



May 2017

Summary

Residents, Not Citizens

Israeli Policy towards the Arabs in East Jerusalem, 1967-2017

Amnon Ramon

On June 11, 1967, the government of Israel held its very first meeting since the sweeping victory of the Six Day War. At this meeting it adopted a decision to annex East Jerusalem, incorporating it into the State of Israel. In contrast to other issues – foremost among them the question of the future of the West Bank – the decision to annex East Jerusalem was completely unanimous. The ministers disagreed over procedural questions such as the legal measures that must be implemented in order to establish Israeli sovereignty in East Jerusalem: Should a special law be passed, declaring that East Jerusalem is part of the State of Israel? Or should more “minor” legislation be adopted, so as not to provoke harsh opposition on the part of the international community? There was, however, no disagreement within the government regarding the “unification of Jerusalem” itself.

Government discussions and other forums paid almost no attention to the question of the status of Arab residents in the territory annexed by Israel. Most discussions focused on the issue of holy places and the ministers’ concerns that the Christian and Muslim worlds would not accept Israeli Jewish control over these holy sites.

The central issue of this book is how the status of the Arab residents who lived in the territory annexed by Israel was determined. This territory covered about 70 square kilometers



and included some 70,000 residents. An exploration of this issue reveals deeper layers that reflect the attitude of Israel's leadership and society towards the Arab population in East Jerusalem as well as other territories captured in the war. To this day, that attitude has had far-reaching repercussions for the reality of life in East Jerusalem. The discussion that follows is based on recently released documents of the State Archives in Jerusalem, in particular the minutes of government meetings that have been made available to researchers.

Accordingly, the book focuses on the social and legal status of East Jerusalem Arabs and the various forms this status has taken over the past fifty years. In a broader sense, it addresses Israeli policy towards the city's Arabs. Part I traces the history of the status of residence as well as the attitude of Israeli authorities towards Arab residents within the overall context of Jerusalem's "unification". Part II presents the current state of affairs in relation to residence status during recent years and examines the far-reaching implications of this unique status for the lives of East Jerusalem Arabs. The concluding chapter explores various alternatives for status in the context of various future scenarios for the city, both in the absence of a political agreement or in the event of progress towards an interim or final agreement. Part III, by Prof. Yael Ronen, offers a comparative analysis of the status of East Jerusalem Arabs from the perspective of international law. The book as a whole provides food for thought and deliberation regarding a central issue that, fifty years after the "unification" of Jerusalem, has become marginalized. The status of East Jerusalem Arabs was initially addressed at the government meeting of June 11, 1967. Mordechai Bentov, a



representative of MAPAM (the United Workers Party), was the only minister to raise the issue. Responding to the comments of those ministers, headed by Menachem Begin, who sought to pass a special law annexing East Jerusalem, Bentov remarked, “I would like to point out one thing. We are a democratic state. If a law is passed expanding Jerusalem to cover all the new territory... then the Arab residents on the other side of Jerusalem will become citizens of Israel.” Begin interrupted him, saying, “Not automatically.” Bentov instantly grasped the significance of Begin’s proposal and warned against creating two different population groups in the capital: Jewish citizens of a democratic state, and Arab residents under martial law, with a lower status. He emphasized, “We would be practicing discrimination from the very beginning, and we need to foresee such things.” Minister Yosef Sapir, Begin’s colleague in the leadership of GAHAL (the Herut–Liberal Party bloc), commented, “Whatever the various solutions, we cannot view any Arab under our control today as an object for persecution or expulsion or discrimination.” The remarks of Prime Minister Levi Eshkol give the impression that he, like most of the ministers, was inclined to view East Jerusalem Arabs as future citizens of the State of Israel. He stated, “[Jerusalem] is not like any other place that has 800 or 900 thousand Arabs, as the West Bank has. We will definitely be keeping Jerusalem, with all the Arabs in it, and the sooner we get on with normal life, the better.” In my opinion, this discussion – especially Begin’s comment – can be seen as the seminal concept behind the eventual Israeli decision to turn East Jerusalem Arabs into residents rather than citizens of the State of Israel.



