

1977

# The Balfour Declaration and International Law

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*Eastern Illinois University*

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THE BALFOUR DECLARATION

AND INTERNATIONAL LAW

(TITLE)

BY

Thomas Noreuil

THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF

Master of Arts

IN THE GRADUATE SCHOOL, EASTERN ILLINOIS UNIVERSITY  
CHARLESTON, ILLINOIS

1977

YEAR

I HEREBY RECOMMEND THIS THESIS BE ACCEPTED AS FULFILLING  
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May 5, 1977  
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THE BALFOUR DECLARATION

AND

INTERNATIONAL LAW

BY

THOMAS NOREUIL

B. A., Eastern Illinois University, 1974

ABSTRACT OF A THESIS

Submitted in partial fulfillment of the requirements  
for the degree of Master of Arts at the Graduate School  
of Eastern Illinois University

CHARLESTON, ILLINOIS

1977

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An American general who formerly headed the United Nations Truce Supervision Organization in Palestine stated recently: "The American mind is being manipulated as far as Palestine is concerned." He was referring to Zionist manipulations. My own experiences with the Zionist Organization of America, which refused to answer any of my requests for varied information, confirm the general's charge. My own acquaintance with the Palestine problem has revealed that the equities involved in the area have been buried under a mass of distortion, misinformation and insidious propaganda which have misrepresented the actual facts and veiled the historical and legal truth to the extent that the Palestinian victims are made to appear as being the wrongdoers and the Zionist wrongdoers as the victims. The present problem in Palestine is the derivative of an extraordinary accumulation of injustices, illegalities and violations by Zionism of many decencies: violations of international law, violations of League of Nations and United Nations provisions, violations of fundamental human rights.

For more than three-quarters of a century there has been interminable conflict between the indigenous Palestinian Arab people and alien-imported Zionist ideology which maintains that Palestine belongs to "the Jews." On the other hand, there is the international law perspective which rejects the Zionist ideological claim and its form of extralegal logic. It may be stated with historical assurance that the great powers and organized international Zionism have used power politics, including a large measure of military methods, to deal with the problems of Palestine. From this accurate premise it may be erroneously deduced that international law has been a failure in the Palestine question. It would be far more accurate to conclude that international law has not even been applied in the Zionist-Palestinian issue.

A careful legal and historical analysis demonstrates beyond doubt that the Balfour Declaration is invalid under the criteria of modern international law; it should also be recalled that the instruments of Zionist discrimination and oppression of the Palestinian people in Palestine-Israel have not been established in a day or even as short a period of time as a half century. Zionist beginnings, at the latest, were at the First Zionist Congress in Basle, Switzerland in 1897. From there Zionism has proceeded extralegally one step at a time in a carefully planned program utilizing political, military and propaganda instruments, culminating in the illegal military fait accompli of 1948 when "the Jewish State" of Israel was installed by organized Zionism.

The native Arab people were ruthlessly driven out as part of an Israeli master-plan to rid Palestine of its Arab people in order to build an exclusivist "Jewish" state, and the few Arabs who remained in "Israel" have been exploited and repressed by the Israeli Zionist establishment. Any objective student of the Middle East will reach these conclusions if he analyzes Zionist history and its consistent violations of international legal principles and norms. Moreover, without an understanding of these causative factors of the Palestine problem, it is important to recognize that the plight of the Palestinian people will continue to be ignorantly ignored. What must be axiomatically recognized is that the violent uprooting of the Palestinians from their native land by international Zionist Jewry and their supplants can have no legal or moral justification. Not only is it a violation of international law and the principles of the United Nations Charter, it also constitutes an unparalleled violation of elementary principles of humanity and civilization. This, the writer has disclosed in his analysis of the Balfour Declaration in the context of international law.

## ACKNOWLEDGMENTS

During the course of writing this thesis, I have become indebted to many people. While it is impossible to enumerate them all here, first and foremost I would like to especially thank Dr. Abdul Lateef, advisor and close friend. His inspiration, counsel and friendship shall always be gratefully cherished.

Others are Dr. Hassan Abdallah, director of the midwest regional office of the Arab Information Agency in Chicago and his staff, who so generously supplied sources for information; Suzanne Jusi, formerly of Paris, France, who expertly translated French language publications, especially excerpts; and Anders Sandvig, Norwegian author and journalist, whose ethical eyewitness reports of the Zionist-Palestinian issue still have yet to find after three decades his journalistic counterpart in the West. He, and his family, have confronted direct Zionist threats within in his own country in order to report the truth of Zionist-Israeli activities in the Middle East. That, in itself, has been a strong inspiration to me.

Moreover, I wish to thank more than words can do my wife, Liane, without whose unfailing support and encouragement this paper could not have been completed. Besides letting me use her kitchen, she meticulously checked all footnote and bibliographical references appearing in the paper, gave valuable typing, editorial and grammatical assistance in several ways, translated French writings and excerpts,

and contributed yeoman service in proof-reading the entire paper.

Finally, this thesis is dedicated to the Palestinian people and public enlightenment of their terribly tragic condition brought about by international Zionist Jewry and their supine suppliants. It is not enough that this writer personally feels the guilt of what his government has helped the Zionists to do to the Palestinian Arab people and that his government shows no concern even three decades after its original immoralist and illegal acts. If this paper should serve to help one other student or individual achieve literate understanding of the origins of the Palestinian condition of today, the writer will have succeeded in reaching his partial aspiration.

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Foreign Office,

November 2nd, 1917.

Dear Lord Rothschild,

I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country"

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Y. vis  
Arthur Balfour



## CHAPTER I

### INTRODUCTION

#### Statement of Purpose: The Concept and Applicability of International Law

What is meant by international law? In basic conception, international law consists of a common body of norms or principles which are used in the solution of diverse international problems. It is essential that such norms or principles be applied consistently in order to promote the objectivity and uniformity associated with "law" as opposed to ad hoc or unprincipled decision-making in which a different ulterior rule is developed or executed for each problem. Upon the basis of this premise, international law may be accurately regarded as a set of uniform principles which require at least minimum standards of reasonable and humane conduct in the world community. It is also important to recognize that the principles of international law are established by consent and agreement. Express agreement is usually termed treaty or conventional law, and implicit agreement is usually termed customary law. Both are based primarily upon the consent of states as manifested by their governments, although other participants including international public bodies and individuals have a role to play. Among the public bodies which act in the development and acceptance of international law, the League of Nations and United Nations are particularly important. The League of Nations Covenant and the United Nations Charter are multilateral treaties agreed to by their members, as well as being the basic constitutions for the world community at their respective time periods.

A third element is legally indispensable to a practical conception of international law: Even the most just and widely accepted principles

of law, such as those contained in the League Covenant and United Nations Charter, are ineffectual in protecting human rights unless they are actually enforced and sanctioned. International law involves a whole sanctioning process ranging from exclusive reliance upon persuasive procedures at one extreme to heavy reliance upon coercive measures at the other extreme, with many intermediate stages including economic sanctions. As a general approach, the more coercive sanctions should be increasingly used where the persuasive ones have been found to be ineffective. There are very few situations either in international or municipal law where enforcement procedures are either completely effective or totally ineffective. Consequently, the most relevant questions concerning sanctions are: How effective is the present sanctions process and what steps may be taken to improve it?

A fourth element which requires specification is that among the institutions created to serve mankind, the state is not above international law. Since states and their governments have the preeminent role in making international law, it is essential that they be held accountable for full compliance with it. As a practical matter this means the personal accountability of government officials which was established in international law by the Nuremberg Trial before the International Military Tribunal. The Nuremberg Principles of the individual responsibility of government officials adopted by the United Nations General Assembly<sup>1</sup> are applicable



to officials of all governments.

With regard to the historical Palestine Question, concerning international law we may ask: Is it a relevant and practical means to achieve justice and peace in the Zionist-Palestinian issue and in the Middle East in general? It may be stated with historical assurance that the great powers have used power politics, including a large measure of military methods, to deal with the problems of this area. From this historically accurate assurance it may be erroneously deduced that international law has been an abysmal failure in the Middle East. It would be far more accurate to conclude that international law (even of the Covenant) has not even been applied or tried. The unprincipled power politics, conducted both domestically and internationally, played in the Middle East have papered over the fundamental causes of the conflict situation and have not even dealt with the results of injustice and violation of law.<sup>2</sup> The outcome of this dismal approach to the problems of the area has been further militarization accompanied by indefinitely protracted conflict and the increasing destruction of international human, material and legal values.

Because of the abysmal failure of the techniques which have been utilized, international law is no longer only an ideal alternative, it is also, considering the eighty-year old ongoing ideology of Zionism, the only practical alternative to an indefinite continuation of the present

situation which today has now extended over nearly a full century.<sup>3</sup>

Subsequently, the purpose of this thesis is to reveal that the Balfour Declaration is invalid under the criteria of international law and that international law has, in actuality, never been invoked in the case of the Palestinian Arab people nor in the Palestine Question. Where the provisions of the League Covenant and United Nations Charter on the mandates and trusteeships system have been flouted or ignored over a period of nearly sixty years (1919-1977), there is a juridical obligation of intervention to maintain the legal principles of each and to provide sanctions and enforcement to establish peace through justice and law.

#### Statement of the Propositions

Seven basic legal and historical propositions are advanced with regard to the rights of the Palestinian people as defined under international law. Recalling that it is historically obvious that the two promises which Britain made in regard to Palestine, that is, the promise through Sir Henry McMahon then British High Commissioner in Egypt and the Balfour Declaration, were mutually exclusive and contradictory, the interesting fact about the Balfour Declaration, however, is that it was invalid and incapable in law of affecting the rights which the Arab people have to Palestine as the indigenous inhabitants whose ancestors had been in continuous occupation of the country for centuries previous to the Hebrew invasion and in continuous occupation of the country for fourteen centuries.

Secondly, when the British Cabinet made the Balfour Declaration it did not possess sovereignty over Palestine and British troops had not set foot on Palestine soil, although military occupation would have disallowed under the Laws of War, the arbitrary transfer or usurpation of the country which was still within Turkish legal sovereignty. The legal position in this regard is depicted by the well-known legal maxim that "no one can give that which he has not got."

Thirdly, the fact that the Balfour Declaration was politically incorporated into the Palestine Mandate (not in the international mandates system) would not be valid against the Palestinian Arabs to dispossess them of title to Palestine, or to give title to the alien Zionists, for the League of Nations also did not own Palestine. Under international law a country belongs to its people, its rightful indigenous inhabitants.

Fourthly, the Balfour Declaration and the provisions of the mandate were contrary to the letter and the spirit of the League of Nations Covenant, Article 22(1) of which provides that in regard to mandated territories the League acted on "the principle that the well-being and development of such peoples form a sacred trust of civilization." It should be logically and legally noted that an unprincipled plan designed to convert the Arab inhabitants of Palestine, who formed more than 93 per cent of the country's population at the end of World War I, into a minority in a preplanned predominantly--or, as it eventually turned out, an almost

exclusively--Jewish State (and one controlled by Zionist institutions) is not a plan which can be said to take genuine cognizance of the "well-being and development" of the Palestinian Arab people.

Fifthly, even assuming that the British government was in law capable of making a "promise" about the future of Palestine to people other than the country's inhabitants, the Balfour Declaration did not mean what the Zionists have erroneously claimed it meant. For the Declaration spoke of the establishment of a national home for the Jewish people in Palestine--not a state comprising the whole or part of Palestine. In other words, even in violation of international law, there was to be an arbitrarily declared and invoked against the will or assent of the people of Palestine a shelter or refuge for "Jews" in Palestine, no more.

Sixthly, unprincipled decisions created against those whose rights are effected but not legally consulted for concurrence are invalid in international law. The negotiating history of the Balfour Declaration not only reveals secret and private negotiations but, also, that the Palestinian people were completely excluded from the stealthy discussions despite the fact that their future status was being secretly jeopardized.

Lastly, in the context of international law and universal morality, the Palestine Arab case--if a case needs to be made at all--stems in essence from the principle that the only title which any people has to its country comes from birth and long and continuous possession. This is

a criterion which is recognized as the international legal basis of the integrity and security of all nations; no just and stable international order can endure in the world on any other foundation.

#### Contribution to Political Science

The object of this thesis is to analyze the legal issues that arise from the issuance of the Balfour Declaration and its inclusion in the Palestine Mandate. The writer has subjected to a critical legal analysis the principal facts and developments in the evolution of the Declaration and Zionism's dependence upon it as a "legal" title to the Arab homeland. Until now no solution has been found or suggested for the Palestine-Zionist conflict that takes into account the principles of international law and justice. While one might wonder whether any useful purpose is served by an examination of the legal aspects of a Palestine conflict created by unprincipled extra-legal power politics and maintained by illegal military force, the writer believes that an analysis is needed of the appropriate legal purview of this issue which has been buried under a mass of distortion, misinformation and insidious one-sided propaganda which, in turn, have misrepresented historical and legal facts and veiled the truth of the conflict to the extent that the victims are made to appear as being the wrongdoers and the wrongdoers as the victims.

Without an understanding of the conflict in the light of the principles of international law and justice, regardless of conditions



created by force, peace efforts will remain futile. To this end, the historical analysis is largely derived from primary Zionist sources and the official documents now available from British Cabinet, Foreign Office and Colonial Office papers with minutes and memoranda written by those who have gone down in history. These documents are left to speak for themselves and to show what led to one of the most intractable problems of today. The legal methodology of this paper simply applies the relevant legal criteria of universal international law in which the law applicable to Palestine appears from the fundamental principles of the League's Covenant and mandates system and the legal rulings of the international courts of justice. Integrated into these international juristic principles is the legal criteria establishing the universally applied doctrine of self-determination that was so jarringly effaced in the case of Palestine.

This effacement was succinctly stated by Ambassador Loy W.

Henderson, then serving as the director of the Office of Near Eastern and African Affairs in the United States Department of State. In a top-secret memorandum to the American Secretary of State of September 22, 1947

Henderson declared:

These proposals[of the majority of the United Nations Special Committee on Palestine], for instance, ignore such principles as self-determination and majority rule. They recognize the principles of a theocratic racial state and even go so far in several instances as to discriminate on grounds of religion and race against persons outside of Palestine.<sup>4</sup>

Inevitably, it was necessary to be selective in the choice of extracts from the wealth of material available, but selection has been made on the basis of relevance to the sequence of events. It has not been possible in every case to give a document or source in its entirety

for reasons of length, repetition or the inclusion of irrelevant matter, but references are given in each case so that readers wishing to study the full version may do so. Finally, the writer fervently hopes that those interested in the Palestine problem will avail themselves of the historical and legal information on this topic to objectively acquaint themselves with the serious issues of the ongoing Palestinian-Zionist conflict. Because the effectiveness of democracy as a form of government depends on an informed and intelligent citizenry. Nowhere is the making of intelligent choices more important than in foreign affairs. It may be safely adjudged that had Americans informed themselves of the Zionist program in Palestine, had all its defects, violations and policies been examined critically and dispassionately, it is possible that the American people would never have allowed its government to support politically a Zionist movement whose aim was to create an exclusivist Jewish State on the absurdity of a racial ideology postulating lineal descent from ancient Hebrews.

#### Clarification of Word and Concept Symbols

Words without specified referents are highly ambiguous and are capable of having multiple and inconsistent meanings ascribed to them by writers and readers. In order to achieve clarity it is important to set forth definitions connected with key word symbols which appear throughout this study. It is recognized that dependent on political exigencies and biased ignorance these same word symbols are used by others, especially Zionists, with different interpretations than those employed here. The writer has consistently applied definitions utilized by anti-Zionist individuals and organizations most of which are Jewish. In setting forth

a religious conception of "Jew" and "Judaism" the writer is adopting a basic tenet of traditional and contemporary Judaism. It should be immediately noted that Jews are not accepted by scientific social science disciplines as composing a distinct racial type, that is, they are not members of a "race". Moreover, it is of utmost importance to distinguish between Israelis, Zionists and Jews. These fundamental definitions must be understood at the beginning in order to provide clarity for the subsequent appraisals in this study.

Palestine is the area bordered by the Mediterranean on the east, the Jordan River on the west, the Golan Mountains and the Sea of Galilee on the north, and the Negev and Sinai Deserts on the south. The Palestinian Arabs have inhabited this area since time immemorial. Since 1948, however, after the forceful military creation of the "State of Israel" on the same territory, the Palestinian people have been living in forced exile. Throughout the entire Islamic era preceding the creation of the Turkish Ottoman empire, Palestine remained an identifiable region with more or less autonomous local government and administration. This system was not only continued but in fact markedly increased under Turkish rule when Palestinian elected representatives actually sat in the Turkish national assembly. Palestine remained, with its people, an identifiable part of the Islamic nation as well as the Turkish Ottoman empire as did other regions, such as Egypt, until England perfidiously established with the help of the League of Nations a protectorate over Palestine. However, even that colonial device, the mandate system, created against the will of the Palestinian people, spoke of the "provisionally independent state of Palestine." The mandate system was predicated on the existence of a Palestinian entity which under the mandator's administration was to develop into complete independence.

