“Two-State Plus”: The Binationalism Debate and the Future of Jerusalem

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THE SERIES


Editorial note

This working paper relates to Research Module J1: ‘The impact of the Israeli separation barrier and related infrastructures’. It investigates amongst other things the impact of ‘the wall’ on the use of land and public space, the significance of mobility or its absence, changes in interactions and segregation between Israelis and Palestinians, and alterations in policy. The paper more narrowly is an attempt to link physical changes on the ground to the policy and intellectual debates taking place over the future of the city. The paper is based upon a presentation to the Conflict in Cities workshop in Belfast in September 2008.
Biographical note

Mick Dumper is co-Investigator in the Conflict in Cities project. He is author of The Politics of Jerusalem since 1967 (Columbia, 1997) and The Politics of Sacred Space: The Old City of Jerusalem and the Middle East Conflict (Lynne Rienner, 2002) and a number of publications of the Palestinian refugee issue, notably The Future of the Palestinian Refugees: Towards Equity and Peace (Lynne Rienner, 2007). With Bruce Stanley, he is also joint editor of Cities of the Middle East and North Africa: an Historical Encyclopaedia (Oxford: ABC-Clio, 2006). He is currently researching on the impact of the separation Wall and on the role of religious sites in Jerusalem on the political negotiations between Israelis and Palestinians. Mick.Dumper@exeter.ac.uk
“Two-State Plus”:
The Binationalism Debate and the future of Jerusalem*

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Abstract
This paper argues that there is a false dichotomy at the heart of the debate concerning the binational and two-state models in the Palestinian-Israeli conflict. It contends, on the one hand, that the binational model comprises many forms some of which are more confederal in structure, and on the other hand, for the two state model to function it requires a high degree of interstate coordination which brings it close to some forms of confederalism. The paper examines the discussions around the future of Jerusalem to explore this argument and highlights the degree of inter-state coordination that is required if any of the plans being put forward are to work.

Keywords: nationalism, Jerusalem, peace-building, futures

Israel and Palestine are small places. Combined they cover an area slightly larger than Wales and comprise a population of approximately nine million inhabitants. You can drive from the north to the south during the course of a day and from east to west in 90 minutes (checkpoints permitting). Jerusalem is a comparatively small city in global terms.1 Its combined population of Israelis and Palestinians is slightly less than 1 million. However, as this constitutes approximately 10% of the population of the two states future governance arrangements will have a significant impact both on its hinterland which encompasses a large proportion of the area in question, and also on the political arrangements between the two polities – the states of Israel and Palestine – in any future peace agreement. The fact that the city is located on the interface (and possible final borders) between the two states and is the main point of entrance and egress between them underscores the impact of the city on state to state relations.

Correspondingly, the coordinating arrangements established between the two states will also have an impact upon the governance of the city.

1 For approximate comparative purposes in 2000 Cairo had over 10.7 million inhabitants, Istanbul 9.5 million, Tehran 7.4m, Damascus 2.3m, Tel Aviv 2.1m and Aleppo 2.1m. (The Times Concise Atlas of the World, (Times Books, 2000) p.35.
Size and location clearly matter but to leave size and location as key determinants of the city’s future in a Palestinian-Israeli agreement is to do justice neither to the city nor the complexity of its role in the conflict. The dynamics of size and location needs unpacking and linking to the debates over the future of the city and of Palestinian-Israeli relations. This article, therefore, examines what bearing the different models of the future governance of the city will have upon the inter-state relations following an agreement and vice versa. It will argue that the aspiration, on the one hand, to have an open and fully-integrated city will require inter-municipal and inter-state coordination of such a degree that, given the political significance of the city, its size and demographic composition, there will be a critical spillover impact upon the nature and intensity of relations between the governments and administrations of Palestine and Israel (1). Conversely, the aspiration to achieve a full separation between the two states will lead to the partition of the city in ways which reflect the Israeli domination of the balance of power. In turn this will lead to the incorporation of some pre-1967 Palestinian areas and inhabitants into Israel with the strong likelihood of greater instability in the future.

The discussion on the future governance for the mixed and divided city of Jerusalem has an important contribution to make to the debate over the binational and the two-state models as options in the Palestinian-Israeli conflict. The argument of this paper is that if there is to be an agreement over Jerusalem which allows it to exist as a functioning and partially or fully integrated city, it will comprise elements which will drive the political architecture of the whole agreement between Israel and Palestine. The end result will be a highly coordinated inter-state framework. The article also argues a further point: that there is a false dichotomy at the heart of the debate concerning the binational and two-state models in the Palestinian-Israeli conflict. It contends, on the one hand, that the binational model comprises many forms some of which are more confederal in structure, and on the other hand, for the two state model to function it requires a high degree of interstate coordination which brings it close to some forms of confederalism. If the agreement is based upon a two-state model and if that model is to work and to be stable, it will require coordinating mechanisms of such a nature that in practice we will be looking at a more sophisticated and integrated model that goes beyond the two-state model, a sort of “two-state plus”. Indeed the two-state plus model resulting from these frameworks to integrate Jerusalem, it is argued, will be close to either a confederal or more unitary polity.
In more general terms this specific debate on Jerusalem and its role in a binational state has relevance to other divided cities particularly those located inside contested states. This sub-category of divided cities, which as well as Jerusalem, include several cities in Europe and the Middle East, such as Belfast, Mostar, Nicosia, Kirkuk and to some extent Brussels and Beirut. These are cities which are divided as a result of ethno-national conflict and, in particular, those cities that are in conflict due to the contestation over the legitimacy of the state in which they are located. Conflict in Bradford, for example, would not be included in this category since the legitimacy of the state is not contested in that part of the UK. But Belfast is since the legitimacy of the British state in Northern Ireland has been contested by Irish republicans. In this sub-category of divided cities, conflict at the national level has a “downward” impact on cities but also ethnic-based conflict in cities has an “upward” impact upon politics at the state level. Jerusalem offers some useful empirical data for the analysis of such cities and the prerequisites of either managing or resolving such divisions.