During the two weeks that followed, the government held four discussions on the “unification of the city” and the effect that annexing East Jerusalem would have on the future of the West Bank. Some ministers were concerned that decisions about the boundaries of the annexed territory and the status of East Jerusalem Arabs would serve as indications of Israel’s intentions regarding the West Bank. On June 25 the government was on the verge of affirming a proposal by Major-General Rehavam Ze’evi (nicknamed Gandhi), the key figure in the committee of officials and military personnel that determined the new boundaries of the city. The proposal would have annexed a large area covering 200 square kilometers, with 22 neighborhoods and villages, most of which had never been part of Jerusalem, as well as some 100,000 Arab residents. (Ze’evi presented the government with detailed calculations of the Arab population size for various alternatives.) It was only a last-minute intervention by Minister of Defense Moshe Dayan that significantly reduced the annexed territory, to 70 square kilometers and about 70,000 Arab residents. The defense minister’s two main arguments were the demographic factor – that is, reducing the number of Arab residents in the annexed territory – and his objection to driving a wedge between the southern and northern parts of the West Bank, because such a wedge would complicate any future political resolution. During a government meeting on June 25, Dayan stated:

I know the Jewish appetite.... Incorporating the airfield [Kalandia–Atarot] and Ein Fara [the spring in Wadi Qelt] is not annexation of the other half of Jerusalem; it is division of the West Bank into two parts, southern and northern,



and I oppose this. As long as this territory is in our hands we can fly into it. But I do not support [annexation of] Kalandia or of another ten villages with 20,000 residents because of an airfield.

Simultaneously a discussion took place regarding the status of Arab residents in the annexed territory. On June 21 the Ministerial Committee on Jerusalem Affairs met to discuss the messy complications expected to result from “unification of the city.” During the meeting, Uzi Narkiss, commander of Central Command, posed the key question: “Who will be a citizen in East Jerusalem?” Minister of Justice Ya’akov Shapira replied, “Services need to be provided to all residents,” but “under the law there is no automatic citizenship.” Zvi Terlo, who served as assistant to the legal advisor at the IDF headquarters in the West Bank, explained, “We did not grant automatic citizenship to the Arabs of Israel.” This was also the spirit of remarks by Attorney General Moshe Ben-Ze’ev and Deputy Minister of Internal Affairs Yisrael Ben-Meir.

From this exchange we can surmise that, just ten days after the end of the war, the emerging perspective within the Ministry of Justice was that East Jerusalem Arabs (at least most of them) would not automatically receive Israeli citizenship but would – at the initial stage – receive only the status of residents. The minister of justice and his staff used the example of Arabs in Israel, who at the end of the 1948 War were not recorded in the official registry that had been conducted within the boundaries of the state on November 8, 1948. This registry omitted Arabs who at the time resided in the Negev, parts of the western Galilee, and the “Triangle” (a concentration of Arab towns



adjacent to the Green Line), as well as many others who were unaware of the importance of registering with a state whose final borders had not yet been determined. Thousands of Arabs also returned to areas within the boundaries of the state after the armistice agreements were signed, whether officially through “family reunification” or by infiltration into their villages and homes.

As a result, after the founding of the state there emerged a situation in which some 100,000 people physically residing in the State of Israel (who were termed “present absentees”) could receive citizenship only through Article Five of Israel’s Nationality Law of 1952, namely, “naturalization”. This article required them to submit an official request to the Ministry of Internal Affairs and to meet a number of criteria, one of which was “some knowledge of the Hebrew language.” Citizenship was granted solely at the discretion of the minister of internal affairs, and the petitioner had to declare loyalty to the State of Israel. Already at that time, Knesset Member Rustum Bastuni of MAPAM asserted, “This law cannot deny our rights [as Arabs] to be citizens of our country, where we were born and on whose land we have lived for generations upon generations, and where we will continue to live.” As he understood it, the rules of citizenship were not intended for natives of the country but for foreigners who wish to settle in it.

To a large extent, this state of affairs also applies to the Arabs of East Jerusalem. In their view, they have been residents of the city from time immemorial, and therefore they also became residents of the State of Israel after Israel applied Israeli law, jurisdiction, and administration to East Jerusalem – against their



will. From an Israeli legal perspective, however, according to a 1988 ruling of the High Court of Justice (HCJ 282/88, Mubarak Awad vs. Yitzhak Shamir), East Jerusalem Arabs are to be viewed as having received permission to reside permanently in Israel, on the basis of the 1952 Entry into Israel Law (even though they did not enter Israel; rather, it came to them...). Their residence status can easily be revoked if they settle outside of Israel (become citizens of a specific country or receive permission to reside there permanently) or if they reside abroad (including in the West Bank) for more than seven years without visiting Israel. A resident of East Jerusalem can acquire Israeli citizenship only through naturalization, that is, by submitting an application to the Ministry of Internal Affairs and meeting the requirements mentioned earlier. It goes without saying that a significant portion of Arab residents are unable to become citizens for various reasons. There are also legal obstacles to the naturalization of spouses who are residents of the territories beyond the 1967 borders. To this day, only a small minority (some 20,000, totaling 6% of East Jerusalem Arabs) have chosen to apply for Israeli citizenship and overcome the obstacles described earlier.