While it should be emphasized that "Jews" are not a race, neither are the "Arabs" a race nor is the word "Arab" identical with Islam, the religion which sprang up among the Arabs and to which the majority of the Arabs today adhere. Primarily, the word Arab is a linguistic concept and with the language comes a culture, a literature. Broadly, Arabs are those who speak the Arabic language as their mother tongue and inhabit what has been called, traditionally, Arabia, or in more recent days, the Arab world. There are Arabs who are Moslems, Christians and who are Jews. As for example, the Jews of Iraq, dating from 586 B.C., if not earlier, were a completely Arabized community, spoke Arabic among themselves, introduced Arabic into their religious services, and wrote Arabic in Hebrew characters for their correspondence. Their social life was that of Arabs.<sup>5</sup>



Jew refers to a voluntary adherent of the religion of Judaism. The word is used by the writer to refer to an adherent of Judaism in the same way that Christian refers to an adherent of Christianity. Consequently, the sole element in the writer's use of the word Jew is the religious one. Sephardim Jews are Arabs while Ashkenazim Jews are Europeans. Many Jewish communities like the one in Russia are descendants of the Khazars who are not Semites but rather, according to Encyclopedia Judaica "a Turkish stock", who merely converted to Judaism. Palestinian Arabs (both Muslims--of the Islamic religion--and Christians) and Sephardim Jews, who are Arabs (some are converts from Islam to Judaism), are extracted from Semitic peoples that inhabited the Middle East for the last 10,000 years. It should not be necessary to emphasize the fact that there is no empirical basis upon which Jews can be deemed to be members of a single racial group which is a postulate of Zionism. For an excellent review of the distinction between racial conceptions in anthropology and non-scientific racist ideologies see Comas, Racial Myths (UNESCO, 1958), pp. 27-32.

Judaism refers simply to one of the universal monotheistic religions.

A Zionist is an adherent or supporter of the political doctrine of programs of Zionist organizations and need be neither an Israeli national nor a Jew, examples of which are Senator Henry Jackson, Vice-President Walter Mondale and Patrick Moynihan, former American Ambassador to the United Nations.\* Significantly, a Zionist adheres to the doctrine that all Jews are possessors of a universal "Jewish" nationality and that the State of Israel constitutes the national home of all Jewry, which is described in Zionist political ideology as "the Jewish people" doctrine. American Zionists are part of an intricate organizational structure of the World Zionist Organization-American Section, which is registered with the United States Department of Justice as an "agent for a foreign government." Interestingly, the United Jewish Appeal, which is part of this organizational and interlocking corporate structure, is a United States tax-exempt organization despite being part of a structure that is an admitted and registered agency of a foreign government and that channels its collected funds to Israel. To illustrate the degree of the Israeli Government's control over such organizations as the B'Nai B'Rith, see *Joftes v. Kaufman*, Civil Action Suit No. 3271-67 (1969), United States District Court, District of Columbia, wherein Mr. Joftes, the International Secretary of the B'Nai B'Rith revealed that that organization fell under Israeli Zionist control.

Non-Zionist is a term created by Chaim Weizmann for those who are generally Jews, that is, they may be non-Jews as well, but reject "Jewish" nationalism (Zionism) but do not actively or vocally oppose it.

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\*For a description of the Zionist and pro-Zionist political activities on the part of these and many other American political figures for the State of Israel, see any of the various reports by the American Jewish Alternatives to Zionism organization which rejects Zionism and the Zionist ideology of the State of Israel.

An anti-Zionist is a Jew who identifies himself or herself as "Jewish" by virtue of religious affiliation which entails no acceptance of transnational nationalistic or ethnic obligations. In short, they do not accept the Zionist "the Jewish people" nationality claim or racial doctrine.

Israel constitutes the political embodiment of "the Jewish people" ideological doctrine relied upon by Zionism, an ideology that controls the Israeli Government. "The Jewish people" doctrine is the most ambiguous concatenation of world and word symbols employed by Zionism. Although the term does not appear in Holy Writ, it was given an almost exclusively religious meaning until the founding of political Zionism in 1897. Its most usual use was as a synonym for "Jews," for "Israeleites," "the Children of Israel," and "the people of the Book," among other Biblical depictions. The Zionist political movement has captured the term for its own political purposes and, consequently, the writer uses "the Jewish people" to refer to the claimed transnational constituency of Zionist secular nationalism. Even though the Zionist State of Israel gives a specific nationalistic meaning to the words, they have not rejected whatever political advantages accrue to them from the ambiguities of the words. Incidentally, international legal institutions and municipal law of all states except Israel reject this purely political doctrine.

An Israeli is simply a national of the State of Israel or a legal citizen of Israel under principles of naturalization recognized by customary international law. It should be noted that most of the remaining Palestinian Arabs in Israel do not have, nor are allowed, "Israeli" citizenship by the Israeli Government.

The term World Zionist Organization is used to refer to the political entity constituted by the First Zionist Congress in 1897. It is an international instrumentality controlled by Israel and designed to achieve the political objects of Zionism. Since the 1922 League of Nations mandate for Palestine the term has been equivalent to the term "Jewish Agency." Article 4 of the mandate recognized the Zionist Organization as the Jewish Agency. The writer consequently uses the term to refer to the World Zionist Organization, including its individual and group members such as its affiliate the Zionist Organization of America. "Israel" and the World Zionist Organization are employed as the two principal political instruments of Zionist nationalism.

The term Zionist-Israel Sovereignty is used to refer to the integral relationship between the State of Israel and the Zionist Organization. The public law character of this relationship between Israel and the Zionist Organization is recognized explicitly in the Israeli Status Law of 1952 and the ensuing Covenant between the Government of Israel and the Zionist Executive of 1954. The Covenant spells out an allocation and coordination of governmental functions as between State and Organization in furthering the Zionist political objectives of both.



Political Zionism, founded in 1897 by Theodor Herzl, postulates that anti-Semitism is ineradicable and upon this doctrine, the Zionists base their juridical-political objectives that "the Jewish people" be constituted as a nationality entity and that membership in it be conferred upon all Jews wherever they are living. We must recall that the Zionist interpretation of "Jews" is a racial group interpretation. A juridically novel device is the distinction in Israeli municipal law between "nationality" reserved to Jews and "citizenship" for Israelis (or those who live in Israel) who may also be non-Jews, such as in the case of a few Arab Palestinians. This distinction appears in identification documents released in Israel by the Ministry of Interior and was brought to world attention by the famed Shalit case where the children of Commander Shalit of the Israeli Navy, an Israeli and a Jew,<sup>6</sup> were denied Jewish nationality because their mother was a Christian.

Since the word Judenstaat is used frequently throughout this paper it is important to acknowledge its Zionistic definition. The word Judenstaat derives from the publication of Theodor Herzl's political document Der Judenstaat (The Jewish State).<sup>7</sup> Herzl proposed a schematic plan for the national consolidation of all Jews which in Zionist political jargon translates into "the Jewish people." Herzl concluded that the solution to what he called "the Jewish question" was to separate Jew from non-Jew by creating an exclusivist Jewish State. To Herzl the location of such a Jewish State was immaterial. He regarded Argentina, Uganda (which today is Kenya) and Palestine as equally acceptable.<sup>8</sup> Each of these areas represented to Herzl the national homeland of all Jews to which the "world Jewish nation" was to be centered and exclusively Jewish. Under the influence of the existing Love of Zion movement in Eastern Europe, however, Herzl soon came to regard Arab Palestine as the desirable Jewish homeland or Judenstaat.<sup>9</sup> Herzl wrote in Der Judenstaat: "The idea which I have developed in this pamphlet is an old one: It is the establishment of a State for the Jews." In German it is: "Der Gedanke, den ich in dieser Schrift ausführe, ist ein uralter. Es ist die Herstellung des Judenstaates." The meaning of Herstellung in French is établissement. In modern Zionist texts--for example, The Zionist Idea, ed. Arthur Herzberg, New York, 1959--the meaning is subtly altered to become: "The idea which I have developed in this pamphlet is an ancient one: It is the restoration of the Jewish State." The German for "restoration" would be Wiederherstellung; if Herzl had used it, it would have implied that he wanted the revival of the ancient entity in Palestine called "Israel", which was far from his political national conception in Der Judenstaat. It should be noted that no "Jewish State" or "Israelite nation" in ancient Palestine or Canaan had ever exercised control over the coastal plain, inhabited by Phoenicians and Philistines, let alone Sinai, Lebanon and northern Syria.

The term "the Jewish people" in Zionist jargon is the most ambiguous concatenation of word symbols employed in this study of the Balfour Declaration. Although the term does not appear in Holy Writ, it was given an almost exclusively religious meaning until the founding of political Zionism by Herzl in 1897. The Zionist movement has captured the term for its own juridical-political purposes and, consequently, the writer uses "the Jewish people" to refer to the claimed constituency of Zionist secular nationalism although extremist religious groups in Israel employ the term in the same way. Even though the Zionists give a specific secular nationalistic meaning to the words, they have not rejected whatever political advantages accrue to them from the ambiguities of the words. This Zionist doctrine is based on a genetical or racial affinity between the Hebrews of 4000 years ago and the Russian, Polish, American and European Jews of today; in essence it is the embodiment of a distinct Jewish race by which Zionists mean an undiluted racial continuity of blood, culture, history and destiny similar in doctrinal principal to the Nazi Aryan racial concept. In actual fact, the Jews of Europe have no anthropological connection whatsoever with the Jews of Palestine. The current European political leaders of Israel, as well as the Jewish immigrants who hail from Central Europe, Poland, Russia and even the United States, are of Khazar extraction, descendants of Caucasian Russians whom Byzantine Jews converted to Judaism in the mid-eight century.

The confusion arising out of the novel "Jewish people" Zionist claim is easily understood. Prior to the political creation of the 1897 Zionist Judenstaat scheme, which was militarily imposed in 1948, a political concept which would replace nationality or citizenship and emotionally attract some form of political allegiance was tactically indispensable to the Zionist scheme for a Judenstaat. Consequently, once the Zionist State was established and the municipal legal power to arbitrarily but unilaterally confer Israeli citizenship was gained,<sup>10</sup> the "Jewish people" concept had to be legitimized in order to further Zionist goals. "Jewish nationality," which is borrowed from Halakahic law or the religious law of the ancient Hebrews, is decreed by contemporary Israeli secular laws. Halakah, or the religious law of the ancient Hebrew people, religiously applied to adherents of Judaism; the group to which it applies transposes to the Hebrew Le'om, or "peoplehood." Zionist secularists or nationalists (such as Herzl, Sokolov and Weizmann) captured the most meaningful words and phrases from Halakahic law, gave them secularist definitions in order to achieve secularistic/nationalistic ambitions; these purely secular goals are outlined in the Zionist Basle program of 1897.

From the religious premise of the ancient Hebrew Halakalic law, Zionists easily transposed political or secular definitions, the "Jewish people" political concept being one. Am Yisroel, the "people of Israel," a phrase in the liturgy of Judaism, has been similarly transformed into "the Jewish people." "The Jewish people" in recent centuries had been the most appropriate term to describe or depict (Jewish) religionists who still religiously respect the theological Covenant and its religious calling. This definition of the Jews was particularly appropri-

ate in the Middle Ages and through the nineteenth century when Jews had neither a land-base nor the organized, secular demand for one. During that period, "the Jewish people" was a purely religious description for Jews.\* It simply acknowledged the religious collectivity which had made a sincere commitment to God, and the individuality which implied the fulfillment of that commitment at any place on earth, without a common secular or political commitment. That clear distinction became blurred in the drive of the nineteenth century minority nationalisms, and purposely so in the Zionist insistence upon "Jewish" nationalism. The creators of "Jewish" nationalism (or Zionism) adopted the phrase "the Jewish people" and made it synonymous with nineteenth century political-nationalistic aspirations.<sup>11</sup>

Lastly, the writer acknowledges that Palestine is historically a geographical name of rather loose application. Etymological strictness would require it to denote exclusively the narrow strip of coastland once inhabited by the Philistines, from whose name it is derived. The modern subdivisions under the jurisdiction of the Ottoman Empire were in no sense conterminous with those of antiquity, and hence do not afford a boundary by which Palestine can be separated exactly from the rest of Syria in the north, or from the Sinai and Arabian deserts in the south and east. Consequently, there is no ancient geographical term that inflexibly delineates the area known as Palestine; nor is there any reason as pertains to this thesis to reach back into antiquity because the Zionist-Palestinian conflict begins with the 1880s, with specific agitation starting after the 1897 Basle meeting which implemented an activist and organized political Zionism in Palestine. Consequently,

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\*It has been stated by Chaim Weizmann himself that his claimed constituency of "the Jewish people" in the discussions leading to the Balfour Declaration was a fabrication subsequently conceded by him. Refer to the public address by Weizmann at Czernowitz, Roumania, December 12, 1927, in Goodman, ed., Chaim Weizmann, Tribute in Honour of His Seventieth Birthday (1945), p. 199.



for the purposes of this paper, the writer must select an arbitrary but appropriate historical departure point on what entails the area of "Palestine." Therefore, the demographic area which included a people known historically as Palestinians at the time of the Zionist alien encroachments is designated as Palestine in this paper.

## FOOTNOTES

## Chapter One

<sup>1</sup>United Nations GAOR 1144 (1946); G.A. Res. 95(I); United Nations Doc. A/236 (1946). The principles also appear in <sup>45</sup>American Journal of International Law Supplement, Documents (1951), p. 125.

<sup>2</sup>The most recently declassified and published United States Government materials which demonstrate this appear in (1947) Foreign Relations of the United States, vol. 5, (1971), pp. 999-1328. Recently released official documents of the British Government show how decisions were made and policy formulated. Doreen Ingrams presents an historical compilation of these records in Palestine Papers 1917-1922: Seeds of Conflict (New York: George Braziller, Inc., 1973).

<sup>3</sup>It may be easily predicted with considerable assurance that if the present Middle East Peace Conference is to reach toward peace based upon justice, it will have to utilize the principled criteria of international law. Another so-called "practical settlement" based upon naked power bargaining and expedient unprincipled calculation will provide a short interlude between more serious intense hostilities.

<sup>4</sup>Foreign Relations of the United States 1947, Vol. V (Washington, D.C.: U.S. Government Printing Office, 1971), p. 1157.

<sup>5</sup>For a discussion of the rights, duties and roles of the non-Muslim communities during the Islamic and Ottoman (1534-1914) rule periods see: H.A.R. Gibb and Harold Bowen, Islamic Society and the West (London: Oxford University Press, 1957), Vol. I, part II, pp. 207-261; Majid Khadduri, "International Law," in Majid Khadduri and Herbert J. Liebesny, eds., Law in the Middle East (Washington, D.C.: The Middle East Institute, 1955), Vol. I, pp. 349-373; Yusif Rizq-Allah Ghanimah, A History of the Jews of Iraq (Arabic) (Baghdad: al-Furat Press, 1924); Cecil Roth, The Sassoon Dynasty (London: Robert Hale Ltd., 1941); Israel Joseph Benjamin II, Eight Years in Asia and Africa from 1846 to 1855 (Hanover: Published by the author, 1859). When Palestine was illegally dismembered in 1948, Palestine's Arab population numbered 1,398,000. According to the best estimates, that population is now approximately 3,500,000 scattered about in forced exile by Zionism.

<sup>6</sup>Shalit v. Minister of Interior, 23 P.D. 477-608 (1969), noted in Israel Law Review (1970), pp. 259-263. For an excellent review of citizenship complexities in the State of Israel see Dr. Uri Davis, "The Land Where Palestinians are 'Non-persons'," Palestine Digest, July, 1976, pp. 1-3; Norman F. Dacey, "Democracy" in Israel, Southbury, Conn.: The American-Palestine Committee, 1976, pp. 7-9. It will simply be noted here

that the Israeli Nationality Law makes it possible for a non-Jew to be born in the territory under Israeli political jurisdiction and yet be doomed to inherited statelessness. The Israeli Ministry of Interior has to date refused to publish official statistics on the number of stateless Palestinian Arab residents under Israeli law. This is one of Israel's most guarded secrets. It is also interesting to note that according to the Israel Nationality Law Part 1, Section 2: Nationality by Return, a Jewish infant born in Israel after the establishment of the state in 1948 acquires Israel nationality not by birth, but by return as a Jewish immigrant under the law of Return. In Israel, once Palestinians have passed 21 years of age without applying for citizenship, they have completely lost their right to citizenship and must pass their "stateless" status on to their offspring.

<sup>7</sup>Theodor Herzl, The Jewish State (New York: The Maccabean Publishing Company, 1904).

<sup>8</sup>Theodor Herzl, The Jewish State (Der Judenstaat), trans. by Harry Zohn (New York: The Herzl Press, 1970), p. 10. In keeping with Zionist political doctrines the establishment of Jewish settlements was from the outset based on the displacement of the indigenous population. See, for example, the provisions of the Jewish National Fund as early as the turn of the century. It should be noted that Israel has been ruled since 1948 by a group of Zionists predominantly of Eastern European origin to whom a Jewish State and Jewishness mean a state based on the culture of Eastern European Jewry. Herzl wrote, "Is Palestine or Argentina preferable? The Society (of Jews) will take whatever it is given and whatever is favored by the public opinion of the Jewish people. The Society will determine both points" (p. 10).

<sup>9</sup>Ibid., p. 27. "The idea which I develop in this pamphlet is an age old one: the establishment of a Jewish State."

<sup>10</sup>Israeli citizenship, under Zionist ideology, is distinguished from Jewish nationality and religious affiliation. The Zionist State maintains its exclusive secular jurisdiction over religious matters by conveniently preserving a misleading category of Jewish nationality in addition to Israeli citizenship: Israeli identity cards and birth certificates not only have those two categories listed separately, but to further accentuate the Zionist ideology, a third category for religion is added. Thus, an Israeli Jew is a citizen of Israel, a Jewish national and a Jew by faith. In the case of "Jewish nationals" Israel's Zionist establishment elites are applying "the Jewish people" racial concept.