The paper comprises two main fields of enquiry and is divided into 4 sections. The first field of enquiry is the binational idea and section one and two of the paper explore the significance of this debate, tracing its evolution and identifying some of the key issues, protagonists and trends in the debate over its feasibility. The second field of enquiry are the various proposals put forward on Jerusalem during the course of the peace negotiations and section three will draw out the key issues relating to the question of inter-state coordination. The fourth section will discuss the impact of two fields of enquiry on each other and seek to demonstrate how the future governance of Jerusalem is a) closely tied to the overall inter-state political arrangements and indeed b) rather than those political arrangements driving the nature of governance in the city, the drive is the other way round: that the nature of the joint governance of Jerusalem will have a significant impact on the nature of the inter-state arrangements, which in turn will lead to

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2 The article is based on data collected for a five year British research project on divided cities. The full title of the project is: Conflict in Cities and the Contested State: Everyday Life and the possibilities for Transformation in Belfast, Jerusalem and Other Divided Cities funded by the Economic and Social Research Council (RES-060-25-0015). For further details of the research framework and programme of the Project, please see the website: www.conflictincities.org.

3 For further readings on the work of divided cities and their relationships to the national political context see the work of Bollens, Calame Varashney. Craig, please insert refs.
a reconsideration of the binationalist vision. A short concluding section looks at the implications of these findings on both the future of Jerusalem and of divided cities in general.

1) Evolution of the Debate around Binationalism

Discussion on the binational option as a solution to the Palestinian-Israeli conflict has become in recent years much more prolific. In addition to numerous newspaper articles there are now a number of academic journals, monographs and edited volumes available (2). The main reason for this proliferation has been the perception that the two state-solution as envisaged in the Oslo Accords and the Road Map promoted by the Quartet (US, Russia, UN and EU) has failed and there is a need to explore alternatives to it and to the maximalist positions outlined either by the Israeli right or the Palestinian Islamic movement (3). Nevertheless it is possible to trace at least three distinctive phases in the evolution of the debate – a Mandate era phase, a post-1948 phase and a post Oslo/post 1993 phase.

The bi-national idea as a model for Jews and Arabs in Palestine to co-exist as national groups emerged during the 1920s in the British mandate period. A small minority of Zionist settlers recognised that the prosecution of their venture would lead either to the dispossession and loss of rights of the Palestinian Arab inhabitants or violence and ethnic conflict in trying to achieve their goals. In 1925, the Covenant of Peace or Brit Shalom was established and its core political platform contained the proposal of a joint Jewish Palestinian Arab legislative council which would be the ultimate authority of a binational state in which the members of the two collectivities would enjoy equal rights. A critical part of their platform was that representation in the council would be based upon parity and not in proportion to population size. Brit Shalom remained a small and isolated grouping with little influence in the Zionist mainstream, particularly after the riots of 1929 in which over 80 Jews were killed by Palestinian mobs. Neither did Brit Shalom have much success in appealing across the ethnic divide to Palestinians. In the context of overwhelming Palestinian Arab demographic superiority, they regarded its insistence on parity and not proportionality with suspicion and little better than a Trojan horse for Jewish domination.
Brit Shalom faded in 1930’s (although it has recently been resuscitated (Templer, 2003) but was replaced in the late 1940s by a similar group called Union, or Ihud, and which continued through to the state formation era of the post-1948 period, surviving through to 1960s. Amongst Ihud’s co-founders were the philosopher Martin Buber and leading Jewish academic Judas Magnes who sought to marry the moral high ground of equal rights with pragmatic considerations (Hermann, 2005). Their view was that Palestinians would never accept the Zionist project unless their rights and the cultural future were preserved and that the binational model was the only way to avoid a violent confrontation. Nevertheless, Ihud continued Brit Shalom’s emphasis on parity and not proportionality and was not able to break out either of their small intellectual circle and have a major influence on policy. As with Brit Shalom, it was also unable to forge any alliances with members of the Palestinian community. Some prominent Palestinians such as Ahmad Khalidi, head of the government Arab School in Jerusalem and Musa Alami, Arab Secretary to the British High Commissioner in 1930s proposed variants of a canton model but these were deemed to restrictive by Jewish Zionists and did not gain much support amongst Palestinians. Indeed, resistance to the idea of bi-nationalism in the Palestinian community became increasingly violent and two minor scions of prominent families who supported the idea, Fawzi Darwish al-Hussayni and Sami Taha, were assassinated in 1946 and 1947 respectively (Hermann, 2005: 385).

Following the establishment of the state of Israel in 1948, the binational idea in Israeli circles remained confined firstly to Ihud and its sympathizers, and then after its own demise, discussed in radical and extreme left circles only. The Zionist consensus coalesced around the idea that the Palestinians were part of the Arab people and the dispossessed refugees would eventually be absorbed by the neighbouring Arab countries. The idea of a Palestinian state in any part of Palestine was not to be countenanced. This objective continued after 1967 and the Israeli occupation of Golan, West Bank, the Gaza Strip and Sinai. During this period, dissenting Israeli voices focussed on the need for an Israeli withdrawal from and Palestinian rights in the occupied territories. Indeed, mainstream Israeli policies moved in the opposite direction to binationalism: preventing the emergence of a Palestinian state and promoting what was known

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as the Jordanian option – the creation of Palestine in Jordan since the majority of the population there were Palestinian refugees.

In the Palestinian community, on the other hand, during the period prior to 1967, exiled Palestinian intellectuals and journalists began debating a “secular democratic state” comprising both ethnic communities irrespective of religious faith as a basis for a peaceful solution to the Arab-Israeli conflict. These ideas eventually evolved into the formal position of the PLO (Sayigh, 1997. Pappe, 2007: 38). However, one commonly accepted feature of the proposed entity was the granting of citizenship only to inhabitants of Palestine residing there before 1948 – thus refusing this status to all new Jewish immigrants who arrived subsequently. This clearly was not acceptable to the new Israeli leadership. Indeed, the contours of this binational entity were not developed in any greater detail by the PLO and it remained more of a slogan than a concrete political platform.

