitted to the Steering Committee, the State of Israel, the Ministry of the Interior, the planning director, 22.12.99, pps 27-41.

projection. The conclusion of the various analyses was that the rate of the Jewish population in the city will decrease from approximately 70% in the base year 1995 to approximately 62-64.4% in the year 2020, in accordance with the realization of migration trends and the natural growth of the two populations. These conclusions prevail despite the fact that the plan's documents set a goal of preserving the base year's population ratio of 70/30. All alternative projections agreed that the Palestinian population would grow from approximately 185,000 in 1995 to approximately 358-381,000 Arab residents in 2020.

The analysis of the alternatives presented in stage B of the report<sup>96</sup> examined the implications of the planning options on the Arab population. The "Greater Jerusalem" and "Centralized Municipality" plans (that were finally chosen as a combined alternative) both predicted that the area of Jerusalem would constitute a strong lure for the Palestinian Arab population and that, therefore, "coordination and cooperation will be necessary in all that regards transportation systems, infrastructures and environment. An accelerated and unsupervised growth such as that which is taking place at this time will cause many problems for the region."<sup>97</sup> The conclusion of the editors of the plan was as follows:

[...]

The conclusion arising from the above is that, despite the fact that the plan's primary goal is that of maintaining the population ratio of 70/30, the plan was prepared professionally and was largely based on population projections and their consequences.

**2. The transportation system for strengthening the settlements in the region of the West Bank: Regional Master Plan 30/1 will carve up the Palestinian neighborhoods in Jerusalem, and sever them from one another.**

**3. The plan will violate the rights of the residents, and designate large tracts of land for roads and railways, and for massive land expropriation.**

[...]

**b. Transportation serving the Jewish population will divide Palestinian neighborhoods and prevent future development. The transportation system in the Occupied Territories is intended to serve the Jewish population exclusively, and**

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<sup>96</sup>Edna and Raphael Lerman – Architects and city planners, Moti Caplan – master and regional planning, Israel Kimchi – the Jerusalem Center for Research of Israel and Ari Cohen – architects, **The Regional Master Plan for the Region of Jerusalem, Summary of Stage B': Planning Alternatives – their Nature, Significance and Evaluation**, submitted to the steering committee, the State of Israel, the Ministry of the Interior, the planning director, 31.5.00, pp. 80-85.

<sup>97</sup>Ibid, p. 81

**carves up Palestinian neighborhoods. The system is intended to facilitate the development of the region for the needs of the settlements because it connects the E1 area with Gush Etzion block, Ma'aleh Adumim and Givat Ze'ev, as well as linking these settlements with the city center:**

[...]

In light of the above data and projections, it was determined in the plan to abandon the radial concept which would have led traffic entering the city from different directions into the heart of various neighborhoods, and to instead open the ring roads, including the eastern ring road, thus enabling entry into the city at junctions with radial routes that will lead to a decrease of traffic volume in the city. According to this concept, the eastern ring road will serve as the north-south artery and run along almost the entire length of the eastern border of Jerusalem, therefore bypassing the old city on the route between Hebron and Ramallah.

**The objective of the system is to facilitate the development of the area settlement needs as it connects the E1 area with the Gush Etzion block, Ma'aleh Adumim and Givat Ze'ev, and links these settlements with the center of the city. The eastern ring road benefits the Israeli population and places hardships on the Palestinian population:**

The system of roads is a comprehensive system and relates to all development within a peace scenario when there will be free movement of people and goods. As clarified above, the road system was developed for the purpose of decreasing the volume of traffic in the center of the city and designated ring roads, north-south, east-west, that will prevent congestion in the city itself. The prevention of the congestion serves both the Jewish and the Arab population.

[...]

**8. Section 8.1.3 (1) determines that no plan will be approved if it does not condition the granting of building permits on the existence of plans for a sewage system. There are no sewage systems in Palestinian neighborhoods.**

**Recommendation:** To partially accept the objection. The directives will be worded in a way that will make it possible to mitigate the demand for sewage system plans as a condition for permits and to determine implementation in stages.

[...]

The planning and statutory actions advancing a wastewater treatment plant for the Og and Kidron streams began in 1995. Due to the failure to meet timetables, the Ministry for the Protection of the Environment opened an investigation against the mayor of Jerusalem. As a result, a team was formed and a site for the establishment

of the wastewater treatment plant was located in Nebi Musa, for which a detailed plan has already been prepared. This treatment plant is now in the process of planning by the MAVTI (The Jerusalem Company for Sewage and Treatment Plants, Ltd), but its construction, which will take place in stages, will take a long time.

[...]

#### **12. There are additional restrictions relating to security areas.**

**Recommendation:** To reject the objection

**Explanation:** In view of the security situation, there is no avoiding the existence of security areas and the consequent restrictions.

[...]

#### **14. Harming natural resources and agriculture**

**a. The transportation infrastructure harms natural resources, agricultural land and livelihood.**

**b. The existence of two drilling sites in East Jerusalem essentially signifies the transfer of the water to citizens of Israel.**

[...]

Although the plan harms natural resources and agriculture, it is undertaken for the sake of the development needs of the population which has vastly grown from the 1970's until today, and for which land is needed for housing, work, institutions, social welfare and infrastructure systems.

[...]

In relation to the drilling, the water is supplied equally to all of the sectors of the population in an equal manner.

[...]

#### **24. The plan violates international law as it concerns occupied territory.**

**a. The population is protected by the Fourth Geneva Convention.**

**b. The International Court of Justice (ICJ) determined that the status of annexed East Jerusalem is equal to that of other territories.**

**c. The occupying power is obliged to act for the benefit of the residents and to protect their quality of life.**

**d. The provisions of international law prohibit the state from altering the character and nature of the properties in occupied territories unless this is undertaken for reasons of military exigency or to benefit the local population. The approval of the plan constitutes a blatant violation of Article 55 of the Hague Regulations.**

**e. The plan exploits the water resources of the local residents and transfers them to the Jewish population.**

**Recommendation:** To reject the objection

**Explanation:** The question of the status of Jerusalem is a political question and not a planning issue. Israeli law, jurisdiction and administration were imposed on East Jerusalem on 28.6.67, in a political act by the Israeli government. According to the law applicable in Israel, the laws of the Knesset have precedence over the directives of international law and, therefore, because the status of Jerusalem was determined by a Law and Administration Ordinance, and its borders were set according to section 8a of the Municipalities Ordinance, and later by the Basic Law: Jerusalem, East Jerusalem must be seen as part of the State of Israel, until otherwise decided. In High Court of Justice case 5488/04, the Honorable Justice Barak stated: "The imposition of the law, jurisdiction and administration of the State of Israel on Jerusalem was determined in a Basic Law, in primary legislation, and by the order and proclamation that were delivered in its wake. Jerusalem, within its set borders, is, therefore a part of the State of Israel."

Until otherwise determined, the current legal situation will apply, and the abovementioned law will apply to the area.

If the status of the region is that of an area under military occupation, the military commander is obliged to protect the welfare of the local residents, and in a modern city, one of the ways of protecting the welfare of the citizens is through rational, physical planning.