<sup>11</sup> A distinction must be made in Zionist ideology between the concepts "the Jewish people" and "Israel." "Israel" constitutes the 1948 geographical political embodiment of the "Jewish people" doctrine relied upon by Zionism. The distinction may be made clear by recognizing that the Israeli Supreme Court, a Zionist instrument, held in Attorney General of Israel v. Eichmann, that "The connection between Jewish people and the State of Israel constitutes an integral part of the law of nations...." (Supreme Court of Israel, Criminal App. No. 336/61, May 29, 1962). It should also be noted that in this case of Eichmann's trial the Zionist doctrine of "the Jewish people" was clearly enunciated by the Israeli Court. Israel is, in Zionist doctrine, one of the two principal political instruments of Zionist nationalism. The other is the World Zionist Organization, which is as of 1954 an official political instrument of the Israeli government. The public law relationship between the State of Israel and the World Zionist Organization (or Jewish Agency) is recognized explicitly in the Israeli Status Law of 1952 and the ensuing Covenant between the Israeli government and the Zionist Organization's Executive body of 1954. It must be made clear that contrary to the Israeli Supreme Court interpretation in the Eichmann case the connection between "Jewish people" and "Israel" has never been accepted as an "integral part of the law of nations."

## CHAPTER II

### PALESTINE IN PERSPECTIVE: A REVIEW OF PRE-WORLD WAR I JEWISH-ZIONIST IMMIGRATION ACTIVITIES

An analysis of juridical rights of foreigners under the Ottoman Capitulations treaties and in accordance with the diplomatic customs of this period is technical. But we can contribute some legal thoughts to this problem, for which Turkey, naturally wishing to be sovereign in its own territory,<sup>1</sup> shortly upon the outbreak of World War I denounced the imposed Western Capitulations:

The Department of State was officially informed by the Turkish Ambassador on September 10, 1914, that on and after the first of October the Ottoman Government had determined to abrogate the conventions known as the "Capitulations" which he stated "restrict the sovereignty of Turkey in her relations with certain Powers." The United States is one of these Powers. It was further stated that "all privilege and immunities accessory to these conventions or issuing therefrom are equally repealed." The purpose was to remove "an intolerable obstacle to all progress in the Empire," and the relations of Turkey to the Powers were to be regulated henceforth by "the general principles of international law."<sup>2</sup>

Through the Capitulations the Ottoman Empire formulated the custom of granting legal immunity to non-citizens (foreigners or non-Turkish residents based on Turkish territory) and peoples conquered and incorporated under Istanbul's ruling authority (an example is Palestinians). The Istanbul authorities were inclined to do so by means of the reason of the difference between the law of the Koran applying to subjects of the Islamic faith and the laws of the non-Islamic countries. The essential fact to be denoted is simply that the Turks in the midst of their territorial acquisitions spontaneously and generously recognized the right of the conquered to be governed by their own laws and customs in matters held sacred by the Muslims, as well as in matters not of vital concern to the state. This ruling concept is what the Zionist Israel

Zangwill partially referred to when he stated in 1921:

Were the Arabs given their own way, it is certain they would put a total embargo upon Jewish immigration. But they are not to have their way. Palestine is to be ruled like a British crown colony, and its inhabitants have lost the democratic rights which they enjoyed even under Turkey.<sup>3</sup>

Whatever may have been the historical reasons and political motives guiding the Ottoman Turks in their policy towards their non-Muslim subjects, whether of tolerance, statesmanship, or practical political necessity, it is sufficient for the purpose of determining the origin and nature of the extraterritorial privileges of foreigners in Turkey, simply to note in this connection that without the threat of powerful armies and battleships, the Christians, Jews and other subjects of the Sultan received extensive immunities of legal jurisdiction resembling in certain respects those subsequently granted to non-subject foreigners.

The origin of the juridical rights of foreigners, commonly termed Capitulations, in the Ottoman Empire reveals the distinction between Ottoman law and the concept of international law or legal custom employed by the Western nations. The contrast reveals how alien peoples (foreigners) coming together have been allowed to retain their legal customs and to have their actions tested or reviewed juridically by their separate legal standards; that is to say, how law was regarded as personal, traveling with the person and controlling his actions, instead of territorial, in the Anglo-Saxon sense of applying to all persons irrespective of nationality within the politically recognized sovereign boundaries. The Turks by reason of their reverence for custom in general felt constrained to recognize the customs of subject nationalities or peoples incorporated in the Empire. It was rather the acknowledgment of the general practice of the times--a conformity to the accepted rules of

international intercourse. If, however, the act of voluntary acceptance of international legal custom (i.e., the confirmation by Sultan Mohammed of the ancient political and commercial privileges granted to the merchants of Genoese of Galata in 1453) is accepted, the recognition of the legal rights of the Venetians a year later (April 15, 1454) assumed still the legal context of voluntary arrangements even though the rights of the Venetians resulted from a treaty concluded at Adrianople. This treaty looms as very significant because it became the precursor, but not prototype, of later agreements between Turkey and Western nations, commonly termed Capitulations, but in a different context.

The two treaties standing out beyond all others in the matter of Western world Capitulations are the treaty of 1535 between Sultan Soliman and Francis I of France, and that of 1740 between Turkey and France; these treaties, as well as others, inured to the benefit of the nations with political and commercial interests in the Ottoman Empire and would help generate the destruction of sovereignty in the Ottoman Empire. It may be said that France first obtained for the rest the major immunities of legal jurisdiction claimed by all the Powers in the subsequent treaties; incrementally these Powers secured special privileges through the process of forcing "juridical" extraterritoriality, making the Ottoman authorities legally impotent against foreign non-subject nationals in the Empire. The United States was one of the beneficiaries of the French treaties, claiming and exercising legal jurisdiction in the Ottoman Empire in accordance with the Treaty of 1830 between the two countries, until 1914 when Turkey denounced the imposed Western Capitulations.

This juridical system of one-sided "international law" obtaining in Turkey, by which foreign governments exercised legal jurisdiction on



Turkey's soil (Palestine was part of Turkish sovereignty), was humiliating; in fact, it denoted that up to 1914 (the First World War) that Turkey was not allowed, in the context of the dichotomous Western view of "international law" due respect to the sovereign rights of Turkey as an independent, equal state in the family of nations. In other words, even in 1914, according to the basic principles of international law as regards the juridical concept of sovereignty, Turkey should have had legal jurisdiction over foreigners, as well as subjects, in all matters affecting municipal public law and order in the Empire. The presence of usurper foreign consular courts, which decided all questions regarding their respective foreign nationals, violated the international law concept of sovereignty. These foreign tribunals illegally disavowed Turkey's sovereign rights. A nation submits to such illegal inroads upon its sovereignty and its legitimate exercise of jurisdiction over those in its boundaries only when forced to do so; for these reasons of violation of national sovereignty, the Turkish Ambassador on September 10, 1914, informed the American Government that his government "determined to abrogate the conventions known as the 'Capitulations'" which "restricted the sovereignty of Turkey."

The subject of foreign imposed Capitulations is very relevant to the subject treated in this paper because of the juridical violations, in the context of international law principles, of Turkish sovereignty previous to the war's outbreak, and the illegal immigration, under the imposed Capitulations, of Jews (and Zionists) into Palestine<sup>4</sup> under the external protection (extraterritoriality) of foreign Powers. Consequently, it becomes necessary to discuss the official policies of the Ottoman Government with regard to illegal Jewish immigration to Palestine.

Official Ottoman policy regarding Jewish settlement in Palestine<sup>5</sup> from 1881 to 1917 was that the Ottoman state was strongly opposed from the outset to modern Jewish settlement in Palestine.<sup>6</sup> The Ottoman Government's policy must be seen as a reaction to nationalism in general and to Zionist nationalism in particular. After 1880 the Ottoman Government viewed nationalism which had political statehood or nationhood aims as a threat to the multiethnic, multinational principle of state organization on which the Ottoman comity was based. But, along with its own internal administrative problems and deficiencies, the Porte was militarily unable to stand up to the various powerful external constraints effectively imposed by the Great Powers.<sup>7</sup>

To put its policy into practice, the Ottoman Government placed restrictions on Jews, many of which were Zionists, entering Palestine from 1882 onwards, policies designed to prevent Jewish settlement in the country, especially Palestine. Ottoman opposition to Jewish settlement was intensified in 1897 when the Zionist international (European) movement, seeking a Jewish State in Palestine, was founded; in 1901 the restrictions against Jewish entry and land purchase in Palestine were revised in the form of consolidated regulations. But, although Ottoman policy and the reasons for it (Zionism being one) was clear and consistent, it failed. This was partly because the restrictions were not complete (for example, Jewish "pilgrims" were never barred from Palestine) and, importantly, because the European Powers refused to acquiesce in the restrictions on the reason that they ran counter to the foreign privileges they and their nationals enjoyed under the imposed Capitulations.<sup>8</sup>

Neville Mandel writes:

Even when the entry restrictions were most severe, Jews could always visit Palestine as "pilgrims" and outstay their welcome. If the (Ottoman) police tried to expel them, they could appeal to their consuls, whose files are full of accounts of Jewish immigrants being ~~harried~~ on reaching Palestine--precisely because the Jews made full use of their consuls' protection. And there were few obstacles that could not be overcome by reference to the Capitulations, either by the consuls on the spot or by the Embassies at Constantinople where higher authority could be brought to bear.<sup>9</sup>

In the summer of 1903 David Levontin arrived in Jaffa to open the Anglo-Palestine Company (the APC). This bank was the first Zionist institution, properly speaking in Palestine. But the Porte had known of the bank's connection with the Zionist Movement from the moment its parent company, the Jewish Colonial Trust, was set up in London in 1898.<sup>49</sup> An introduction to Kâzim Bey from the British Consul in Jerusalem did not help, and Levontin, soon encountered obstacles in Jaffa where the APC's offices were to be established.<sup>50</sup> Indeed, by September 1 the Consul learned that the Porte had ordered Kâzim Bey to obstruct the APC's opening<sup>51</sup> (on the basis of orders from Abdulhamid, if one of Theodor Herzl's rather dubious contacts in Constantinople is to be believed)<sup>52</sup>. Only pressure from the British Embassy at Constantinople made the Porte relent in November 1903.<sup>53</sup> In December Levontin was informed that "the Company would be permitted to conduct its affairs without hindrance, so long as it confined its operations to commercial matters".<sup>54</sup> <sup>10</sup> (Words in parentheses are from the original.)

An excellent example of Western encroachment of Turkish sovereignty both before and after 1856<sup>11</sup> occurred in 1847 when the Russians had received from the British consul in Jerusalem a plan to transfer the Russian Jews (citizens of Czarist Russia) who were residing in Palestine to British Consular protection because many of them stayed in Jerusalem more than one year, in violation of the Russian law (municipal), and therefore under the Capitulations remained without legal protection; the Turkish state was not allowed, even after the 1856 Paris Treaty, to assume this jurisdiction.

The nationalist currents and the political threat of having one ethnic or religious group concentrated in one area and claiming it as independent territory, posed an immediate threat to the idea of multi-ethnic, multireligious coexistence, which was the constitutional basis

of the Ottoman state. The Jews in the Ottoman state enjoyed absolute freedom of religion, culture, travel and occupation. Until the 1870s Jews like other Ottoman subjects were free to settle wherever they desired. As late as 1876 Sultan Abdulhamid repelled a Jewish scheme, presented by Rabbi Joseph Natonek of Budapest (October 21), for settling "a substantial contingent from among three million European Jews, but mostly from among Russian Jews"<sup>12</sup> in Palestine. The emphasis of this plan was similar to that of post-1897 Zionism because Natonek's letter suggested that a "special law" be enacted to regulate relations between the "Jewish colonists" and the "native" Palestine population.<sup>13</sup>

The Ottoman Government, responding to Natonek, declared that almost all lands in Palestine were occupied, that the autonomy (Natonek's "Jewish" autonomy) Natonek requested was incompatible with the administrative principles of a multiethnic and multireligious Ottoman state, and most significantly, the government called Natonek's attention to the fact that immigration into the Ottoman state was open to all individuals (as individuals) who wanted to establish themselves permanently as subjects of the state, and that there were legal regulations for settlement which the Jews could use to do so.<sup>14</sup> The Ottoman Government's political and legal position on any immigration was clear. It allowed individuals, regardless of religion or nationality, to emigrate to Turkey, but it would restrict mass settlement--it would not permit one ethnic or religious group to establish numerical majority or exclusiveness in one specific area.<sup>15</sup> Several decrees to this effect were issued, in 1884, 1887 and 1888. Yet, despite these clear decrees, certain Jewish individuals and organizations as late as 1909<sup>16</sup> continued to propose mass Jewish settlement in the Ottoman state.



Not disregarding other historical Jewish settlement plans, beginning in 1890, the question of Jewish immigration into Ottoman territory became more than a serious concern for official debate and policy announcements. Large groups of Jews from Russia and Roumania sought to migrate to the Ottoman state using any means available. Many of these were either Zionists or migrated under Zionist organizational auspices.

In 1896 the Jewish Colonization Association (JCA was a non-Zionist organization founded in 1891 by Baron Maurice de Hirsch) became interested in Jewish colonies in Palestine, sending its agent Joseph Niégo in 1897 to inspect possible colonization sites.<sup>17</sup> Specifically, the JCA turned their political sights to the north of Palestine and east of the Jordan River for reasons which should be made clear. Land purchases in the Sancak of Acre were not as difficult as in the Mutasarriflik of Jerusalem. Niégo's inspection and views on Jewish colonization were shared by the JCA's first full-time official in Palestine, David Haym, who reported in a JCA correspondence that the Ottoman authorities in the Mutasarriflik of Jerusalem were opposed to organized Jewish settlement and referred all questions directly to Constantinople, whereas Ottoman authorities in the Sancak of Acre were more flexible and were prepared to present their superior, the Vali of Beirut, with faits accomplis. Accordingly, JCA's attentions turned northwards and in 1900 the authorities in Beirut informed the Ottoman Minister of Internal Affairs that some landowners wanted to sell land in the region of Tiberias to Narcisse Leven, president of the JCA. The JCA had intentions of installing groups of foreign Jews on the purchased lands while evicting the Arab fellahin tenants who rented the lands from the large Arab landowners.<sup>18</sup>

It is interesting to note that in 1901--shortly after the consoli-

dated regulations<sup>19</sup> on Jewish entry and land purchase in Palestine were issued by the Ottoman Government--the Council of Ministers in Constantinople ruled that Leven, as a foreigner, was legally entitled under the Ottoman Land Code of 1867 to buy land in the Ottoman Empire, provided the Ottoman authorities were assured that Leven would not install foreign colonizing Jews on the land.<sup>20</sup> Leven, acting as "simply a French Jew" while actually quietly acting as representative of the foreign based JCA, sought to illegally circumvent the 1901 Ottoman regulations which specifically prohibited the sale of Ottoman land to Jews who maintained residence abroad. Through illegal circuitous routes, the JCA had managed to acquire enough land from 1898 to 1901 for six Jewish colonies to be established in the north of Palestine between 1899 and 1904.

In June of 1904 land sales to all foreigners were prohibited without authority from the Porte. When Ahmed Resid Bey, the Ottoman governor of the Mutasarriflik of Jerusalem, succeeded Kâzım Bey in July of 1904, one of his first actions was to send an official document to the foreign consuls in Jerusalem reminding them of the legal restrictions on land purchases by foreign Jews acting on behalf of foreign Jewish colonization organizations or maintaining residence abroad. It is interesting to note that no tender offered by the Anglo-Palestine Company (APC)<sup>21</sup> for any commercial concession or construction project in Palestine was ever accepted by the Ottoman Government.<sup>22</sup>

Though the Ottoman Government placed restrictions on Jews entering Palestine from 1882 onwards, and though its opposition to Jewish settlement was increased in 1897 when the Zionist Movement was founded and sought a Jewish State in Palestine, and though in 1901 Ottoman restrictions against Jewish entry and land purchase in Palestine were revised in the form of

consolidated restrictions (1901), Ottoman policy failed. Largely, this policy failed because of foreign interventionist restraints imposed by the Capitulations; significantly, Ottoman policy failed of effective implementation even despite fears after the Seventh Zionist Congress (1905) which decided that Zionist Jewish State efforts should be directed exclusively at Palestine. Even Ahmed Resid Bey, Ottoman governor of the Mutasarriflik of Jerusalem 1904 through 1906 expressed grave concern to the Porte in Constantinople (as did his predecessors) that it was impossible to restrain and prohibit foreign Jews from settling in Palestine without the cooperation of the foreign consuls.<sup>23</sup> Additionally, Resid Bey submitted a report in which he disagreed with continued Jewish immigration into Palestine.<sup>24</sup> As early as 1906 he observed that the Jews sought autonomy in Palestine. To depict this Zionist political goal he quoted from the Russian Zionist Menachem Ussishkin's pamphlet, Our Programme, which was central to the debates at the Seventh Zionist Congress.<sup>25</sup> In April of 1907 Ali Ekrem Bey, successor to Resid Bey in Jerusalem, wrote to the president of the Alliance Israélite Universelle in Constantinople:

As for the business which you call political--the business of land sales--it is incontestable that it is taking on day by day an unmeasured proportion which is contrary to the spirit of the (Ottoman) Government...The Jews, as well as other groups, can buy land, but they must not appear to want to conquer Palestine...So counsel your co-religionists moderation, equity and, above all, honesty. You know me enough to be convinced that I shall do all I can to prevent a [land] sale in which I suspect some illegitimate interest.<sup>26</sup>

In June of 1907, Ekrem Bey, the Ottoman governor of the Mutasarriflik of Jerusalem, wrote to the Grand Vezir stating that the legal entry restrictions needed the support of the foreign consuls to be effective.<sup>27</sup> As noted at this approximate time the Seventh Zionist Congress (1905) aimed

at settling as many Jews in Palestine as could be achieved and setting up in Palestine an independent Jewish government with the help of the Powers, notions not exactly designed to appeal to the Ottoman Government. Ekrem Bey attributed the inconsistencies, violations and ineffectiveness of the Ottoman entry provisions to the refusal of the European Powers to accept them because they inured to the extraterritorial privileges European nationals enjoyed under the Capitulations. Obviously, militarily the Porte could not stand up to the Great Powers; hence, the Europeans violated or overlooked the Ottoman legal provisions with impunity.