The defeat of the Arab armies by Israel in 1967 and again in 1973, together with the ineffectiveness, in military terms, of the guerrilla tactics of the PLO, demonstrated to Palestinians that the liberation of historic Palestine by armed action was an unachievable goal. (Hilal, 2007: 4) As a result, the PLO reluctantly adopted in 1974 the two-state model in which a Palestinian state based on West Bank and Gaza Strip and Israeli state based within the pre-1967 borders would exist side by side. The establishment of a full democratic state in historic Palestine was to be left to a later stage in the struggle for the liberation of Palestine (4). Despite the Israeli rejection of the PLO as a negotiating partner for a further two decades and despite Israel’s ongoing colonisation of the West Bank and Gaza Strip which eroded the prospect of a two-state model working, a new chapter in Palestinian-Israeli relations began when the PLO and Israel signed a Declaration of Principles (also known as the Oslo Accords) in 1993.

As they relate to Jerusalem, the DoP will be discussed in greater detail in section Three but for the time being we can note that the DoP laid the groundwork for a two state model, without, however, specifying the nature of the Palestinian state. Nonetheless, the agreement seemed to consign both the binational and unitary state models to oblivion. The main thrust of the DoP was
confidence building measures involving the gradual withdrawal of Israeli forces from the OPTs and the transfer of civilian authority to Palestinian agencies in a series of transitional stages. They did not explicitly recognise a Palestinian state or delineate the borders but left them to “permanent status” negotiations in which these were to be decided. What became clear was that both sides had different views as to the purpose of the DoP and which elements of the conflict it was designed to address. From the Israeli perspective, the DoP was a means of securing the gains it obtained in 1967 and for the Palestinians it was a means to address the unresolved questions of 1948 such as the dispossession of the original inhabitants. This “meta-conflict”, that is the conflict over the causes of the conflict, and the contradictory implicit goals of the agreement were an important cause of its failure. 5

In this state of limbo, continued Israel colonisation in the West Bank and Gaza Strip and intrusive security measures undermined Palestinian confidence in the Accords and led to growing armed resistance to the Israeli presence. The collapse of the transitional phase and the re-occupation by Israel in 2002 of the parts of the West Bank and Gaza Strip it had withdrawn from earlier, led to a widespread disillusionment of the DoP and by association with the two-state model it implied in both communities. For the Palestinians, the Israeli interpretation of its security was so far-reaching – ranging from early warning stations in the West Bank, extensive de-militarisation and circumscription of certain weaponry of the Palestinian armed forces, Israeli rights of hot pursuit, Israeli monitoring of Palestinian borders and Israeli control over the Palestinian national identity database - as to emasculate any independent decision making or sovereign authority in a Palestinian state. For the Israelis, they realised that the Accords led to a process in which they were expected to return tangible real estate assets such as the land of the West Bank and Gaza Strip for intangible promises of restraint, cooperation and good behaviour on the part of the Palestinians.

Nevertheless, for all its failings, the Oslo Accords contained within it the crucial recognition by the Israelis of the right of the Palestinians to at least a part of the historic land of Palestine. The

importance of this was not immediately apparent, but it precipitated a debate over the future of Zionism and a more open debate about the alternatives to the two state model and the Oslo Accords. If the whole of Palestine was not the birthright of Zionism, the discussion in Israeli and Jewish circles went, where did you draw the line? Was it the areas suggested by the Israeli government at the Camp David summit in 2000, or the 1949 Armistice Lines as they stood up to 1967, or the borders recommended by the United Nations as in 1947? If Palestinians exist as a people and a nation, as the Oslo Accords implied, were they not entitled to the same rights as Israeli Jews? How did one reconcile the privileging of “Jewishness” in Israel with this entitlement to equality? Could Israel be a Jewish state and a democracy at the same time? The Bush Declaration in 2003 recognising the desirability of a Palestinian state and that it was the ultimate goal of the peace negotiations, served as notice to Israelis that there was no going back to the disregard of Palestinians as a people with a legitimate right to statehood. The current Obama administration in the US has made this the cornerstone of its policy in the Middle East.

2. Binationalism and the Palestinian-Israeli conflict

The revival of the debate over binationalism in Israel has been well-charted (5). What is significant is that while it remains a minority position, it is no longer confined solely to the margins of debate and characterised as the musings of naïve utopians. Indeed while its rejection by the Zionist and Israeli establishment is equally vehement as before, the difference is that it is debated more seriously and with the realisation that Israeli actions themselves are undermining the two-state model and leaving Palestinians with little choice but to espouse binationalism. At an Israeli post-mortem on the Camp David summit of 2000, this was one of the observations that emerged. The conference was attended by the former Israeli Prime Minister, Ehud Barak, his chief negotiators such as Gilead Sher, Itamar Rabinovich and former Israeli intelligence officials, as well as senior US participants in the negotiations such as Aaron Miller, Martin Indyk and Robert Malley. Participants were confronted with several analyses which emphasized that if the two-state solution was not regarded as feasible and desirable goal for the Palestinians, by default they would be driven to the alternative option – the “one state” solution. If, they observed, Palestinians drew the conclusion from Israeli negotiation tactics and strategies that a Palestinian state in the occupied Palestinian territories was not viable, and did not meet the minimum benchmarks of sovereignty and that the complete package would not satisfy the
views of the refugees, then the Palestinians would have little choice to either defer an agreement or work towards a one state solution. (Shamir and Maddy-Weitzman, 2005: 233)

In the context of Palestine-Israel, the terms binationalism and the one-state model have been used loosely and often interchangeably. The term binationalism is used to describe a political system comprising two national groups or collectivities sharing the same territory and borders. At the same time it includes a number of models which range from a confederal model (two or more collectivities with a kind of steering committee to coordinate external relations such as defence, foreign policy and critical trading arrangements); a federal model (two or more collectivities with greater powers than the confederal model with internal responsibilities allocated to a central body) to a consociational model (either a single state or federal structure with powers allocated to the two or more collectivities according to agreed criteria, such as size of population). Given the passions that this debate has engendered in the Palestinian-Israeli conflict, it is important to state explicitly that for all its utopic qualities, binationalism does not necessarily mean the eradication of national identity or of collective decision-making. Instead it is an attempt to reconcile competing identities by providing coordinating mechanisms of differing levels of sophistication. As such binationalism can also have a territorial component to it which allows national identities to be associated with certain geographical areas. (Hermann, 2005: 382-4) For the purposes of this paper the one state model or unitary state model is taken to mean a single citizenship in a single polity with no territorial associations with a particular Palestinian or Israeli collectivity. Binationalism is defined as two geographically separate sub-states within a single polity.