The “temporary” decision (which over time became a permanent situation) to grant East Jerusalem Arabs the status of residents rather than citizens of Israel had and continues to have far-reaching repercussions that affect all aspects of life in East Jerusalem to this day. Until 1988 East Jerusalem Arabs – like West Bank residents – had Jordanian citizenship in lieu of Israeli citizenship. They were allowed to maintain Jordanian citizenship with Israel’s permission and even its encouragement. East



Jerusalem Arabs were, therefore, able to maintain ties with the West Bank, Jordan, and Arab countries through the “open bridges” policy formulated by Dayan. An unofficial branch of the Jordanian Ministry of Internal Affairs even operated in East Jerusalem (in the Chamber of Commerce), where one could renew a Jordanian passport – even though Israel regarded Jordan as an enemy state.

Jordan’s influence in East Jerusalem was evident in a number of other areas as well: in the 1970s all municipal schools in East Jerusalem began to follow the Jordanian curriculum, after Israel had failed to institute its own curriculum (it is hard to believe that this would have happened if East Jerusalem Arabs had Israeli citizenship); the Jordanian *Shari’a* (Islamic law) court that deals with issues of personal status (marriage, divorce, inheritance, and *Waqf* matters relating to the Islamic property trust) continued to operate in East Jerusalem, and *Waqf* guards at the Temple Mount / *Al-Haram Al-Sharif* continued to receive salaries from the Jordanian government.

Apparently, the “temporary” solution of Israeli residence and Jordanian citizenship was convenient for all sides: most residents of East Jerusalem wanted to maintain their Jordanian citizenship and were unable or unwilling to take the proactive step of applying for Israeli citizenship; Jordan aspired to preserve its relationship with East Jerusalem, hoping to be able to return to control after Israel withdrew; the international community, in particular the United States, did not recognize Israel’s annexation and supported maintaining the *status quo*; and for Israel’s part, the government obviously had no interest in



imposing Israeli citizenship and increasing the number of Arab citizens in Jerusalem and in Israel at large.

The outbreak of the first Intifada in late 1987, which reinforced the Palestinian identity of East Jerusalem Arabs, and the Jordanian decision to disengage from the West Bank in the summer of 1988 resulted in a new state of affairs: gradually most East Jerusalem residents lost their full Jordanian citizenship, and today the majority have temporary Jordanian passports that are, in effect, a kind of *laissez passer*. The vast majority of Arab residents of East Jerusalem – who comprise 40% of the residents of Israel's capital – do not have full citizenship, Israeli or Jordanian.

The Oslo process, the establishment of the Palestinian Authority in 1994, the granting of voting rights to East Jerusalem Arabs for elections to institutions of the Palestinian Authority, whose seat is in Ramallah, and the implementation of a Palestinian curriculum in the municipal schools of East Jerusalem – all these factors have further complicated the status of East Jerusalem Arabs, who are torn between their identity as residents of Israel and bearers of temporary Jordanian passports, and who simultaneously view themselves as part of the Palestinian people. As a consequence of these developments, Israeli law, jurisdiction, and administration do not actually apply to many areas of life for Arab residents of East Jerusalem. One could argue that Israel's annexation of East Jerusalem is largely “hollow”: it relates, first and foremost, to territory, not to the people who reside there. From the perspective of the international community, it also casts constant doubt on Israel's annexation. The fundamental inequality between Jewish and



Arab residents further complicates the formation of social, economic, and cultural forums for cooperation. In effect, significant portions of the Jewish population in Jerusalem completely ignore their Palestinian neighbors, and certainly do not see them as equal partners in the administration of Jerusalem. Likewise, the Israeli leadership barely pays any attention to the needs of East Jerusalem Arabs, who do not participate in municipal or national elections and are not represented in the political institutions of the city or the state. The very identity of East Jerusalem Arabs is complex and multi-faceted, as illustrated by the remarks of Dr. Tareq Abu Hamed, a resident of the village of Sur Bahir, who was appointed to a senior position in Israel's Ministry of Science, Technology, and Space. In speaking with the Israeli journalist and author Eliezer Yaari, he said, "I'd like to say a few words about my schizophrenia. The Arabs of East Jerusalem have several advantages. You can travel across the world with a Jordanian passport, with which you can enter and leave Arab countries or any other place in the world without a problem. You leave here with an Israeli travel document, which also allows you to travel around the world. The issue of passports reflects the overall schizophrenic situation: we don't want Israel and we do want it".¹

¹ E. Yaari, *Beyond the Mountains of Darkness* (Herzeliya 2015), pp. 55-54 (in Hebrew).