The 1901 consolidated regulations, though legally in force, had not and could not be applied. The Jews ignored the absolute "requirement" to carry a foreign national's passport or equivalent document indicating, inter alia, the purpose of their visit while the non-cooperation of the consuls in Palestine assured the foreign nationals without passports extraterritorial protection in Palestine though they were in violation of Ottoman law. Ironically, there was no hint in the Ottoman instructions to their own officials on how to deal with violations of legal entry provisions because, not so strangely, the Minister of Internal Affairs had himself, because of the power of the European states to intervene in the Ottoman Empire, deprived the legal directives of all force by instructing the Mutasarrif of Jerusalem in 1904 "not to permit a situation in which problems arise with foreign embassies."<sup>28</sup>

Jews, even when entry restrictions were most severe, could always visit Palestine as "Pilgrims," as David Ben Gurion did, and stay. If the Ottoman authorities tried to expel them, Jews of whatever current nationality could appeal to their local consuls for protection despite



the fact they would be in violation of Ottoman visa stipulations. Archival material of consuls' files in the Ottoman Empire are full of historical accounts of Jewish visitors ("pilgrims") and illegal immigrants afforded extraterritorial protection by their respective consuls in Palestine. Records reveal that Jews made full use of their consuls' protection. And there were few obstacles that could not be overcome by reference to the Capitulations either by the foreign consuls on the spot or by the foreign embassies at Constantinople where more powerful foreign political authority could be placed against the Ottoman Government. The severity of foreign encroachment on behalf of legal and illegal Jewish immigrants in Palestine is transcribed in a detail report by Bahaaddin Bey, a former Commissioner for Jewish Affairs in Palestine at the Ottoman Ministry of the Interior, Istanbul. In this official report he described the following features of Jewish-Zionist colonization in Palestine:

The attempt of the Jews to separate themselves from the rest of the inhabitants; their retention of foreign nationality; their submission of litigation to Jewish courts; their own paper-money (by which he referred to the cheques of the Anglo-Palestine Company); their own symbols of statehood, in particular the blue-and-white (Star of David) flag; the Jewish National Fund stamp; their supplanting Arab labour; their purchase of land in an attempt to possess themselves of the country; their disrespect of Turkish authority and of the Turkish language in schools which inculcate Jewish nationalist and anti-Turkish sentiment; and the autonomy of the Jewish colonies, with their own law-courts and defence services.<sup>29</sup>

Already, upon the outbreak of the First World War the Zionist Organization in Palestine was attempting, under the name of Zionism, to construct a Jewish government in the area.<sup>30</sup> Although Turkish authorities legally deported some Russian Zionists,<sup>31</sup> the effective disruption of Zionist activities was prevented by the direct intervention of the American Government, certain neutral Powers and by admonitions from the German Government, which shortly would become an ally of the Turkish state.

Jews entering Palestine illegally did not necessarily have to seek the political protection of consuls; they found other means of bypassing the Ottoman laws on entry. Ottoman officials accepted bribes, Jews entered overland from Port Said (Egypt), they purchased land illegally in the name of indigeneous Ottoman Jews (those legally resident in the Ottoman Empire<sup>32</sup>), in the names of Ottoman Arabs, and in the names of consuls and consular-agents.<sup>33</sup> The circuitous means need not be extended. The point to be observed is that despite the Ottoman immigration regulations and land purchase laws, the Jewish community in Palestine grew larger. By 1897 there were in Palestine 50,000 Jews and 18 settlements. And, most importantly, Zionism was already advancing its plans for a Jewish State.

Previously, the writer referred to the fact that the Jews ignored the Ottoman absolute requirement to carry a passport or equivalent document indicating, inter alia, the purpose of their visit. Article 17 of Ottoman law regulating foreign passports required that foreigners who entered the nation without the requisite Ottoman papers must obtain a passport or equivalent from their consul within 48 hours as well as paying a fine of 40 piastres.<sup>34</sup> This legal provision offered Jewish pilgrims, unintendedly, a way to circumvent the law and enter Palestine. It is also interesting to note that whereas European Powers regulated passport provisions in their respective territorial sovereignties, Ottoman authorities were not allowed to regulate the distribution of passports to foreign travellers in Ottoman territory; those entering Ottoman territory illegally simply acquired a passport or equivalent from their consul in requisite time and became "legal." Jewish pilgrims utilized this enforced capitulation to enter permanently while the Ottoman Government remained impotent to act. Jewish pilgrims utilized the three-month residence permit they received on arrival in exchange for their passports, because it guaranteed their entry to

Palestine, while their expulsion (unless voluntary) became impossible as the Powers' regulated Ottoman actions. On the other hand, once Jewish Pilgrims re-acquired their passports at a later date, their status under the Capitulations was now in the hands of their consular government making the Ottoman authorities unable to act even after (or before) residence permits expired. Ultimately, Ottoman authorities in their own territory remained at the subservience of simple onerous non-cooperation from foreign consuls in Palestine.

The significance of violation and external constraints on Ottoman law regulating Jewish entry and land purchase in Palestine is seen in the fact that over half of the 50,000 Jewish settlers who remained in Palestine by 1908 were Jewish nationalists (Zionists) who were dedicated to the erection of a Jewish State made Arabrein. Though a few of these Zionists became Ottoman subjects, the vast majority did not, so that they could continue to enjoy the privileges and immunities allowed Europeans under the Capitulations. Benefiting doubly under the Ottoman Millet system and the Capitulations these Zionists began laying the foundation for a Jewish State. The Jewish population of Palestine, by 1908, had risen to about 80,000 or over three times its number in 1882 when the first entry restrictions were implemented. The entry statistics underscore the failure of the Ottoman Government to regulate Jewish settlement in Palestine. This failure must be attributed to the Capitulations system in which the European Powers uniformly refused Ottoman control over their internal affairs. In short, it became impossible to restrict Jews, including Zionist nationalists, from settling in Palestine without the cooperation of the foreign consuls and embassies.

Consequently, the Turks had evinced strong opposition to Jewish

colonization, particularly Zionist, of Palestine even previous to the emergence of Herzl and the World Zionist Organization. This Ottoman hostility to any large-scale Jewish/Zionist immigration was officially predicated on contentions that settlers retained their original citizenship, usually in the case of Jews, as Czarist "Russians." In consequence, Ottoman courts possessed no legal jurisdiction over these settlers, the result of the foreign imposed Capitulations. Jurisdiction remained under the aegis of foreign consulates who in turn exploited these consular powers vis-a-vis, and to the detriment of Ottoman sovereignty. As a result many alien Jews were settled in the area of Palestine against the will of both the Palestinian people and the Ottoman Government.

The author introduced this chapter with a denouncement by the Ottoman Government of Western intrusions into the sovereignty of Turkey when that government declared that international relations between it and the Western world would be henceforth regulated as of 1914 by "the general principles of international law." While the writer revealed the degree to which Western nations under the Capitulations egregiously violated Turkish sovereignty, little was related about Zionism's premeditated schemes to violate international law principles by having installed over Arab Palestine an illegal colonial protectorate scheme.<sup>35</sup> Zionism was prepared long before the Balfour Declaration to collaborate with any imperial Power willing to illegally impose a colonial protectorate over a portion of Turkey's territorial sovereignty.<sup>36</sup> From the time Herzl published Der Judenstaat in 1896, the Zionist movement was aware that its political goals could only be achieved by the help of one or more of the imperialist Western Powers.<sup>37</sup> The history of early Zionism--that is, the years between 1896 and 1917--is documented with unremitting schemes to secure imperialist favor.<sup>38</sup> Herzl, as early as 1896, offered Zionism as an agent for imperial-



colonial policy:

If His Majesty the Sultan (of Turkey) were to give us Palestine, we could in return undertake to regulate the whole finances of Turkey. We should form there part of a wall of defence for Europe in Asia, an outpost of civilization against barbarism.<sup>39</sup>

Herzl was even clearer during the Second Zionist Congress in 1898:

Asia is the diplomatic problem of the coming decades...we may in all modesty perhaps recall to mind that we Zionists whose practicality of view people like to dispute, recognized and announced as imminent the coming development of European rivalry (refers to the imperialist competition to divide the non-white world) a few years before the others did.<sup>40</sup>

David Wolffsohn, the Zionist Cologne (Germany) banker, who was elected to succeed Herzl after the latter's death in 1904, reported a private talk between the German Grand Duke Friedrich von Baden (a relative of the German Kaiser) and Kaiser Wilhelm II in October of 1898:

The Kaiser was even said to have been ready to assume protectorate powers over the new (Jewish) state. He was said to have expressed the wish to receive a Zionist deputation in Jerusalem so that he could disclose this to it.<sup>41</sup>

Dr. M. I. Bodenheimer, important German Zionist official, wrote:

In a communication addressed to Count Eulenburg, the German Ambassador in Vienna, Herzl had compiled all points of view in order to move the Kaiser into taking up the cause of Zionism in his hand....The return of the Jews to Palestine would bring culture and order into that neglected corner of the Orient. By means of the German protectorate we would arrive at an orderly state of Affairs. In this letter, the Grand Duke reportedly informed Herzl that the Kaiser was full of enthusiasm for the cause.<sup>42</sup>

Later, Bodenheimer wrote:

Our imagination had been urged on unchecked on account of the extraordinary event (Zionist delegation meeting with the German Emperor in Jerusalem in 1898). So following the word of God in the Bible, I demanded the land stretching between the brook of Egypt and the Euphrates, as the region for Jewish colonization. In the transitional period the land would be divided into districts which would come under Jewish administration (while under a German protectorate) as soon as a Jewish majority was reached.<sup>43</sup>

This candid scheme, already in 1898 of a Greater Israel concept (Eretz Israel), which today is still applied by controlling Zionist ide-

ology and institutions in Israel, did not, for tactical reasons, meet with Herzl's approval.<sup>44</sup> Herzl told Bodenheimer:

(The)...time was not ripe for my (meaning Bodenheimer's) extensive thoughts; it would be more appropriate for the time being to create a germ cell out of which a (Jewish) state could grow organically. He (Herzl) had in mind a land company in which sovereign rights and royal prerogatives (Germany's) would be...safeguarded. We hoped that when the Kaiser assumed power over the protectorate, these rights would show themselves to be of such value that a chartered company similar to that of Rhodesia<sup>10</sup> would be built on them.<sup>45</sup>

After the Kaiser refused to accede to the Zionist scheme for a Judenstaat in Palestine<sup>46</sup> Bodenheimer declared:

Despite the (Zionist) failure in Jerusalem, Herzl did not want to drop the idea of a German protectorate. Already, then, Herzl represented the view that for us (Zionism) the question was solely whether we would come under German or British protection. Had the Kaiser leaned towards our cause, the (Zionist) movement would have had a German orientation. The question pressed for a decision in the near future.<sup>47</sup>

The interests of German imperialism and those of German-speaking Zionist leaders, though not always mutual in the sense that they perturbed an impotent Ottoman nation and ally, was symbiotic; the Zionists in whichever camp they may have wanted to stand--that is, Britain or Germany--saw political opportunities to trade their support in exchange for an imperial promise on Palestine, which belonged legally to Turkey. When the German Kaiser refused to permit German Zionism the territorial allocation of Turkish Palestine (should this deal have been consummated, Turkey's sovereignty would have been egregiously violated although impotent to act against a transfer of its territory), Herzl, in 1900 at the Fourth Zionist Congress, which was astutely held in London, declared:

England the mighty, England the free, will understand us and understand our (Zionist) aspirations. With England as starting point we could be certain that the Zionist idea (Judenstaat) will grow mighty and rise higher than ever before.<sup>48</sup>

Herzl now cultivated British favor and the British Government put

forward the proposal that a region in Central Africa (where the modern state of Kenya now stands) be placed at the disposal of the Zionist movement for Judenstaat settlement. Britain, having some imperial power in Turkish sovereign affairs, despite its weakness and confronted by Germany's military and political power over the Sublime Porte, was in no position to illegally allocate a portion of Turkish territory to the Zionists at this time. Interestingly, while Herzl advocated acceptance of the "Uganda Plan"<sup>49</sup> and support from British imperialism,<sup>50</sup> wide circles of Zionist officials and members were opposed to it, not least among them the German Zionist faction which saw its political connection with German imperialism wrecked if the British proposal was accepted.<sup>51</sup> In this open drive of German imperialism into the Near East (competing with British imperialism in the area), the inchoate Herzl Zionist organization led by German-Austrian Zionist Jewry, cultivated the favors of the German Empire since Germany retained supreme political leverage in Istanbul. Thus, among the opponents of the Uganda Plan at the 1903 Zionist Congress the German Zionist leader Dr. Nossig was prominent.<sup>52</sup>

The history of international Zionism's deployment and officious use of both German and British imperialisms in order to achieve their Judenstaat under either's colonial-imperial protectorate umbrella is extremely interesting but not for explication in this paper. The writer simply reveals that Turkish sovereignty, despite international law precepts, was open to violation with impunity; moreover, Zionism had no regard for these principles of international law.<sup>53</sup> Protectorates were one form of territorial annexations violating international law. Finally, in 1914, the Ottoman Government determined not only to "abrogate" the violations of its territorial sovereignty (the Capitulations), Turkey also determined to assert equity in international law:



that the (international) relations of Turkey to the (Western) Powers were to be regulated henceforth by the general principles of international law. \*

Zionist documentation reveals that after the 1903 Zionist Congress, German Zionist leaders did not relax their efforts to gain support and assurances from the Imperial German Government for a colonial protectorate over Palestine as a Judenstaat.<sup>54</sup> German Zionist leaders still favored a German annexation policy--that is, the colonial protectorate scheme over Palestine--in the Near East. The outbreak of the First World War still witnessed German Zionists standing in support of German annexation policy in the Near East. It is interesting to observe that leading political officials of the German Empire allowed the Zionists many favors because they considered them likely to yield political rewards internationally during the war.<sup>55</sup>

Shortly after the start of the war the Ottoman Empire joined the Central Powers in alliance against the Entente Powers. The international Zionist movement could not permit itself the option of choosing sides. Proclaiming to be an international "Jewish movement" the Zionist Actions Committee moved to neutral Copenhagen, Denmark. And in December of 1914 it announced that Zionist organizations on both belligerent sides were to adhere to the principles of strict neutrality at all times.<sup>56</sup>

This facade neutrality was breached by the political activities of Chaim Weizmann in England, whose admitted Anglophilia and Germanophobia earned for him the strongest censure of the Copenhagen Zionist Bureau. Formation of a "Jewish Legion,"<sup>57</sup> an organic link between the Zionist political entrenchment on the British side in Ottoman Palestine and the conquest of Palestine by Lord General Allenby, represented a most serious open violation of Zionist neutrality, and its creation called forth strong de-

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\*See footnote two of chapter two.



nunciation by the Zionist Bureau in Copenhagen, but not for reasons of neutrality, for it was as much imbued with the past important contributions of and to Zionism in the German Empire and the Austro-Hungarian Dual Monarchy and did not wish to have current political achievements co-opted and jeopardized. The facts are that, in relationship to the Zionist organizations of all countries, with the sole exception of Czarist Russia, German Zionism reigned paramount. Lichtheim declared that from the time of Herzl's death in 1904 to the war of 1914, German Zionism contributed more in terms of propagandistic effort, establishment of companies and finances in Palestine than any other country's Zionists, except those in Russia.<sup>58</sup> German Zionism, even on behalf of non-subject (i.e., non-Germans) Russian and other Eastern European Jewry in Palestine, was able to officiously use the preeminence of German imperial power over the Ottoman Sultanate, a fact of which the Zionist Bureau in Copenhagen was aware.