Why is the debate over the unitary state model and binationalism so important? For many decades the idea of a binational state has been dismissed by politicians and the wider Israeli and Palestinian public as the crazy imaginings of naïve idealists (even if held by such luminaries as Buber and Magnes). Indeed, most Israelis and Zionists have gone as far to characterise it as a code for the extinction of Israel and accuse its supporters of anti-Semitism. Similarly, some Palestinian nationalists have seen it as either an accommodation to the defeat and dispossession of the Palestinians that occurred in 1948, or, as an unwelcome dilution of Arab

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6 Nordlinger, Almond, Haas
identity in the new state with repercussions for Palestinian relations with the surrounding Arab states. Policy makers and diplomats regard discussion of it as unrealistic and fruitless in the face of overwhelming Israeli military superiority.

There are, however, two perspectives which suggest that the binational vision should not be dismissed out of hand. Firstly, as Palestinian intellectuals and activists begin to unpack the idea and examine the details of the idea more closely there has been a growing interest in what would constitute a binational or unitary state model. In the aftermath of the collapse of the Camp David summit and the al-Aqsa intifada, Palestinian interest in this original PLO proposal of the 1960’s has been re-kindled. This is partly due to disillusionment with the Oslo process, disillusionment with international efforts to constrain Israeli settlement and military activities, disillusionment with fragmentation of the Palestinian leadership and the failure of international law to reverse the building of the security wall across the OPTs.

A debate started by Badil’s Arabic language magazine, Haq al Awda, received broad media attention and closer academic examination (6). One leading proponent of the binational model, a Palestinian with Israeli citizenship, Dr As’ad Ghanem, has gone furthest in delineating the elements that make up variants of the binational model. Recognising the fundamental changes in the balance of power and mindsets required, he has tried, nevertheless, to peer into the future and construct a vision that combines confederal and consociational structures. These include a broad coalition of political elites, a right of veto in certain areas, fair representation to be balanced by a quota of offices and internal autonomy (Ghanem, 2005b), one can see that there is a continuum of options in the bi-nationalism vision that range from equal citizenship with in a single centralised state through to a “binational framework” comprising two entities with a phased convergence of political structures through to a higher degree of cooperation and functional interconnectedness. (Ghanem, 2005a: 15-18) this disaggregation has allowed more rational discussion of the kinds of structures that would be appropriate for an entity comprising different ethnicities, cultural backgrounds and historical narratives.

In addition, the work of some analysts, policy-makers and academics in the various behind-the-scenes (or Track 2) negotiations have realised that by putting substance onto various proposed frameworks for peace, and in spelling out the fine print of any agreement, an extraordinarily high degree of cooperation will be required between the two parties and the two states. There is a growing understanding among them that if a peace agreement is to avoid the total separation suggested by the huge Wall running through the West Bank and the fences surrounding Gaza, as well as the alienation of the vast majority of Palestinian refugees, state-to-state coordination across a wide range of responsibilities will be essential. (Klein, 2003) Such comprehensive cooperation points to arrangements which are much more than a standard bilateral treaty between two states. It has already been accepted that the two-state model in the Palestinian-Israeli conflict will consist of a range of agreements which will extend beyond intelligence and security cooperation but also encompass the economy and trade, the environment including the extraction of water, regional urban planning, tourism, immigration etc. And already there are agreements in place for a single economic zone for Israel and Palestine, for a customs union, for a unified citizen database, for the sharing of water which point to a merging of the two states at some fundamental levels. What is interesting about the continuum of options that comprises the one-state and binational idea is that the end of the continuum which stresses the cooperative and functional interconnectedness of any agreement is not so distant from the more idealised vision with its proposals for open borders, economic unions and security cooperation. Both require a degree of coordination which implies a dilution or sharing of sovereignty and of independent decision-making. It is this degree of inter-state penetration which suggests that in essence what is being discussed is a sort of “two-state plus”, which on further analysis looks remarkably close to some variants of the binational and one state model.

The second perspective is based upon a broad historical grasp of the unfolding of events of the past 60 years, that of _la longue duree_. This perspective highlights both the fact that Zionism as a project of religious and ethnic exclusivity is a project in retreat, and that the most likely guarantor of continued Jewish presence in its Biblical homeland is an accommodation with the indigenous population. From its height of its expansion in 1967 with the Israeli conquest of the Golan Heights, West Bank, Gaza Strip and Sinai, the retreat has been phased. But the overall trend of withdrawal is consistent. One should recall that in 1982, Israel controlled all the land
from the Egyptian border up to and including Beirut. Since then it has withdrawn incrementally from south Lebanon, all of the Gaza Strip, parts of the West Bank and is contemplating further withdrawals from West Bank. More importantly it has made these later withdrawals without a final agreement with the Palestinians and most of the Arab world, being locked into an ideology which has refused to recognise Palestinian rights to an independent Palestinian state. The withdrawals may have been presented as an exhibition of strength and have had conferred upon them a grand term - “unilateralism” - but this cannot mask a strategic retrenchment at their core. This contention does not ignore that there are other forms of domination possible and that a territorial retreat does not mean that Israel is no longer the regional military supremo or economic powerhouse. For example, while it has withdrawn its troops from the Gaza Strip and evacuated its colonies there, it still unilaterally controls access to the Strip and the airspace above it. But, nevertheless, an overall retreat there has been and a tentative accommodation with the Palestinians in the DoP, which was premised upon an Israeli withdrawal from the Occupied Palestinian Territories (OPTs) (but no independent Palestinian state), was achieved. These steps reveal a strategic and intellectual confusion over the future of both Zionism and Israel amongst its political establishment.