Consequently, Weizmann, who was co-responsible for the Jewish Legion, ran openly counter to the directives of his Russian Zionists and other Zionist confederates on the continent and elsewhere who fully believed and hoped for victory of the Central Powers in World War I.<sup>59</sup> Weizmann's chief external Zionist support derived from some significant American Zionist leaders. As, for example, Stephen S. Wise and Supreme Court Justice Louis Brandeis, whose critical antagonisms towards Germany by 1917 did lead American Zionism allied with Weizmann's faction to proclaim "Better no Jewish Palestine, than as a gift from the Turkish assassinocracy and its German ally."<sup>60</sup> It is important to observe that, though political Zionism publicly has debunked and protested that it desired no Judenstaat in Arab Palestine, it privately and assuredly understood the real meaning of the "Jewish national home" scheme in Palestine. For it was American

Supreme Court Justice Brandeis<sup>61</sup> who affirmed in a private interview with Balfour, British Foreign Secretary (1916-1919), at the Paris Peace Conference

...that Palestine should be the Jewish homeland and not merely that there be a Jewish homeland in Palestine. That, he assumed, is the commitment of the Balfour Declaration and will, of course, be confirmed by the Peace Conference.<sup>62</sup>

To which Balfour "expressed entire agreement."<sup>63</sup>

While Weizmann was actively cultivating British political support for a Jewish State in Palestine, in Egypt (a British acquired protectorate) during the winter of 1915, Josef Trumpeldor organized the first Jewish military contingent in the British army--the "Zion Mule Corps" which saw service in the unsuccessful British attack on the Dardanelles mid-way through the First World War.<sup>64</sup>

Zionists negotiations with the German embassy in Istanbul, Turkey, which included Ottoman authorities, emphasized "Jewish friendliness"<sup>65</sup> with Turkey during the war; Zionism suggested that a legion of Polish Jews 10,000 in number should be formed to fight with the Turkish army in the defense of Palestine against the British invasion.<sup>66</sup> However, the development of this legion was to be dependent on a definite assurance from Turkey to support Jewish colonization (Zionist organized) of Palestine after the war.<sup>67</sup> Interestingly, in view of the more favorable political attitude towards Zionism in Britain, Zionism decided that such a military project risked losing more than it would ultimately gain, and it was abandoned.<sup>68</sup> Zionist authorities felt that Turkey would lose the war and be territorially partitioned among the Allies after her defeat. On the other hand, Zionist official Vladimir Jabotinsky believed that the Allied Powers would be victorious and that the Turkish Empire would be partitioned among the winners.<sup>69</sup> He thought it politically essential that Zionism give assistance to the Allied Powers, particularly the British, in order to have

a substantial claim upon the Allies and the British, specifically the British, at the end of the war.<sup>70</sup> It was, as Jabotinsky said, very essential to awaken in the British "an appetite for Palestine."<sup>71</sup> He proposed to organize "the Jews" in Egypt into a military unit that would fight as a unit with the British army.

The ignorance of Zionist history shown by the public is grotesque. Since the political interests of world Zionist Jewry (their Judenstaat scheme) constrained the official leaders of the International Zionist Organization to a supposed policy of complete neutrality during World War I, Zionists adopted an expedient and amicable international scission which would appear externally as internal disagreement and strife, but which developed a mutual activity within the apparent division of the two groups on their respective sides of the Entente-Central Powers' war. Their mutuality was "the Jewish State" under any conditions. For example, while we have mentioned Jabotinsky and Trumpeldor, in Palestine itself, certain other leaders of the Zionist movement had, at the outbreak of the war, reached

...an understanding with the Turkish Government to set up a Jewish Legion in order to protect the country. Two representatives of these circles--Yitzhak Ben-Zvi (who later became President of Israel) and David Ben-Gurion (who later became Prime Minister among other posts) proposed in November, 1914, to the Turkish Commander-in-Chief the setting up of a Jewish volunteer legion with the stipulation that this legion would remain in the country for the duration of the war, and would only defend its population in case of attack. The Zionist proposal was accepted by the military council.<sup>72</sup>

The power of Germany's intervention into the sovereign affairs of the Ottoman Empire is revealed by the fact that when Jamal Pasha, the Turkish Commander-in-Chief in Syria and Palestine, in reply to the formation of the Jewish Legion in England, issued an evacuation order to the Zionist settlers in Palestine, German Zionists sought help from Kaiser

Wilhelm to protect the Zionist colonies in Palestine. Nahum Goldmann,<sup>73</sup> important Zionist official, wrote as a member of the Division of Jewish Affairs<sup>74</sup> in the German Foreign Office: "...finally Kaiser Wilhelm himself was persuaded to seek the cancellation of the order. That helped."<sup>75</sup> Thus, upon the outbreak of the war a Zionist liaison office was established in Copenhagen in order to maintain political connections between the Zionists on both sides of the front. However, despite the fiction or facade of political neutrality, Zionists were not committed to the notion of political neutrality. In England, Zionists were more successful than the pro-German Zionists. On November 2, 1917, the Balfour Declaration was issued and the orientation of the Zionist movement was henceforth internationally decided. The man responsible was Chaim Weizmann who, being in the Manchester political constituency of Lord Arthur Balfour, had endowed his officious pro-British Zionist allegiances with arguments similar to the proposals Herzl and the German Zionists had made to Germany's Wilhelm II:

We can reasonably say that should Palestine fall within the British sphere of influence, and should Britain encourage a Jewish settlement there, as a British dependency, we could have in twenty to thirty years a million Jews out there, perhaps more; they would develop the country, bring back civilization to it and form a very effective guard for the Suez Canal.<sup>76</sup>

As a result of the defeat of Germany the pro-German faction in the Zionist movement lost its former influence and was superceded by the pro-British Zionist faction. But before Germany's defeat, in an effort to still cultivate the favors of International Zionism--the issuance of the Balfour Declaration embarrassed both the pro-German Zionists and the German Government<sup>77</sup>--the German Foreign Minister on January 5, 1918, submitted to members of the Zionist international Executive still present in Berlin a memorandum which read:



With regard to the endeavours of the Jewish community and of the Zionists in particular, we welcome...particularly the intention of the Imperial Ottoman government to promote a flourishing of Jewish settlement in Palestine through the safeguarding of free emigration and settlement, within the country's absorptive capacity. The Imperial Ottoman government, which has constantly proved its friendly attitude towards the Jews, allows them regional self-rule and the free development of their own culture in accordance with the country's (Turkish) laws.<sup>78</sup>

Otto Warburg, a German Zionist and president of the World Zionist Organization, stationed in Berlin received the German memorandum. When in 1920 at a political rally following the annual Zionist international conference held in London (Balfour gave the major address) Warburg was not allowed to address the meeting. The pro-British Zionist faction now controlled and directed Zionist activities. Significantly, Max Nordau<sup>79</sup> stressed in his speech the political and military significance of the "Jewish State" in regard to the security of the Suez Canal. Zionism had attached itself now to British imperialism; it would use this political attachment to construct the Jewish State over the proceeding decades.<sup>80</sup>

Zionist visionaries under the aegis of British imperialism and Palestine Mandate did not come to share their knowledge and culture with the native Palestinians. The Zionist settlers, led by the Zionist elite and guided by such Zionist doctrines as Hebrew Labor, or Conquest of Soil, which in Zionist jargon meant the "redemption of the 'Land of Israel'"<sup>81</sup> and the "regeneration of the 'Jewish character'" to be achieved only through exclusive "Jewish Labor," actively organized separatist Jewish institutions disallowing any relationships in any way with the local Palestinian population.<sup>82</sup> Zionist pioneers, under the aegis of settler colonialism, were in essence conducting what nineteenth century Europe carried out as pockets of settler colonialists in Algeria, Rhodesia, Angola, South Africa, Namibia--all of which have been or still are international

trouble spots. Though Zionist literature and practice is replete with racist segregation, even as late as 1957 Israeli official Abba Eban, who comes from South Africa, claimed that the goal of Israel is not one of integration. "Quite the contrary," he declared, "integration is rather something to be avoided."<sup>83</sup> It was this racially exclusivist vision of the purely Jewish State that led David Wolffsohn, the president of the Zionist movement in 1905, to instruct the Zionist director of the Anglo-Palestine Company in Jaffa<sup>84</sup> not to cooperate with Arab Palestinian officials in the Levontin Plan (an Arab-Zionist cooperative scheme put forth by Levontin in order to strengthen politically the Zionist APC's position in Palestine) to develop the ciftliks (crown lands) in the region of Jericho and the Dead Sea.<sup>85</sup> Despite the fact that Herzl's original Judenstaat was publicly repudiated by the British Government as well as ostensibly "denied" by the Zionists, Zionism served only Jewish interests under the cloak of serving the interests of all in Palestine. Rather than coming to Palestine in order to help by their far-flung resources and efforts to develop the country to the advantage of all its indigenous and settler inhabitants, Zionism quietly pursued their goal of a Judenstaat and cared not the least for the original indigenous Palestinian Arabs.

While Sir Herbert Samuel, prominent British Zionist official and first British High Commissioner over the Palestine Mandate, would define the Balfour Declaration as meaning that

The Jews...should be enabled to found (in Palestine) their home, and that some among them within the limits that are fixed by the numbers and interests of the present (Palestinian) population, should come to Palestine in order to help by their resources and efforts to develop the country, to the advantage of all its inhabitants.<sup>86</sup>

Yet, conversely, he would also espouse in March of 1915 the founding of a Judenstaat with the direct help of Britain and the United States;

Samuel recommended a British protectorate in which it was

hoped that under British rule facilities would be given to Jewish organizations to purchase land, to found colonies, to establish educational and religious institutions, and to cooperate in the economic development of the country, and that Jewish immigration, carefully regulated, would be given preference, so that in the course of time the Jewish inhabitants grown into a majority and settled in the land, may be conceded such degree of self-government as the conditions of that day might justify....<sup>87</sup>

Thus, under the cloak of a twisted sense of international law and morality, and despite Britain's official protestations and repudiations, Britain would in practice come to endorse the Zionist enterprise in Palestine in violation of principles of international law and in violation of its self-accepted mandate obligations to the Palestinian Arab people.

## Chapter Two

<sup>1</sup>Each of the Western Powers, during the twenty years between 1894-1914, coveted and forcefully acquired Ottoman dominions. The Sultan had to surrender several provinces in Asia Minor to Russia, Cyprus and Egypt to Great Britain, Tunisia to France, Libya to Italy, and Bosnia-Herzegovina to Austria. Under external military duress, Ottoman territorial sovereignty was violated by the Western nations, although this subject of another aspect of violating international law principles will not be discussed in this paper. But, may it suffice, to understand that further, during the First World War, Russia wanted Constantinople and the Straits; France wanted Syria; Britain desired the areas of Palestine, Syria, Transjordan and Iraq; Italy desired territory in Asia Minor and the Government of India (under British control) had a hunger for the area of Iraq. The Western Powers, during the war, conspired to further partition the Ottoman lands. For an excellent explication of the Powers' territorial schemes see George Antonius, The Arab Awakening, chapter XIII.

<sup>2</sup>American Journal of International Law, VIII, (October, 1914), p. 873.

<sup>3</sup>Israel Zangwill, "Zionism To-Day," The Yale Review, January, 1921, p. 251. Zangwill also asserted that the Palestinians simply were not to be accorded the rights designated by the provisions of the Class A mandates system which recognized the right of territories formerly under Germany and Turkey to eventual independence--the establishment of self-governing institutions and the rise of an independent state.

<sup>4</sup>After 1882, numbers of Jews still came from Europe to join the old, pious Palestine communities, but over half of the 50,000 newcomers who remained in Palestine by 1908 were Jewish nationalists (Zionists) forming the "New Yishuv" and dedicated to rebuilding "their people's 'patrimony'" in Palestine; while many of the 1903 Second "Aliyya," in addition to being political Zionists (i.e., not cultural Zionists), had been affected by the Russian revolutionary movement and were imbued with a mixture of ideologies. A few of these Jewish nationalists became Ottoman subjects, but by far the majority did not, so that they could continue to enjoy the privileges and immunities granted to Europeans under the Capitulations. Benefiting doubly from the Millet system on the one hand and the Capitulations on the other, they quite consciously set about laying the basis for an independent Jewish existence in Palestine which became the prelude to the Jewish State. Even in the absence of legal permission from the Ottoman authorities, the Zionists, drawing upon assistance from the World Zionist Organization, opened the Anglo-Palestine Bank in 1903 and the Jewish National Fund began acquiring land in 1905. In further proscription of legal permission the Palestine Land Development Fund was founded in 1908 to make land ready for exclusive Jewish settlement. With these and other sources of financial assistance provided by the extraterritorialized Jewish Colonization Association, the number of Zionist settlers violating Ottoman sovereignty in Palestine reached 12,000 by 1914 out of an estimated Jewish population of about 85,000.



<sup>5</sup>"Palestine" is herein used as defining the area referred in Ottoman documents as "Arz-i Filistin", which at the end of the nineteenth century was not a single administrative unit; it was composed of the Mutasarriflik of Jerusalem to the south and the Sancaks of Nablus and Acre in the north; these Sancaks were part of the Vilayet of Sam ("Syria") until 1888, whereafter these Sancaks were administratively incorporated into the new Vilayet of Beirut.

<sup>6</sup>The modern period is considered to have begun with the increased immigration of Jews out of Imperial Russia and Eastern Europe generally in the early 1880s. The pre-Zionist period is considered as 1881-1897, with the latter date being the implementation of political Zionism established by the Basle Zionist congress.

<sup>7</sup>Previous to 1881, Ottoman immigration and settlement policies were different, for, on March 9, 1857, the Ottoman Government issued through the High Council of the Tanzimat a decree on immigration and settlement that was sanctioned by the Sultan. The decree stated that immigration into the Ottoman state was open to anyone who would agree to give their allegiance to the Sultan, to become a subject of the Ottoman state and to respect the country's laws. For an excellent overview of Ottoman policies see Kemal H. Karpat, "Ottoman Immigration Policies and Settlement in Palestine," Ibrahim Abu-Lughod and Baha Abu-Laban, eds., Settler Regimes in Africa and the Arab World: The Illusion of Endurance (Wilmette, Illinois: The Medina University Press International, 1974), pp. 57-72. As regards Zionism and its Jewish State political goals in Palestine, it is interesting to note that the Ottoman decree of 1857 did not incite immediate interest among the Zionists and non-Zionists in Europe (includes Russia). This is especially significant in view of the fact that beginning in 1839, with the establishment of the British consulate in Jerusalem (the first European representation in the Holy City), the British made strenuous efforts to stimulate the settlement of Jews in Palestine. The British had planned to establish and protect the Jews in Palestine in the hopes of creating in the Ottoman domain a group friendly to England, a group that would check and balance the Russian influence among the Orthodox Christians, and the French influence among the Maronites. For those who are interested in breaking through the enduring Zionist myths--that Palestine "belongs to the Jews"--the Karpat article is enlightening. It is interesting to note, before the rise of political Zionism, the protection and tolerance accorded indigenous minorities, including Jews, by the Ottoman Government in Istanbul. See Ottoman Archives, Foreign Ministry, Idare I, 555, November 16, 1840; Idare, or Administrative, refers to the departmental internal communication and "555" to the file number with the date of issuance of the Ottoman Imperial pronouncement referred to as a "firman." This format will be used whenever Idare is used as a footnote.

<sup>8</sup>See Neville J. Mandel, "Ottoman Practice as Regards Jewish Settlement in Palestine: 1881-1908," Middle Eastern Studies, II, (January, 1975), pp. 33-46. Also see his article in the Middle Eastern Studies, X (no. 3, 1974) regarding official Ottoman policy (not practices) to Jewish settlement in Palestine from 1881 to 1908. Mandel refers to the pre-Zionist period as 1881-1897. David Ben Gurion was one such "pilgrim." Ben Gurion states, "Herzl initially believed that he would be able to obtain a charter for settlement in (Palestine)...from the Turks, and always opposed (Jewish) infiltration--that is, settlement in violation of Ottoman laws, which prohibited Jewish immigration and permitted visits for only three months (which could easily be abused and circumvented under the capitulations). These laws also forbade the purchase of land by non-Turkish Jews (i.e., those who would not declare their sincere intent to live as Turkish citizens). The members of Hovevei Zion ignored these edicts. Emigration to (Palestine)...continued; land was purchased and settled." See David Ben Gurion, Israel A Personal History (New York: 1971), p. 42. I have added the words in parentheses to clarify what Ben Gurion chose to leave vague.

<sup>9</sup>Ibid., p. 35. As the Jews became familiar with local conditions, they found other ways of circumventing the Ottoman restrictions and laws. As for example, they could enter Palestine by land by landing in Egypt, they could buy land in the names of old-established Ottoman Jews and in the names of local Arabs, consuls or consular agents. See Mandel for an excellent review of circumvention methods. During the pre-Zionist period (1881-1897) the Mutasarriflik of Jerusalem was the main focus of Jewish settlement in Palestine. In 1882 the total Jewish population of Palestine was 24,000. By 1897 there were 50,000 Jews in Palestine despite Ottoman legal constraints.

<sup>10</sup>Ibid., p. 38. The Sixth Zionist Congress was convened in Basle in August of 1903. At the Fifth Zionist Congress in Basle in December of 1901, the Jewish National Fund (Keren Kayemet LeIsrael) was voted into existence with funds to be used "exclusively for the purchase of land in Palestine and Syria." See Abraham Granott (earlier Granovsky), Boden und Siedlung in Palaestina (Berlin, 1929), p. 183. The original German quote reads: "ausschliesslich nur zum Landkaufe in Palaestina und Syrien."

<sup>11</sup>The extraterritorial violations of Turkish sovereignty continued even after the Paris Treaty of 1856 which in theory only--i.e., not in practice--"accepted" the Ottoman state in the comity of European nations, this comity including (but in practice not rendered) reciprocity in international law principles over foreign nationals. Only in theory did it recognize the Ottoman state as an equal to European states. For, one year later, the Ottoman state issued the decree on immigration and settlement in their sovereignty which, being an "equal" in the comity of the 1856 treaty agreement, would or should have in international law allowed Turkey jurisdiction over foreigners residing in the Empire, foreigners previously covered by the Capitulations encroachments.

<sup>12</sup>Ottoman Archives, Foreign Ministry, Idare, 177, 47646/183. The second number (47646/183) indicates the office number.

<sup>13</sup>Ibid.

<sup>14</sup>Ibid. One reason for disallowing massive Jewish immigration as early as 1884 was that large groups of Muslims from southern Russia, deprived of their homes, needed to be resettled in the Islamic state.

<sup>15</sup>Ottoman Archives, Foreign Ministry, Idare, 346, 1438/1624, July 18, 1900.