An example of this strategic confusion is the separation Wall constructed around the West Bank. Over one-third of the wall is not congruent with the armistice lines of 1949 and the de facto borders of Israel which received de jure recognition by the UN, Security Council Resolution 242, in 1967. Indeed some sections cut deep into the West Bank and encircle large parts of East Jerusalem. (See Map A) But by abandoning the international borders of 1967 through the construction of the Wall, it opens up the question of the sanctity of Israel’s eastern border which since 1967 was accepted by the international community and the UN. Furthermore by unravelling the consensus on the 1967 borders, the Israeli political elite have inadvertently raised the question of the future of Galilee and the Triangle. These are both predominantly Palestinian areas inside Israel and close to the West Bank and were both designated part of the Palestinian Arab state in the UN partition Plan of 1947. (See Map B) Once one departs from UN242, the Israeli argument for a border further east based on demography, can be matched by a Palestinian argument for a border further west based upon demography.

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8 Add Wall refs.
A similar confusion is apparent over Israeli positions on Jerusalem. For example, Israel insists on controlling over 200,000 Palestinians in East Jerusalem and the surrounding suburbs on the grounds that they are residing in the “eternal” capital of Israel despite the fact these numbers of Palestinians impact upon its efforts to maintain a Jewish majority in the city. At the same time, Israel opposes the return of significant numbers of Palestinian refugees to their ancestral homes in what is now Israel on demographic grounds. These contradictory responses to Palestinian presence in the state reflect a lack of clarity as to its long-term relationship with them.

This confusion has become an integral part of the Zionist dilemma as it encapsulates the core questions concerning Israeli identity and the fate of the people it replaced: who are the inhabitants of this land? To whom is it entitled and on what grounds? Who should be kept in and who should be locked out? The Palestinians have demonstrated in this “long view” of the Zionist trajectory in Palestine that they cannot be compared to the native American Indians who were defeated militarily and finally contained by European settlers in reservations. Instead the Palestinians have established themselves as a political force and are demanding the same rights to a state as the Zionist settlers did. The need for an eventual accommodation between the two parties is closely connected to the debate on binationalism. A useful way of illustrating this connection is by reference to the literature on democratization.

In trying to understand the state building processes of the 20th Century and the decolonisation of states in the post 1945 era, political scientists proposed a number of hypotheses as to why they some states succeeded in establishing themselves as functioning democratic polities and others did not. In a seminal article outlining what is known as a transitional theory of democratization, Dankwort Rustow (1970) identified four phases in which a divided society has to pass before democracy is established. The value of his analysis for the argument here is not so much the advances made in understanding the democratization processes, but how ethnically-mixed nation-states came to be formed. Rustow identified four phases in state

9 Refs.
formation. The first phase is that of defining nation. During this period cultural or ethnic groups compete with each other to have their identity and rights recognised in any political arrangements of the new state. In addition, there is debate and conflict over the exact delineament of the borders with some areas included and others excluded. The second phase is a phase of “historic compromise” in which the political elites of the competing groups recognise that after a long struggle neither side can achieve supremacy over the others. They finally agree to negotiate a grand bargain specifying their roles and rights which forms the basis of the emerging national political system. The third phase is that of “habituation” where the political elites begin to work out how the system they have constructed can be used to their advantage without jeopardising the overall bargain. In other words they both use the system and get used to it. The final phase, the “consolidation” phase, is where these systems are embedded and group competition is mediated through normal democratic processes. (Rustow, 1970, Dumper, 1996)

In the context of the binational model and the retreat of Zionism outlined above, the Palestinian-Israeli conflict can be seen as going through the first phase of defining who comprises the emerging nation and what its borders are, but also moving gradually into the second phase of historic compromise whereby the competing groups recognise that the other side cannot be eliminated or neutralised. In the Palestinian-Israeli case, the DoP marked the end of the 1st phase and the beginning of the second phase. But its failure and cessation show that the DoP did not sufficiently encompass the concerns of all the respective constituents and the debate over the composition of the state and the route of its borders did not satisfy either the irredentists on the Palestinian side or the expansionists on the Israeli side. As such, we have seen since 2000 a return to the first phase. In essence, the DoP which implied the establishment of a second state, was neither sufficiently credible to allow the creation of Palestine in the two-sate model, nor the “historic compromise” that would allow a new composite state. In Rustow’s scheme, there will not be movement towards the second phase without an agreement between the two groups that incorporates a number of compromises: First, Palestinians of all political groupings will need to agree to share the land of Palestine and recognise the permanent presence of Israeli Jewish migration. For their part, the Israeli political groups need to recognise Palestinian rights to both the land of historic Palestine and to reconcile themselves to a more inclusive vision of a Jewish national home and of Zionism in
which the state is not defined by its Jewishness although Judaism will still play an important role. Without these two fundamental prerequisites, it is unlikely that the Palestinian-Israeli case can move from phase one to phase two. As the debate on binationalism reflects the ebb and flow of the negotiations between the two sides, the potential role played by Jerusalem as both major city and capital of both states will continue to be crucial. This article will proceed to argue that the joint nature of the governance of Jerusalem will have an impact both upon that debate and also upon the types of political arrangements that will be established between the two states.

3) Jerusalem and the Binationalism and two-state models

In surveying the various proposals that have been put forward for the future governance of Jerusalem over the past half-century, it is significant, but not unsurprising, that the vast majority include coordinating mechanisms, albeit to a different degree, between the two parties to the conflict (7). There has been a near consensus that there should be no return to the complete partition that took place between 1949-1967 in which Israel controlled West Jerusalem and Jordan controlled East Jerusalem with a no-man’s land of on average 50 metres wide running between the two sides of the city. Indeed, even proposals which favoured the removal of the city from the territories of either side and the creation of its own special enclave, such as that proposed by the UN in its Partition Plan of 1947, recognised the extent to which coordination between the city and the surrounding states was essential (8).

This section focuses on the future governance of Jerusalem and the impact this will have on Palestinian-Israel inter-state relations.

Israel has always the envisaged the future of Jerusalem to comprise an administration that ensured Israeli Jewish inhabitants of the city that they were an integral part of Israel but which also gave the Palestinian inhabitants a high degree of cultural and civic autonomy (Hirsch, Housen-Couriel and Lapidoth, 1995: 143). In all variants of this scenario, the city itself would remain within the overall political and military jurisdiction of Israel. While there has been some flexibility shown with regard to both the borders drawn around given suburbs and to the extent of the autonomy to be granted to Palestinians, it has not shifted from this approach either in
substance or conceptually. This can be seen in the way early discussions during the 1970s and 1980s centred on the “mosaic” policy of the then Mayor Teddy Kollek who sought make Israeli control over Palestinian areas more acceptable to their inhabitants by proposing to devolve as many municipal functions to the local level as possible, and minimising the visual presence of the Israeli state. (Dumper, 1997: 49-50) This approach was translated into a negotiating position which suggested a system of multiple boroughs in Palestinian and Israeli areas of residence but which would nevertheless remain under overall Israeli sovereignty.

A variant of this approach was the agreement between the then-PLO General Secretary Mahmud Abbas (Abu Mazen), and the former Israeli Justice Minister Yossi Beilin, known as the Abu Mazen-Beilin Plan. It proposed a Joint Higher Municipal Council comprising Palestinian and Israeli representatives and an Israeli and Palestinian sub-municipality responsible for the municipal concerns of their respective citizens and their property. The Plan also proposed a special regime for the Old City supervised by a Joint Parity committee appointed by the two sub-municipalities (9). In this plan, Palestinians would have extraterritorial sovereignty over the Haram ash-Sharif. However, the significance of this plan is that the proposed Palestinian sub-municipal areas were not congruent with the 1967 borders. Thus it not only accepted Israeli acquisitions obtained in 1967 but also detached the Old City and some of the Palestinian suburbs from the Palestinian sub-municipality and area proposed as the Palestinian capital. The Plan was never officially published and it always remained a document for discussion but it signified a gradual shift in the Israeli position to accepting more Palestinian involvement in the city at a national level rather than just a cultural one.

This reluctance to cede substantive control to the Palestinians can also be seen in the negotiations which took place in 2000 at Camp David, hosted by US President Clinton (10). Although there was no formal record of the talks, from media leaks and post-mortems we can discern that the Israeli proposals comprised two main elements: first, Israel would relinquish control over the northern Palestinian suburbs of the city to the state of Palestine and devolve administration in the central areas of East Jerusalem to Palestinian bodies. Second, Israel would retain overall sovereignty and security control over East Jerusalem, including the Old City. As these did not take into account the Palestinian view that a withdrawal to the 1967
border (as expressed in UNSCR 242) was the starting point of an agreement, they were rejected by the Palestinians. Indeed, as has been argued elsewhere, from a Palestinian perspective, the Israelis were not offering them much more than they already had (Dumper, 2008).

In the attempt to bridge the two positions over Jerusalem, the US President Clinton suggested a formula for allocating sovereignty based on demographic criteria, known as the “Clinton Parameters”. This would have led to the partition of the city, including the Old City. He further recommended Palestinian sovereignty over the Haram ash-Sharif and Israeli sovereignty over the Western Wall and special arrangements for excavations underneath the Haram (11). While both sides very reluctantly accepted the Clinton parameters, for the Palestinians they constituted a further example of US support for Israeli acquisitions in East Jerusalem since 1967. Depending on where one draws the line of the city limits of Jerusalem, the greater proportion of the land area of East Jerusalem has been acquired by Israel for its colonies there and a formula based upon demographic criteria was bound to lead to significant loss of land for the Palestinian side.

Further negotiations based on the Clinton parameters were attempted in 2001 at the Egyptian seaside resort of Taba. Progress on the Camp David summit was made in that both sides agreed that Jerusalem would be the capital of the two states. Following the Clinton parameters, Palestinians were willing to discuss Israeli sovereignty over Israeli settlements in East Jerusalem and to accept Israeli sovereignty over parts of the Old City. In turn, Israel accepted Palestinian sovereignty over Palestinian residential areas up to the 1967 border line. There was no final agreement on the Holy Places, but there was an agreement to continue discussions on the concept of a Holy Basin to encompass religious sites and special arrangements regarding the Haram ash-Sharif/Temple Mount (12). However, the Israeli team failed to receive the endorsement of the then Prime Minister Ehud Barak who was subsequently voted out of office and replaced by Ariel Sharon who suspended all negotiations.
Following the negotiations in Taba there was a long hiatus in the negotiations over the future of the city as significant changes took place in both Israeli and Palestinian politics. These included the death of PLO leader Arafat and election of a HAMAS government on one hand, and the incapacitation of Sharon and the controversial Israeli assault on Lebanon on the other. In December 2003 many of the individuals who had played a prominent role in the Palestinian and Israeli negotiating teams that met in Camp David and Taba launched a prototype agreement known as the Geneva Initiative as an attempt to re-start the official negotiations. The Initiative illustrated that further progress on a number of key issues was achievable and it was designed to map out a possible trajectory for future official negotiations. Similar to Taba, the Geneva Initiative proposed that Jerusalem be the capital city for both states (i.e. two capitals) with two municipalities, one for East Jerusalem and one for West Jerusalem. There would be a coordination committee appointed by the municipalities to oversee the economic development of the city as a whole. As opposed to a Holy Basin idea, discussed in Taba, there would be special regime for the Old City which would include Israeli sovereignty over the cemetery on the Mount of Olives and the Western (Wailing) Wall. Palestinian sovereignty over the Haram will be phased in according to an agreed-upon timetable (13). With respect to the settlements in and around Jerusalem, the Initiative proposes their evacuation according to an agreed timetable and to territory exchanges (14). A key element in the Geneva Initiative is the role of a third party for monitoring and other forms of involvement. It proposed an Implementation and Verification Group and an interfaith council and UNESCO would be given a key oversight role in the Old City. What this suggested was a further shift in the Israeli view but one that continued to avoid recognising a prominent Palestinian role. Rather than agree to Palestinian parity in the city, the international community would be given a major role.