<sup>16</sup>Dr. Alfred Nossig of the Jewish Committee of Berlin proposed his settlement scheme in 1909.

<sup>17</sup>The JCA managed to acquire enough land from 1898 to 1901 for six Jewish colonies to be established in the north of Palestine between 1899 and 1904.

<sup>18</sup>The JCA has acquired about 8,000 acres (or 31,500 dunams of land) near Tiberias in early 1901, much of this land from the Sursuqs family. The Arab tenant farmers rose up in protests through both legal and violent reactions against the JCA purchases. As a result, the Porte abrogated the Leven purchases at the end of 1901.

<sup>19</sup>The consolidated regulations went into force in 1901.

<sup>20</sup>Foreign Office 195/2097, enc. to no. 33, April 26, 1901, Sir R. Drummond-Hay (Beirut) to Sir N. O'Connor (Constantinople).

<sup>21</sup>The APC was the first Zionist institution, properly speaking in Palestine. The Ottoman authorities had known of the Zionist Bank's connection with the European Zionist movement from the moment its parent company, the Jewish Colonial Trust, was set up in London in 1898. The APC opened up its first office in Palestine in the summer of 1903 in Jaffa.

<sup>22</sup>Central Zionist Archive, Jerusalem, W/124/I August 24, 1903, D. Z. Levontin (Jaffa), "Report II," p. 171.

<sup>23</sup>Israel State Archive, Jerusalem, Turkish material, no. 100, December 28, 1905, Secretariat of Admin. Council (Jerusalem) to Grand Vezir (no. 29), and to Minister of Internal Affairs (no. 87).

<sup>24</sup>Israel State Archives, Jerusalem, Turkish material, no. 23, November 28, 1906, Resid Bey to Grand Vezir.



<sup>25</sup>Consult, for Zionist land practices in Palestine, John Ruedy, "Dynamics of Land Alienation in Palestine," Association of Arab-American University Graduates, Inc., Information Papers No. 5, May, 1973 (North Dartmouth, Mass.: AAUG, 1973), pp. 124-31, 130; for Zionist political aspirations as early as 1909, see Moshe Menuhin, The Decadence of Judaism in Our Time (Beirut: The Institute For Palestine Studies, 1969), pp. 502-5.

<sup>26</sup>Alliance Israelite Universelle in Paris, IX E22: April 25, 1907, Ekrem Bey (Jerusalem) to I. Fernandez (Constantinople). Word in parentheses added by the writer.

<sup>27</sup>Israel State Archive, Jerusalem, Turkish documents, no. 42, June 23, 1907, Ekrem Bey to Grand Vezir.

<sup>28</sup>Israel State Archive, Jerusalem, Turkish documents, no. 34, September 8, 1904, Ottoman Minister of Internal Affairs to Resid Bey. Embassies were located in Constantinople.

<sup>29</sup>N.M. Gelber, Hatsharat Balfur Vatoldoteha (The Balfour Declaration and its Coming into Being) (Jerusalem, 1939), p. 190. Bahaaddin Bey was appointed before the war Kaimakam of Jaffa in Palestine. Also see Menuhin, op. cit., pp. 502-5.

<sup>30</sup>A. Bohm, Die Zionistische Bewegung, I (Tel Aviv, Palestine, 1935), p. 293. Bohm is a Jewish author of a history of the Zionist movement.

<sup>31</sup>Interestingly, a number of Russian Zionist Jews were given refuge in Egypt.

<sup>32</sup>There were two groups of Jews in Palestine: Sephardi Jews and Ashkenzi Jews. The Sephardi (Oriental) Jews were generally Ottoman subjects and Arabic speaking and enjoyed internal autonomy in the religious affairs of their own group under the Ottoman Millet system.

<sup>33</sup>See E. Yellin, Le-ze' eze' ai (Jerusalem, 1938), pp. 171-2, 31-3; see also D.Z. Levontin, Le-erez avotenu, I (Tel Aviv, Palestine, 1924), p. 56.

<sup>34</sup>G. Young, Corps du Droit Ottoman, II (Oxford, England, 1905-06), p. 267.

<sup>35</sup>Theodor Herzl, Der Judenstaat (The State of Jews) (Cologne, 1914), p. 30.



Chapter IV of this paper discusses Zionist-British territorial aspirations in Palestine during World War I in greater detail. International law did not accept a territorial title forcefully imposed by conquest or enforced cession of territory. See Cattán, Palestine and International Law, chapter IV, section I, "Legal and Political Sovereignty." Lowenthal, op. cit., a Zionist editor of Herzl's diaries, wrote, "In 1898 Palestine....contained eighteen Jewish rural settlements, called 'colonies,' none of them over twenty years old, and only three or four large enough to warrant the name of village. Perhaps 4500 Jews, all told, lived on the land. None of the settlements, moreover, had a legal basis for its existence; permission to reside in Palestine, buy land, or build, was obtainable only through bribery or outwitting the (Ottoman) laws. About 45,000 Jews lived in the cities, chiefly Jerusalem and Jaffa;...." (pp. 276-77).

<sup>36</sup>Chaim Weizmann, Trial and Error, (New York: Harper and Bros., 1949), p. 188, 205; Stein, The Balfour Declaration, p. 514; Herzl, L'Etat Juif, French translation (Paris: Lipschutz, 1926), p. 23, in which Herzl states, "The Society of Jews will negotiate with the sovereign authorities of the territories in question, and it will do so under the protectorate of the European powers, if they find the arrangement to their liking." Also see Herzl, ibid.

<sup>37</sup>P. 30.

<sup>38</sup>See, for example, Marvin Lowenthal, The Diaries of Theodor Herzl (New York: Grosset and Dunlap, 1962), pp. 150, 152, 179, 215, 236, 249, 252, 267, 272, 365, 366, 374-77.

<sup>39</sup>Herzl, Der Judenstaat, p. 30.

<sup>40</sup>Speech, delivered at the Second Zionist Congress in Basel (Vienna, 1898), p. 5.

<sup>41</sup>Dr. M.I. Bodenheimer, So Wurde Israel (Thus Israel was Created), (Frankfort on the Main, 1958), p. 71. Wolffsohn became president of the Zionist movement after Herzl's death. Zionism has always put forward the political deception of co-habiting with Palestinian Arabs, rather than exposing their intentions of dispossessing them from their homeland. It is interesting to note that, if we might follow this Zionist deception, when David Levontin, who opened the Zionist Anglo-Palestine Company in Palestine (Jaffa), explored with the Sublime Porte, only as a political means of strengthening the APC's position in Palestine, the idea of an Arab-Jewish cooperative scheme to develop the crown lands (ciftliks) in the region of Jericho and the Dead Sea, David Wolffsohn, the President of the Zionist Movement firmly instructed Levontin in March of 1905 to desist from it. In 1905 the Seventh Zionist Congress formally decided that all efforts would be expended to create the Jewish State in Arab Palestine. This informa-

tion is irrefutable evidence that Zionism never did desire to co-habitate with Arabs in Palestine and that Zionism sought an exclusive Judenstaat made Arabrein as early as 1905.

<sup>42</sup>Ibid., p. 95. Words in parentheses are added by me to clarify the quote.

<sup>43</sup>Ibid., p. 100. Words in parentheses are added by me to give clarification to the quote.

<sup>44</sup>Ibid.. See also Lowenthal, op. cit., pp. 276-298, chapter entitled "In Palestine."

<sup>45</sup>Bodenheimer, op. cit., p. 100. In 1889/1890 the British South Africa Company founded by Cecil Rhodes gained concessions from which the British colony in present-day Rhodesia later developed. This area is currently suffering severe racial strife between a minority white government and a preponderant black population. Words in parentheses are added by me to clarify the quote.

<sup>46</sup>The German Government refused because it was not interested in provoking its Turkish ally by supporting the establishment of an alien Jewish State in Palestine which was under Turkish sovereignty.

<sup>47</sup>Bodenheimer, op. cit., p. 107. Rather than the British orientation formed during World War I. I have added the words in parentheses to clarify the quote.

<sup>48</sup>Quoted in Josef Cohn, England und Palastina (England and Palestine) (Berlin, 1931), p. 69; see Marvin Lowenthal, ed., The Diaries of Theodor Herzl (New York: Grasset and Dunlap, 1962), Chapter 25, entitled "The 'Uganda' Congress."

<sup>49</sup>Lowenthal, op. cit., p. 407. "Herzl gratefully accepted the Uganda scheme and submitted it for ratification by the (Zionist) Congress in 1903....The Seventh (Zionist) Congress 1904...decided not to embark upon the Uganda adventure...Herzl died of a broken heart in 1904." Lord Melchett, a British Zionist Jewish citizen, in Thy Neighbour (1936); cited in The Memoirs of Sir Ronald Storrs (New York: Arno Press, 1972), p. 362.

<sup>50</sup>Lowenthal, ibid., p. 407.

<sup>51</sup>Klaus J. Herrmann, "Political Response to the Balfour Declaration in Imperial Germany: German Judaism," The Middle East Journal, XIX (Summer, 1965), p. 309, 311. October of 1897 saw the formal establishment of the "Zionist Association for Germany" (Zionistische Vereinigung für Deutschland); its leadership had been recruited from the Zionist students' associations. But in 1914, the "moderate" Zionist leaders lost control of the movement to the radicals, largely anti-Germany Zionist elements headed by Kurt Blumenfeld during the June Zionist convention at Leipzig. Blumenfeld had stated that Zionists in Germany must cease considering themselves as Germans, and begin thinking in terms of being members of a "Jewish peoplehood" espousing exclusive Jewish nationality. In essence, that German Jews should not think of themselves as rooted in Germany. As a result of the radical Zionist faction controlling the German Zionist organization, moderate Zionists organized the "Association of National German Jews" (Verband National-deutscher Juden) in May 1921, led by Dr. Max Naumann. Germany prior to World War I was a leading power in Europe and had greater political sway over the Sublime Porte. Already in 1888, the powerful Deutsche Bank received railway concessions in Turkey, and in 1890 the first trade and friendship treaty between the German Empire and the weak Ottoman Empire was consummated, inaugurating a political closeness between strong and weak political partners that culminated in December of 1899, when the agreement on the construction of the Baghdad Railway was completed.

<sup>52</sup>Lowenthal, op.cit., pp. 406-415. This section is entitled the "Uganda Congress".

<sup>53</sup>As, for example, see ibid., pp. 276-77; Vincent Sheean, Personal History (Boston: Houghton Mifflin Company, 1969), pp. 333-98, 344.

<sup>54</sup>See, for example, Bodenheimer, op. cit.; Klaus J. Herrmann, op. cit., pp. 303-320.

<sup>55</sup>Herrmann, ibid., p. 316; Max Cohen (Reuss), Die politische Bedeutung des Zionismus (Berlin, 1918), p. 26; Leonard Stein, The Balfour Declaration, pp. 215-16; Paul Goodman, The Jewish National Home (London: J. M. Dent and Sons Ltd., 1943), p. 98; Kurt Blumenfeld, Erlebte Judenfrage, ein Viertel Jahrhundert deutscher Zionismus (Stuttgart: Deutsche Verlags Anstalt, 1962), p. 121. Similar efforts were meanwhile underway in Britain, where the pro-British Zionists were attempting to persuade British wartime officials that a British declaration on the establishment of a Jewish national home (an exclusive Judenstaat) in Palestine would yield international political rewards for the Allies, most notably that such a declaration would stimulate American Jewry to work for a United States entry into the war. The programs and schemes of international Zionist Jewry on both sides of the war's combatants is extremely interesting and illustrative of Zionism's design to address itself to any wartime alliance system that would be beneficial solely to Zionism's Judenstaat goals in Arab Palestine.



<sup>56</sup>Richard Lichtheim, Die Geschichte des deutschen Zionismus (Jerusalem: Rubin Mass, 1954), p. 207. Lichtheim was the German Zionist representative in Constantinople, Turkey.

<sup>57</sup>Nevill Barbour, Nisi Dominus: A Survey of the Palestine Controversy (Beirut: The Institute For Palestine Studies, 1969), pp. 55, 145.

<sup>58</sup>Lichtheim, op. cit., p. 10. German Zionism was always considerably dependent on and actively supported by the large numbers of Jews in Germany who were of Eastern European citizenship or political outlook. According to German census figures of 1925, the percentage of Eastern European Jews in Germany, not of German nationality, was nearly 19 per cent thereof. See also S. Adler-Rudeal, Ostjuden in Deutschland 1880-1940 (Tuebingen: Mohr, 1959), pp. 164-65.

<sup>59</sup>Chaim Weizmann, Trial and Error (New York: Harper Bros., 1949), pp. 169-70.

<sup>60</sup>Stephen S. Wise, "The Balfour Declaration, its Significance in the U.S.A.," Paul Goodman, The Jewish National Home (London: J. M. Dent and Sons Ltd., 1943), p. 41.

<sup>61</sup>Along with Felix Frankfurter, later Associate Justice on the U.S. Supreme Court (1939-1962), and President Wilson's Consultant at the Paris Peace Conference in 1919. Louis Brandeis was Chairman of the Provisional Commission for General Zionist Affairs in United States from 1914 to 1916 and Associate Justice of the U.S. Supreme Court, 1916-1939. Even as a Supreme Court Justice in 1919 he was active in Zionist Affairs at the Versailles Peace Conference.

<sup>62</sup>Walid Khalidi, From Haven to Conquest (Beirut: The Institute For Palestine Studies, 1971), p. 196. This private interview was recorded in a private memorandum by Felix Frankfurter, who was President Wilson's Consultant at the Paris Peace Conference and who had attended the meeting in Balfour's apartment.

<sup>63</sup>Ibid., p. 197.

<sup>64</sup>Barbour, op. cit., p. 55.

<sup>65</sup>N. M. Gelber, Hatsharat Balfur Vatoldoteha (The Balfour Declaration and its Coming Into Being) (in Hebrew; Jerusalem, 1939), p. 162.

<sup>66</sup>Barbour, op. cit., p. 55.

<sup>67</sup>Gelber, op. cit., p. 98.



<sup>68</sup>Ibid., p. 179.

<sup>69</sup>Barbour, op. cit., p. 55.

<sup>70</sup>Ibid.

<sup>71</sup>Gelber, op. cit., p. 179.

<sup>72</sup>David Ben Gurion, Chaluzischer Zionismus oder Revisionismus (Halutz Zionism or Revisionism) (Berlin, 1934), p. 18. Words in parentheses are added by me to clarify the quote.

<sup>73</sup>For his Zionist credentials see chapter eight, footnote 23.

<sup>74</sup>The Division was really a wartime propaganda department for Jewish/Zionist affairs in the German Government.

<sup>75</sup>Nahum Goldman, Staatsmann ohne Staat (Statesman Without a State) (Cologne/Berlin, 1970), p. 80.

<sup>76</sup>Letter of Weizmann in November of 1914, quoted in Weizmann, A Biography by Several Hands (New York, 1963), p. 148.

<sup>77</sup>Chaim Weizmann, Reden und Aufsätze (Speeches and Essays) (Berlin, 1937), p. 285.

<sup>78</sup>Quote is taken from Josef Cohn, op. cit., p. 217.

<sup>79</sup>Max Nordau (1849-1923) was for many years, next to Herzl, the dominant figure in the Zionist movement; he had the greater hand in drafting the Basle Program, and delivered the major addresses at the first nine Congresses. In later life, especially after the Balfour Declaration, he differed with the policies of Weizmann and Sokolow on the ground of their imputed timidity.

<sup>80</sup>The method and design is depicted in the classic Chaim Arlosoroff memorandum "The Stages of Zionism and Minority National Rule" of June 30, 1932, and Abraham Granott's "The Strategy of Land Acquisition." Consult, for these Zionist documents, Khalidi, op. cit., pp. 245-54 and 389-98. Arlosoroff was a Zionist Labour Party leader, assassinated by a rival Zionist group in Tel Aviv, 1933. At the time of this memorandum to Weizmann he was Director of the Political Department in the Jewish Agency Executive. The Political Department is also, today, the international propaganda section of the Jewish Agency organization. Granott was closely associated with the Jewish National Fund from 1919 until his death in 1962 and directed the Jewish National Fund 1945-1956.

<sup>81</sup>See, for example, Walter Lehn, "The Jewish National Fund," Ibrahim Abu-Lughod and Baha Abu-Laban, eds., Settler Regimes in Africa and the Arab World: The Illusion of Endurance (Wilmette, Illinois: The Medina University Press International, 1974), pp. 43-53; Moshe Menuhin, op. cit., p. 42; Israel Shahak, "The Racist Nature of Zionism and of the Zionist State of Israel," American Jewish Alternatives to Zionism, Inc.: Report #25 (December/January, 1975/1976), pp. 12-22. The Zionist term "'redeem' or 'redemption' of the land of Israel," as has been perpetually utilized by the Zionist movement, has a specific ideological definition. The land after its acquisition by the Jewish National Fund (JNF) was not to be sold to the Jewish settlers; titles or title to it was to be held by the JNF in perpetuity as the property of "the Jewish people." In short, the land was never to be sold but only leased to Jewish settlers for periods not exceeding 49 years. The JNF was controlled, previous to 1948 when it came under the control of the Israeli Government, by the World Zionist Organization. For Zionist ideological perceptions relative to land purchases in Arab Palestine see Israel M. Biderman, Hermann Schapira: Father of the JNF (New York, 1962), Vol. II. Hermann Schapira proposed in 1897 the establishment of an organization (the JNF) to "redeem the land of Palestine."