As one can see the Palestinians continue to focus on UNSCR 242 as the starting point of negotiations over Jerusalem, that is, an Israeli withdrawal to the borders of 1967 should be the basis of an agreement. Once this principle is accepted by Israel, they have shown greater flexibility over phasing in the evacuation of Israeli settlements or the prospect of land exchanges and transfers of sovereignty which would be of mutual benefit. In addition, the Palestinian community insists on an agreement over the title of land and property in West Jerusalem, most of which was Palestinian-owned before 1948, since this issue is closely tied up with the issue of refugee repatriation and compensation. A key element in the Palestinian position is the
proposal for an “open city” in which there would be the free movement of goods and labour within a framework of two jurisdictions and property owning areas. Squaring this desire for a more integrated city with the Israeli concerns over security and, in particular, infiltration into Israel via Jerusalem by hostile Palestinian has been one of the main challenges of the Palestinian negotiators. Palestinians have also recognised the importance of strong coordinating mechanisms between the two parts of the city and that these need to go beyond the municipal level.

4) Jerusalem and the Binationalism Debate

The arguments presented here have been based upon the assumption that if Jerusalem is to become a functioning city, if it is to develop and grow as the viable capital of both the Israeli or the Palestinian state, it will require coordinating structures and frameworks between the two sides of the city which will have an impact on inter-state relations of the two protagonists. This would be the case whichever of the two models – binational or 2-state – under discussion. The only circumstances in which such an impact will not occur is if there is a complete separation between the two states and the partition of the country, where there is a “hard” border and a “cold” peace between the two states. In these circumstances, Jerusalem will be a dead end for both countries, a cul-de-sac with a much reduced hinterland and revert to being the frontier town that characterised it between 1949 and 1967. In this scenario, the argument does not apply. Thus in other circumstances, ranging from being a partially integrated city though to the more visionary “open city” which can only take place under the framework of at least a “relatively warm” peace, the argument of this paper has been that the structures and frameworks necessary to achieve this will have an impact on the nature of the inter-state relations. Indeed the paper goes even a bit further: it argues that the impact of trying to get Jerusalem to work as a city will necessarily involve inter-state cooperation to the extent that it will transform the 2-state model into a “two-state plus model”, which in turn will overlap with certain forms of the binational model.

The argument is based on viewing binationalism both as a continuum along which two collectivities merge their institutional structures to an increasing degree, and in which there are many different components and forms. The argument is also based upon an interpretation of
the peace negotiations which can identify significant shifts in the positions of the protagonists since 1993 and the possibility of flexibility in the future. It is also based upon highlighting the consistent presence of coordination mechanisms in the proposals submitted, in the agreements already arrived at and the discussions taking place in the Track 2 negotiations. In this regard it is important to note that no negotiations have taken place in which the partition of the city or a hard border between the two parts has been proposed. From the experience of the last 15 years since the DoP, one can see that complete separation is not even a default option for either side, but would only come about as a result of a serious collapse in negotiations.

In order to substantiate the argument further, this section will briefly examine a range of issues concerning the governance of Jerusalem that both require coordination between the two sides and indicate the extent to which their sovereign powers will be compromised. These issues are:

a) **Holy sites, heritage and tourism.** A negotiated agreement dealing with the management of the holy sites of the city, its religious and cultural heritage and the attendant tourism will entail a significant loss of sovereignty and a great deal of coordination and monitoring. It is unlikely that there will be an agreement without an understanding that the Haram-ash-Sharif will be controlled by the Palestinians and the Wailing Wall by the Israelis. In addition, it is also likely that both parties will agree to some monitoring and intervention by international bodies such as UNESCO which in turn will entail some sovereignty loss and greater coordination. Furthermore, in view of the large numbers of pilgrims and tourists anticipated after a peace treaty, coordination will be essential over ensuring that access to the holy and other sites is conducted in an orderly and culturally sensitive manner. Other important world sites such as Venice and Mecca have been obliged to control visitor flows through quotas, and it is likely that the states of Palestine and Israel will also have come to a satisfactory agreement on quotas on visitors to Jerusalem.

b) **Planning, infrastructure and environment.** The development of the city will involve integration into national and regional level planning. The construction of highways, roads and bypasses will require detailed coordination so that traffic flows are not
interrupted and economic opportunities not missed. The allocation of space for housing, commercial development, for leisure facilities, for waste disposal and the supply of utilities will all impinge upon the hinterland and draw the planning authorities of other districts and municipalities on both sides. Already there a shortage of burial space for the residents of the city and this will require new sites outside the municipal boundaries. More importantly, the rapid growth of Israeli settlements and Palestinians population in the eastern parts of the city has been accompanied by inadequate provision for the treatment of sewage. As a result raw sewage is pumped into the streams and wadis flowing down to the Dead Sea, contaminating the aquifers and water supplies. A coordinated programme to clear up such environmental hazards is an urgent priority and requires national level decisions.

c) Commercial law, taxation, customs and labour mobility. One of the key drivers of closer integration between the two states will be the need to synchronise their economic activities and the fiscal rules that support them. Since 1967 there has been a growing interdependency between Israel and the OPTs with Israel supplying the capital and technology and Palestinians providing the labour and markets. While these patterns have been subject to some re-balancing in recent years – a reduction in Palestinian labour and considerable progress in Palestinian technological developments - the overall trend are likely to remain the same for some decades to come. In this context, both sides will wish to ensure that labour mobility and the free movement of goods are part of an agreement. Similarly, there will be a concern that unless there is coordination over health and safety standards, employee protection, corporation tax, VAT, customs duties etc. Jerusalem could become a haven for black marketeers and poor employment practices. Such coordination reaches beyond the authority of municipalities and requires organisation at a national inter-state level.