Israeli Professor Shahak allows us to look at the current activities of the Jewish National Fund in Israel and the Arab occupied lands. He reports the following: "Most of the land in Israel belongs or is administered by the Jewish National Fund...which is an institution of the Zionist organization, and operates an admitted racist policy: It forbids to non-Jews on its lands to dwell or to open a business and sometimes even to work, only because they are not Jews! Such policy not only enjoys (in Israel) perfect legality (in contrast to a similar discrimination against the Jews which is illegal in most countries of the world) but is supported by all the instruments of the Israeli rule. In such a manner many whole towns were created in Israel, which are... 'clean of Arabs' and this legally, or as we should say rather, 'clean of Gentiles (goyim)'. In other towns, like Upper-Nazareth, only one special quarter is 'devoted' to the dwelling of Arabs. Any attempt of an Arab to buy or to rent a flat from a Jew is opposed openly and legally by all the branches of the (Israeli) government (The Ministry of Housing, municipality, etc.) and also by the illegal opposition of the Jewish inhabitants which is nevertheless supported by the Israeli police. I can only remind you that nobody opposes an operation of the sale or the rental of a flat in Nazareth, if the buyer or the leasee is a Jew; which means according to the admitted racist definition of this world employed legally in Israel, a human being who can prove that his mother, his grandmother, his great-grandmother and his grandmother of his grandmother were Jewesses.... Another example in the same area can be given if we remember the case of Mr. Muhammad Ma'aruf, an Israeli citizen from the village of Dir-El-Assad, who wanted to open a factory in the town of Carmiel. This was officially prohibited to him because of the official reason that Carmiel is 'out of bounds' to non-Jews, and... at the end he had to build his factory out of the 'pure' boundaries of Carmiel. I want again to emphasize, that there is no limitation whatsoever on any Jew to open a business or to dwell in any place in Israel and therefore those limitations which operate on the great majority of the Israeli lands constitute a grave racial discrimination. I can



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dwelling or open a business in any place of my choice (of course if I come to an agreement with the previous owner) but only because my mother was a Jewess. An Israeli citizen whose only mother was not a Jewess can not enjoy this right. He encounters racist discrimination from which he suffers every day of his life.

"I want to continue with this subject in order to show that: A) There is no connection between this and what is called among us by the name of 'security': This limitation is enforced in a racist way against all non-Jews.... B) This racist discrimination is not connected with anything described by as 'left' and 'right' or hawks and doves, inside the Zionist movement. On the contrary, the two most racist blocks in Israel are the Zionist 'socialists' and the 'National Religious', and the holy alliance between them is based on their common support of racism...."

The Lehn article adds the following perspective: "Since title to the land purchased by the JNF was to be held in perpetuity 'as the inalienable property of the Jewish people,' use of the land required the development of a system of long-term leasing, the lessor being the JNF. The land could be leased for specified purposes for periods up to forty-nine years, at the end of which the lessee could renew the lease for a similar period, a total of ninety-eight years. Under these circumstances, the lease itself had considerable value and could, subject to the lessor's approval, be sublet, sold, mortgaged, bequeathed, or given as a gift. Rent, paid annually, was assessed at 2 per cent (agricultural) or 4 per cent (urban) of the value of the land; the lessor had the right to make periodic reassessments of the land and to raise the rent accordingly. The lessor had the further rights, which could be exercised at its discretion, to inspect the property, to decrease the amount of land held, and to take back the land if the lessee was held to have violated the terms of the lease.

"All of these terms, including the lessee's rights, were subject to one overriding condition, made explicit in the lease: the lessee must be Jewish. Accordingly, the land could not be leased to a non-Jew, nor could the lease be sublet, sold, mortgaged, given, or bequeathed to anyone but a Jew. Non-Jews could not be employed on the land or even in any work connected with cultivation of the land. Violation of this term of the lease rendered the lessor the right to abrogate the lease without compensation to the lessee (upon the third violation) and rendered the lessee liable for damages to the lessor.

"Since the JNF eventually became the largest private land-owner in Palestine, holding title by 1948 to 53.8 per cent of the Jewish-owned land, its practices were adopted by, or, at times, imposed on, other Jewish land-owners." It should be noted that in 1960 the JNF and the Israeli government concluded a paper agreement clarifying the relationship of the JNF to the state. In essence, now the racial JNF policies regarding the leasing of land, followed since the JNF inception in 1901, were applied to all state lands (Arab land expropriated by the Israeli government after May of 1948), which, together with JNF lands, now constitute over 90 per cent of the land in Israel, on which non-Jews (Arabs) are not allowed. The implication of this fact for Arabs in Israel, and for any eventual settlement of the conflict, should be obvious to even the dullest of minds.

Among the numerous violations of the mandate by the British, in favor of the Zionist scheme in Palestine, were JNF racist practices in land transactions and the method of its acquisition to the detriment of the Palestinian Arab people. The John Hope Simpson report for the British government in 1930 reported that the land "has been extraterritorialised" and that this was not "only contrary to the provisions...of the Mandate, but...in addition a constant and increasing source of danger to the country" (pp. 54, 55).

This writer strove to acquire the most recent information available on JNF landholdings from the Zionist Organization of America which is controlled by and acts on behalf of the World Zionist Organization/Jewish Agency of Israel. But the ZOA office in New York chose to ignore my requests for this information which was requested variously on February 5, 8 and March 8, 1976. A partially reproduced copy of my February 8 letter to Mr. Paul Flacks of ZOA is included in the Appendix.

<sup>82</sup>See, for example, as early as the end of the First World War, for Zionist settlers' violent reaction toward Palestine Jews who rebuffed Zionism's "Jewish labor" insistence, in Walter Francis Stirling, Safety Last (London: Hollis and Carter, 1953), pp. 112-23. Stirling was the British military administrator of the Jaffa district in Palestine 1920-1923, who recalled the "Gestapo methods (so severe)" applied by the Jewish Agency which insisted that Jewish non-Zionist employers dismiss all Arab employees and employ only Jews.

<sup>83</sup>Quote is taken from a letter by A.M. El-Messiri to The New York Times, November 13, 1975. El-Messiri is the author of The Encyclopedia of Zionist Concepts and Technology: A Critical View.

<sup>84</sup>The Anglo-Palestine Company opened its first office in Palestine at Jaffa in 1903. Herzl died in 1904.

<sup>85</sup>The Ottoman Government never accepted any commercial tender placed by the APC for any concession in Turkish Palestine because it understood the nationalist aspirations of Zionism's plans for a Jewish State in Palestine. See D. Z. Levontin, "Report II," August 24, 1903, p. 106, 171.

<sup>86</sup>Storrs, op. cit., p. 378.

<sup>87</sup>John Bowie, Viscount Samuel (London, 1957), p. 172.



### CHAPTER III

#### BASIS OF ZIONISM'S POLITICAL THEORY AND CLAIM TO PALESTINE

Zionism, known also as "Jewish" nationalism or Zionist nationalism, advocates the political doctrine of "the Jewish people" nationality claim.<sup>1</sup> The Zionist political movement in 1897 formally expounded the theme of the existence of a "Jewish people," or a "Jewish race," or a "Jewish nation," advocating that "the Jews" are racial descendants of ancient Hebrew tribes in Palestine.<sup>2</sup> This central doctrine of "the Jewish people" nationality concept has not varied from the First Zionist Congress in 1897; political Zionism describes it as simply:

Jews, wherever they are and no matter what their legal citizenship and nationality, are members of a transnational entity of "the Jewish people" and have legal "rights" in and legal obligations to...Israel...simply by virtue of their identification as Jews.<sup>3</sup>

Actually, political Zionism had sought to create a "Jewish" state in Arab Palestine and environs since 1882.<sup>4</sup> Theodor Herzl, the founder of political Zionism,<sup>5</sup> was thinking racially when he spoke of Jews not in terms of religious faith but as "Ein Volk" (that is, one race or nationality or peoplehood) for whom he sought distinctive geographical rights in Palestine as the "historical fatherland of 'the Jews.'"<sup>6</sup> Morris Cohen succinctly commented on the racial philosophy of early Zionism:

This constant tendency to emphasize the consciousness of race... has...led...Jews to adopt the very popular racial philosophy of history, represented on the teutonic side by Chamberlain's Foundations of the Nineteenth Century, or, on the Russian side, by Slavophiles like Katkoff. Zionists fundamentally accept the racial ideology of these anti-Semites, but draw different conclusions. Instead of the Teuton, it is the Jew that is (to the Zionist) the pure and superior race.

The scientific adequacy of the ethnologic, historic and philologic evidence by which all this is supported would be beneath contempt were we not dealing with widespread beliefs of a pathetic intensity....Nevertheless, these beliefs are radically false and profoundly inimical to liberal and humanistic civilization. History, and Jewish history especially, shows that the claim to purity of race on the part of any civilized people is entirely mythical....<sup>7</sup>

The doctrinaire assumptions of Herzl and his successors are fourfold and are the practices of present-day Israel.<sup>8</sup> These Zionist ideological assumptions are:

1. Jews and Gentiles are inherently incapable of living harmoniously in the same society. Anti-Jewishness is an incurable Gentile affliction.
2. For self-preservation, all Jews must settle together in the same country. Herzl was willing to accept 6,000 "uninhabited" square miles of Africa's Uganda offered by the British. However, the much more powerful emotional appeal--and for reasons of attractive political support by using the appeal of "Palestine" the land of the "Israelites"--of Palestine made that land the ultimate choice for colonization and the eventual Jewish State.
3. Non-Jews must either be displaced from the Jewish State or kept apart from the Jewish settlers by legal and social walls of group separation.
4. Gentile cooperation is needed from two sources: Anti-Semites who will stimulate Aliyah (that is, Jewish migration to Palestine), and at least one Great Power whose backing can make up for the scattered smallness of world Jewry. Herzl sought the sponsorship of the Russian Czar, the German Kaiser, the King of Italy, and the Turkish Sultan. His political efforts were more successful in enlisting the support of Great Britain. His successors were more successful in acquiring the political support of Britain and then the United States.

Moreover, the Zionist-Israeli ideological doctrine of "the Jewish people," while portraying the Jews as one nation, one people, one race, contains three major political characteristics:

1. "The Jewish people" doctrine, to Zionism, is a political-legal entity which entails "rights" in and owes obligations to a sovereignty (Israel) which is foreign to any other country except Israel. Said another way, the legal "rights" and obligations of "the Jewish people" entity are "rights" of the Jewish collectivity itself and not of the individuals which comprise the collectivity. Consequently, to the extent that "rights" and obligations are involved, they are group "rights" and obligations rather than individual ones.

2. "The Jewish people" Zionist doctrine is a transnational entity which is not limited to Jews who live, or wish to live, in the State of Israel. The Zionist aims or claims are addressed to Jews outside the sovereignty of the State of Israel, to Jews who have a legal and nationality status other than Israel.

3. "The Jewish people" doctrine is an involuntary entity which means that it includes all Jews simply because they are Jews and without regard to the personal preferences of any Jew. For example, the involuntary factor of the claimed legal connection of all Jews with the State of Israel--actually in strict Zionist ideology, "Eretz Yisrael"--makes no room for any exception for United States and other non-Israeli nationals who are Jewish by religion.<sup>9</sup>

Consequently, the essence of political Zionism is the doctrine that Jews are "one people" and the corollary that Jews must have a Judenstaat or a state for the Jews. The base of the Zionist demand for a sovereign exclusively "Jewish" state was--as it still is--the contention that all Jews belong to a single ethnic-national (racial) entity called "the Jewish people," distinct and apart from the national entities of the countries in which they live and claim legal citizenship; secondly, Zionism employs the political doctrine to promote activities throughout the world to entice Jews to emigrate to Palestine-Israel and bring about the declared Zionist territorial objective of making the area the "national homeland" of world Jewry.

Additionally, it should be understood that Zionist diplomacy with the British governmental Zionists such as Balfour in 1917 postulated a definitive objective: that "the Jewish people" be accepted as a transnational nationality entity and that arbitrary membership in it be conferred upon world Jewry.<sup>10</sup> As we will soon see, the British governmental Zionists under criticism from anti-Zionist British Jews rejected the Zionists' claim when it clarified its stance in the safeguard clauses of the Balfour Declaration. Both safeguard clauses were placed in the

declaration contrary to the explicit negotiating objectives of the Zionist leaders, as we shall shortly reveal. Their inconsistency with the official Zionist draft proposal of July 18, 1917, and the three central political objectives embodied in that proposal will become obvious in chapter five.

Zionist claim to a "historic title" to Palestine was first advanced by the World Zionist Organization to the Peace Conference in Paris in 1919.<sup>11</sup> The Zionist memorandum, under the heading "The Historic Title", explained the basis of the Zionist claim as follows:

- (1) The land is the historic home of the Jews....
- (2) In some parts of the world, and particularly in Eastern Europe, the condition of life of millions of Jews are deplorable.... The need for fresh outlets is urgent....Palestine would offer one such outlet....
- (3) But Palestine is not large enough to contain more than a proportion of the Jews of the world....A Jewish National Home in Palestine will, however, be of high value to them....
- (4) Such a Palestine would be of value to the world at large, whose real wealth consists in the healthy diversities of its civilizations.
- (5) Lastly the land needs redemption. Much of it is left desolate....<sup>12</sup>

Consequently, the Zionist claim to Palestine was primarily based on ancient "Biblical Promises"<sup>13</sup> of four-thousand years ago that God promised Abraham that "unto thy seed have I given this land,"<sup>14</sup> and, to Zionism, that the words "seed of Abraham" mean only those who today are, by religion, Jews, whether or not they are the physical descendants of Abraham. (This ideological concept is referred to by the Zionists as "the Jewish people" racial doctrine.)

Authoritative literature of the Zionist movement shows that the removal of the indigenous Palestinian Arab people was, from the beginning, a doctrinal program of Zionism.<sup>15</sup> The drastic reduction, if not total removal, of non-Jews is still, thirty years after the minority Zionist



community unilaterally proclaimed itself a "Jewish State" in Palestine, an ideological corollary of the doctrine of religio-racial Jewish exclusivism, which is the central essence of Zionism. For, when Zionism arose as a penchant or call for Jewish self-segregation in a territory in which a "Jewish State" would be founded, its political adherents knew that the "Jewishness" of the proposed state would be incompatible with the continued existence of a non-Jewish majority, or even a substantial minority, under its national political control. In essence, Zionist traditional policy has been to make the Jewish State Arabrein (free of Arab people).<sup>16</sup>

Consequentially, the Zionist policy has historically been that the Palestinians, or most of them, had to be removed by one means or another if the aim of Zionism was to be attained.<sup>17</sup> This is the reason, as the American King-Crane Commission reported to President Wilson in 1919, "the Zionists looked forward to a practically complete dispossession of the present (Arab) inhabitants of Palestine."<sup>18</sup>

The program of the Jewish national home, clearly expressed by even the moderate Zionists, was to increase Palestine's Jewish numbers by immigration until such time as "the Jews" should outnumber the indigenous Arab people and usurp the exclusive prerogatives of governing. The Zionist policy had as its final aim the submergence of the native Arabs under a new Jewish State controlled by Zionism. The principles of international law were to be simply ignored and repudiated in the Zionists' gradualist national territorial goal to construct their "Jewish" state.

Zionists argue that their political concept of a continuing "Jewish people" throughout the history of mankind, as predicated on the notion of the "chosen people," was implicitly recognized in the Balfour

Declaration.<sup>19</sup> First, the concept of a subjective "Jewish nation" internationally distributed, existing through more than twenty centuries without territory, government, or political continuity, and imposing obligations and limitations upon all adherents of the Jewish religious faith, regardless of ethnic origin, choice of nationality, or time of conversion to Judaism (or for that matter continued adherence to Judaism), has no foundation or precedent in any internationally recognized legal doctrine. The international community has explicitly and specifically rejected it.<sup>20</sup>

When in 1959 Clarence L. Coleman Jr., President of the American Council for Judaism,<sup>21</sup> requested that the Department of State clarify the relationship between the State of Israel and American citizens of Jewish faith, Parker T. Hart, Acting Assistant Secretary for Near Eastern and South Asian Affairs, responded:

I have for reply your letter of October 15, 1959, to the Secretary of State regarding American-Israel relations especially as they pertain to the status of American citizens of the Jewish faith.

...(T)hat the United States Government does not condone the involuntary identification of its citizens with a foreign state.<sup>22</sup>

Moreover, the United States Government has legally declared the rejection of Israel's "the Jewish people" claim as a concept of international law:

Accordingly, it should be clear that the Department of State does not regard the "Jewish people" concept as a concept of international law.<sup>23</sup>

The universally recognized nationality entity in international law is the national state; an individual has the single nationality status of a particular state. Though a state has wide discretion in conferring its nationality status, there are certain international juridical limitations upon the recognized procedures legally used to confer nationality membership:

1. Nationality at birth may be acquired either through the territorial principle of jus soli,<sup>24</sup> or by the principle of jus sanguinis.<sup>25</sup>

2. Nationality membership may be acquired through naturalization but the provisions of the municipal nationality law must not conflict with the applicable limitations of international law. That is, an individual who is an alien by birth may acquire nationality membership in a state through his voluntary choice and under the prescriptive municipal law of the country.