d) Land use, restitution and compensation. Unless there is a reversal of the land acquired from Palestinians by the Israeli government since 1967, it is unlikely that there will be an agreement over the future of Jerusalem. It should be noted that much of the land confiscated by Israel in East Jerusalem was privately owned. This means that although it is likely that some of the land acquired by Israel will remain Israeli either
through land exchanges or compensation, it is probable that land exchanges or compensation will not be accepted by many of the former Palestinian owners. A strong Palestinian state with overwhelming legitimacy in the eyes of the Palestinians may be able to drive through land exchanges and compensation, but this is not yet the case in Palestine. It is very likely that an agreement on Jerusalem will require inter-state mechanisms for a judicial review over the allocation of jurisdictions arrived at in an agreement and for international arbitration. An additional issue which ensures that the restitution question in Jerusalem will involve national-level decision-making is the status of Palestinian property in West Jerusalem which itself is also connected to the overall package agreed on for the compensation of Palestinian refugees. It is difficult to see how a partially or fully-integrated Jerusalem can be established if Palestinian residents of the city who have property in West Jerusalem are prevented from re-acquiring their ownership. On the other hand, if Israel concedes restitution to Palestinian Jerusalemites, it will set a precedent for former Palestinian residents of Safad, Haifa and Jaffa.

e) Security and borders. An Israeli prerequisite for an agreement on Jerusalem is that any agreement should ensure the security of Israeli residents. Israel has interpreted this to mean that it itself should be responsible for security. In the DoP, it agreed to Palestinian participation in policing and security but following the breakdown of these arrangements, first in 1996 and then later in 2000 when Palestinian and Israeli security forces engaged in combat with each other, Israel has not countenanced Palestinian participation in any security regime for the protection of its nationals. This has had a critical impact on the discussion over the future of Jerusalem. The dilemma confronting the Israelis is this: Where should the security border between Israeli and Palestinian Jerusalem be placed? In the current situation of a cold peace and a hard border (the separation Wall), the Israeli preference is that the harder the border, the further east of the city it should run. This is unacceptable to the Palestinians and will result in the incorporation of some 200,000 Palestinians into the area of Israeli control which, in turn, is ultimately not in Israel’s long-term interest. Assuming a relatively warm peace in which both sides work towards a partially or fully-integrated city, how will Israel retain oversight over security? How can it monitor non-Israelis entering the city from the Palestinian state, and who can make their way through the city into the Israeli state? Checkpoints on the roads from Jerusalem into Israel would be politically unacceptable to the Israeli elite.
Jerusalem after all, is the declared capital of the Israeli state and checkpoints along the road from the capital to the state itself would undermine the claim that Jerusalem is part of Israel. Israeli-manned checkpoints on the points of entry from the state of Palestine to the the Palestinian side of the city would be unacceptable to the Palestinians. A shared security force would be unacceptable to the Israelis at this stage although some accompanying international presence may make it more palatable. From this overview of the problems around security and borders, one can see that these issues are not internal civic policing issues but are of national importance and their resolution will be both derived from inter-state agreements and have an impact upon inter-state agreements.

The above five points are the most salient of the issues which demonstrate the national-level decision-making and the degree of inter-state coordination required. But they add up to the necessity of a multi-layered coordinating mechanism of some complexity and cross-penetration into state structures. How this mechanism is constructed, mandated, held accountable is itself part of the inter-state dynamics which point to a convergence of the two polities. If a number of technical units and agencies are set up, whether they are set up on the basis of parity, with equal Israeli and Palestinian representation, will need to be decided. An agreement on what oversight is given to the political class and if there should be some sort of “Grand Municipal Council” comprising municipal councillors and other legislators, will also require further negotiation.

As one can see, if Jerusalem is to exist as a city functioning in a partially integrated way, even in a two state model of very low integration, the needs of the city will drive the coordinating process toward a more profound and complex levels. The result will be what can be termed as a two-state plus model which which would have the basic features of a two state model, but with a range of highly coordinated joint frameworks which will impinge on other areas of state to state coordination. The argument presented here also highlights the fact that this two-state plus model will have similar features and functions as a diluted confederal model of a bi-national state. The model may not require the icons of a single polity - a single flag, anthem, currency, passport, airline, football team. Indeed, it will not have a single constitution, legislative council,
president or judiciary, but it will have powerful integrative components such as security cooperation, regional planning and economic and fiscal agreements.

There are two implications that can be drawn from this argument, one specific to Jerusalem and the Palestinian-Israeli conflict and one more general regarding the relationship between divided cities and the state. In connection to the Palestinian-Israeli conflict the argument opens up a normative space for a more considered discussion on the merits of binationalism and a two-state plus model. It suggests that the consideration of binationalism in the forms that have been outlined above is not identical to the eradication of the Israeli state or the defeat of Palestinian nationalism. It is not an existential threat to either collectivity or national group, and that those discussing these ideas are neither anti-Semitic or defeatist. The exploration of the ideas that make up binationalism and two-state plus may lead in fact for a more flexible and appropriate models for Palestinian-Israeli co-existence than the two state model has done hitherto.

More generally in connection to a sub-class of divided cities whose governance is tied up with the contested nature of the state authorities within which they are located, the argument leads to a number of possible conclusions. The first is that coordinating structures put in place to draw together the different parts of divided cities so that it functions at least as a partially integrated city following a peace agreement have significant impact on the nature of state-to-state coordination. An examination of the proposals put forward for the resolution of the Jerusalem question demonstrates this quite clearly. A second conclusion is more a hypothesis and is more importantly for policy considerations: this is that confidence-building programmes and joint activities over planning, the economy and security inside divided cities percolate upwards and can contribute significantly to the processes of peace-making and reconciliation between states. The Jerusalem case hitherto does not demonstrate this hypothesis clearly but the preceding analysis has indicated that these are necessary prerequisites for a solution which will impinge on the final state-to-state agreement and in this sense drive the nature of the peace agreement. The case of the divided city of Nicosia, in which significant joint infrastructural planning has taken place across the border, suggests that progress can be slow but in the meantime, the absence of violent conflict between the two sides is a measure of the progress being made.
Clearly this hypothesis requires further comparative investigation and analysis but if it can be satisfactorily demonstrated, it points to some useful and urgently-required policy recommendations.
Notes and References

1. I deliberately use the term *spillover* taken from the literature on political integration and cooperation to associate the impact in Jerusalem with the dynamics of integration that this literature (mostly on the EU) has investigated.


5. See the authors listed in footnote 2.


Bibliography