3. Nationality membership may also be conferred by recognizing dual nationality. "The classic example of dual nationality is that of a person born in one country of nationals of another country, who acquires the nationality of the former by reason of the place of birth, jure soli, and that of the latter by virtue of the nationality of the parents, jure sanguinis."<sup>26</sup>

"The Jewish people" Zionist nationality claims are used by Zionism-Israel to change the juridical status of Jews in states other than Israel, that is, to add to the existing Zionist "Jewish" nationality of Jews a further membership in "the Jewish people" nationality entity expounded by Zionist ideology.<sup>27</sup> An elementary duty of protection on the part of a political society or state is the legal protection of its nationals' citizenship status against foreign attack or subversion of that nationality and citizenship status.<sup>28</sup> Only a national state has the unique juridical competence and recognition to constitute a nationality entity. Even where a particular international organization or public body is controlled by the same political constituency that controls a state, it is only a national state that constitutes a nationality entity.

One of the staggering and strange features of "the Jewish people" nationality entity claim which requires its instant rejection in international law is that it does not comprise the nationality of a national state. Even though "the Jewish people" is claimed by Zionism to have a

juridical relationship to the State of Israel,<sup>29</sup> it is clearly obvious that the claimed nationality of "the Jewish people" is not the same as the nationality of the State of Israel. Unheard of before and totally rejected by international law, the nationality of "the Jewish people" is an additional "nationality" entity in the sense that it is composed of individuals identified by religion who are the nationals of the countries of their respective legal residence. But Zionism continues to press this absurd additional nationality until such time, in the political jargon of Zionist terms, as when all the "exiles" are "ingathered" to the Zionist State of Israel.<sup>30</sup>

The Zionist political-ideological philosophy clearly stipulates that a Jew could not be a member of any other nationality except "the Jewish people" nationality, that a Jew is "in exile" outside of "Eretz Yisrael," and that a Jew is a Jew by "nationality." All three concepts, besides being very dangerous to the international community in that these Zionist ideas and practices have created and are still provoking Middle East conflict, are unacceptable as juridical claims in international law.<sup>31</sup>

Concluding, since we are concerned only with international law considerations, no attempt will be made here to controvert the queer and extra-legal proposals made in the Zionist memorandum.<sup>32</sup> The Zionist claim of a historic title to Arab Palestine has no basis in international law or in historical fact. The modes of acquiring territory are well defined



under international law and the claim of a historic title is not one of them. The term "historic title" has no relationship in international law whatsoever with a claim to recover a territory from the hands of another people on the ground of its former occupation by the claimants some time in distant history.<sup>33</sup> International law would not countenance a claimant concept which, instead of ensuring peace, order and stability, would create the most dangerous and violent conflicts in modern international relations.<sup>34</sup> Ancient historical connection gives no title, no rights, no claim to territory. And much less does it displace the title or justify the dispossession--in Palestine it was forceful dispossession--of the indigenous inhabitants of a country.

Moreover, studious historical examination reveals that the "historical rights" of "the Jews" over Arab Palestine, even analyzed in common sense, are pathetically absurd. Such claims are all the more absurd and inconsistent in view of the fact that the Jews who came from Europe to Palestine are not racially ancestral "heirs" to the ancient Hebrew tribes; the Zionist claim becomes ever more specious when one understands that, historically, before the invasion of Palestine by Hebrews, Palestine had always been Semitic-Canaanite, that is to say, ancestrally Arab in view of the fact that the Semite is geographically speaking of Arab world origin.<sup>35</sup> In reality, any attempt to consider the "Jews" a race or an international "nationality" designated "Jewish" when they are

no more than another religious community--and a non-homogeneous one at that, for it too is divided into sects (Judaism is a schismatic religious body)--constitutes hideous illiteracy.\*

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\* Another aspect of massive public ignorance as pertains to Zionist racial theories is the intended lack of public information on Zionism's close and covert dealings with German National Socialism (the 'Nazi' party) between 1933 and 1941. For example, see Klaus Polkehn, "The Secret Contacts: Zionism and Nazi Germany, 1933-1941," Journal of Palestine Studies, V (Spring/Summer, 1976). This article is an excellent documented account of Zionist-Nazi Germany cooperation in which the Zionist official Eliezer Livneh (who had been editor of the Haganah publication during the Second World War) declared during a symposium organized by the Israeli newspaper Maariv in 1966, "that for the Zionist leadership the rescue of Jews was not an aim in itself, but only a means" (i.e., to establishing a Jewish state in Arab Palestine). Readers should especially see pages 69 through 76. One reason why the Israeli government was so nervous and anxious about secreting Adolf Eichmann out of Argentina (rather than informing the Argentine government for his legal extradition to West Germany for trial) and holding the trial of Eichmann in Israel and in no other place becomes clear; only in Israel could Zionist contacts with the Nazis be kept out of public view. Observe in Polkehn's article footnote sixty-five and pages 71 through 75 regarding the Zionist emissary Feivel Polkes who, today, lives in Haifa, Israel.

Zionist leaders during the holocaust did not stop at manipulating lives. They also controlled the sources of finance and communications, representing themselves before the world as the spokesmen of the "Jewish nation." They played a significant and prominent role in the unfulfilled potential in rescuing Jewish people during and before World War II. In three vital areas they failed and impeded others' efforts: 1) in communications, 2) in material aid and 3) in preventing annihilation. Had these failures stemmed from ignorance or mistakes, one might excuse their lack of ability, but the bitter truth is that their actions were determined by explicit policy and a fundamental Zionist principle. The first and foremost aim was to establish the "Jewish State"--the masses of Jews merely served as convenient means. And wherever there existed a contradiction between the two, the needs of the masses, and even their extrication, were subordinated to the needs of the Jewish state-in-formation. The Zionist leaders saw the spilt Jewish blood of the Nazi period as grease for the wheels of the Jewish national state. To exemplify this fact see the quotes of Zionist officials excerpted in Reb Moshe Shonfeld, The Holocaust Victims. Accuse: Documents and Testimony on Jewish War Criminals (Brooklyn, New York: Neturei Karta of U.S.A., 1977), pp. 24-28.

## Chapter Three

<sup>1</sup>Theodore Herzl, L'Etat Juif, French translation (Paris: Lipschutz, 1926). Herzl recognized: "They will hold it against me, with all the reason in the world, that I am serving the anti-Semites' purpose by declaring that we are a people, one people." (Ibid., p. 199). Marvin Lowenthal, ed., The Diaries of Theodore Herzl (London: Victor Gollancz, Ltd., 1958); Chaim Weizmann, Trial and Error (New York: Harpers and Brothers, 1949); Theodore Herzl, The Jewish State (London: H. Pordes, 1967). It requires a great deal of indulgence to read Zionists' astounding conjectures on the concepts of nation, race, people. For example, Asher Ginsberg, known as Achad Ha'am, one of the so-called "spiritual" philosophers of Zionism, stated in an article in the magazine Am Scheidewege, published in Berlin in 1923, vol. 2, p. 103, the following: "The steps on the ladder of creation are: minerals, plants, animals, human beings, and, at the very top, Jews."

<sup>2</sup>The ancient Hebrew connection with Palestine was short-lived, unstable, intermittent, long extinct, and based on nothing better than the fact of conquest and subject to the condition that there is a national or racial affinity between the Hebrews of 4,000 years ago and the Russian, Polish, American and European Jews of today. The writer will quickly dismiss the absurdity of this Zionist claim in both historical fact and modern international law: because if this transitory occupation by invasion can give the Zionists a "historic right" to the country, then it may be argued that the Arabs, who occupied Spain continuously for 800 years, could claim the country today, while the Italians could claim the British Isles and the American Indians and Aborigines demand the withdrawal of the contemporary ruling inhabitants of the Americas and Australia from these countries. In essence, historically and legally, if all nations were to adopt or accept this absurd Zionist logic, the world today would be in utter chaos.

<sup>3</sup>W. Thomas Mallison, Jr., "Zionist-Israel Claims on 'the Jewish people' Are Unconstitutional", Issues, Winter 1962-63, p. 5. Should one desire to contest the "political" nature of the Zionist movement, I refer the person to the words of the President of the World Zionist Organization, Dr. Nahum Goldmann, who stated in 1959 that "the Zionist movement is no longer 'political'," that the international Zionist movement "is a Zionist nationalist movement," and to "Zionism's fundamental and unchanged conception of all Jews as possessors of a universal 'Jewish' nationality." This Zionist ideological concept and Zionism's attempt to impose it upon all Jewry precipitates the intense debate among Zionist, non-Zionists, and anti-Zionists. See Formal Policy Statements of the American Council for Judaism: From September, 1959 to May, 1961, the letter of Clarence Coleman, Jr., President of the American Council for Judaism, dated December 7, 1959, p. 1.



<sup>4</sup>The environs, or area, to which the writer refers is historically documented by the Zionists. At the Paris Peace Conference the Zionists had hoped that Transjordan up to "close to and west of the Hadjaz railway" would be included in the area of the Palestine mandate to be opened to Jewish settlement. This hope was officially expressed in the Zionists' memorandum to the Versailles Peace Conference and was not officially renounced until 1922. Chaim Weizmann, in his Trial and Error, p. 361, records how in 1922 all the leaders of the Yishuv, including Vladimir Jabotinsky, agreed to the renunciation--but one not adhered to in practice--"not without some qualms," but as the price of inducing Britain to confirm the mandate and accept the Balfour Declaration in the mandate. Earlier the doctrine of Hovevei Zion, "the lovers of Zion," a Palestinophile movement of Russian Jews beginning in the 1880's without any clear political outlook, sought to regenerate "the Jewish people" by establishing Jewish agricultural colonies in Palestine. The legal name taken in 1890 by the groups inspired by Hovevei Zion thinking is significant: Society for the encouragement of Jewish agricultural and manual workers in Syria and Palestine. See also Leon Pinsker, Auto-Emancipation, which advocated in 1882 the "re-establishment" of a Hebrew state; Robert John and Sami Hadawi, The Palestine Diary 1914-1945, Vol. I (New York: New World Press, 1970), pp. 1-21.

<sup>5</sup>Herzl's Zionism had limited appeal in the early decades. For an excellent interpretation of Zionism, or "Jewish" nationalism, see Rabbi Dr. Elmer Berger, Judaism or Jewish Nationalism: The Alternative to Zionism (New York: Bookman Associates, 1957); Berger, The Jewish Dilemma (New York: The Devin-Adair Co., 1946). For an excellent legal explication of the idea of Zionism, see the writings of W.T. Mallison, Jr., Jewish-American Professor of international law at George Washington University. Jewish nationalism or Zionist nationalism is also defined as the ineradicable desire by the Zionist movement to build a national home for "the Jewish people." Israel, in defiance of international law, the United Nations Charter and the Geneva Conventions, has built 55 exclusively Jewish settlements and colonies on occupied Arab lands captured from Syria, Jordan and Egypt since the June, 1967 war. For this number of settlements along with additional information see Arab Report, II, no. 1, December 1, 1975.

<sup>6</sup>The political Zionism launched by Theodore Herzl in 1896 for the creation of a "Jewish Commonwealth" (his Judenstaat scheme) did not advance the claim to Arab Palestine as their "historical inheritance." The Zionist Organization Jewish State scheme considered several areas: Palestine, Uganda, Mozambique, the Congo, Tripoli, Cyprus, Argentina, the Sinai Peninsula (El Arish) and even the western United States were considered as a prospective Zionist exclusive colony. UNESCO's official definition of racism is "anti-social beliefs and acts which are based on the fallacy that discriminatory



intergroup relations are justifiable on biological grounds." Defenders of the United Nations' "Zionism equals racism" equation regard Israel's basic 1950 Law of Return and 1952 Nationality Law as discriminatory since both grant to the world's Jews rights which they deny and withhold from Palestinians and other Gentiles. Among other Israeli practices so cited is the fact that "more than 90 per cent of the land in the State of Israel falls under the regulations of the Jewish National Fund under which non-Jews cannot rent or buy a house or flat, or open a business."

<sup>7</sup> Morris Cohen, "Zionism: Tribalism or Liberalism," The New Republic, March 8, 1919, p. 182; Dr. Israel Shahak, "The Racist Nature of Zionism and of the Zionist State of Israel," American Jewish Alternatives to Zionism, Inc., December/January 1975/1976, p. 12. Dr. Shahak, an Israeli Jewish citizen since the establishment of the State of Israel in 1948, says "that the State of Israel is a racist state in the full meaning of this term: In this state people are discriminated against, in the most permanent and legal way and in the most important areas of life, only because of their origin. This racist discrimination began in Zionism and is carried out today mainly in cooperation with the institutions of the Zionist movement." Rabbi Dr. Elmer Berger, prominent American of the Jewish faith, reports in the same issue that "Zionism, by (Israeli) law and historic ideological commitment is, indeed, racist." (p.4).

<sup>8</sup> Golda Meir, an ardent translator of Herzl's thoughts into Israeli Zionist action, used the ethnic term "Arabs" rather than the religious term "Christians" when on July 23, 1972, she, as Prime Minister, persuaded all but four of her Cabinet to refuse the Catholic Palestinian Arab villagers of Berem and Iqrit near the Lebanese border the right to return to their homes, which they had been previously promised by the Israeli Government when they were evacuated for security reasons. The Israeli Army forcefully evacuated them in favor of Jewish immigrant settlers, who settled their homes. The villagers' appeal to Meir brought her reported response that it would be "an erosion of Zionist values to allow Arabs to return where Jews had been settled." Quote is from Wright, A Tale of Two Hamlets (1973), p. 6.

<sup>9</sup> W. Thomas Mallison, Jr., "Zionist-Israel Claims on the 'the Jewish people' Are Unconstitutional," Issues, Winter 1962-63, p. 8. In short, Israel and Zionism arrogate to themselves the legal claim of jurisdictional authority in international law over Jews the world over. Said another way, the State of Israel and Zionism seeks to achieve the juridical objective that "the Jewish people" be legally constituted a transnational "nationality," membership in which is to be conferred upon all Jews wherever they reside as citizens.

10 The original principal purpose of the Zionist claim to "the Jewish people" while privately negotiating the format of the Balfour Declaration for nearly three years was to obtain the assent of the British Government to "the Jewish people" concept through the implied processes of agreement of customary international law. One of the principal purposes of the reiterated Zionist "the Jewish people" claim in international law contexts is to obtain the assent of governments other than the Government of Israel. Even though to Zionism "the Jewish people" is a novel additional "nationality," it does not meet the juridical criteria for even dual or multiple nationality in international law. "The Jewish people" membership claim, though advanced as a race theme by Zionists in 1917 and in the 1948 Declaration of the Establishment of the State of Israel ("This right 'of the Jewish people to national rebirth in its own country' was recognized in the Balfour Declaration...."), is invalid under the criteria of public international law. Ironically, the Balfour Declaration and later agreements concerning the same subject ("the Jewish people" nationality claims) denied the Zionists juridical authority for "the Jewish people" nationality claims. The safeguard clauses of these agreements are so unequivocal that they prohibit and deny the Zionist claims, such as the United States Government explicitly did in 1964. The "Jewish people" Zionist concept has never been accepted as a juridical claim in international law. Moreover, all the official British policy declarations and the history of the negotiations behind the Balfour Declaration, reveal that "a national home for the Jewish people" was not equivalent to assenting to or making Palestine into a Jewish state, nor could the erection of such a Zionist Jewish state be accomplished without the gravest trespass and violation of international law precepts. Moreover, the Mandate for Palestine was, under the international law authority of the League of Nations Covenant, the basic international law institution (the Mandates System) for the interim government of Arab Palestine agreed to by the League of Nations. Its provisions, therefore, are of particular importance and priority in implementing the juridical limitations to the Zionist scheme imposed by the Balfour Declaration as an international law aspect of the Mandate.

11 J.C. Hurewitz, Diplomacy in the Near and Middle East, Vol. II (Van Nostrand, 1956), p. 45. Arguments over aboriginality in Palestine are inconclusive and lead nowhere. The crucial factor is that the political Zionist movement developed at a time--Herzl conceived the Zionist idea during the nineteenth century, an era characterized by extreme nationalisms often with all its racist overtones--when in order to fulfill its professed goals Zionism had to displace the existing majority people of the land called Palestine. It was not a movement of the majority people of the land trying to overthrow an imperialist settler population. In actuality, the Zionist program is a colonial or settler movement. Herzl's appeals to Bismarck, Cecil Rhodes, Joseph Chamberlain, the Turkish Sultan, were founded on the principle that a colonial venture would be profitable to the power that sponsored it. This information is all explicitly recorded in Herzl's diaries. The "altruistic" intentions of his political efforts were explicitly negated by the fact that Jewish colonial settlement in Palestine demanded



Palestinian Arab displacement--both Muslim and Christian--to make room for the Jewish immigrant population.

Herzl maintained that, once the Jewish State was founded, any of the then fourteen million Jews who refused to migrate to the Jewish State should be classed as "anti-Semitic." See Herzl, The Jewish State, translated by Louis Lipsky, 1947, p. 81. The definition of anti-Semitism being most vigorously promulgated by Zionism and its adherents is "any talk of substance that is critical of Israel or Zionism." This handy use of such an irrational epithet--also used as a subterfuge--has been unthinkingly imposed by Forster and Epstein who are both Zionists (see their book The New Anti-Semitism, 1973) on the Quakers, Episcopalian Dean Francis B. Sayre, Senator Fulbright, columnists Evans and Novak and the Christian Science Monitor paper. An acceptable, non-politicized, non-Zionist and intelligent definition of anti-Semitism is given by the Universal Jewish Encyclopedia: "The term...to denote the movement to degrade Jews to an inferior position in all branches of life in the countries in which they live. Generally, it is applied to individual and group incitation and action aiming to circumscribe the civil, religious and political rights of the Jews; also to hinder normal relations between Jews and non-Jews."

<sup>12</sup>Ibid., p. 46. The Zionist redemption doctrine, in essence, is the political objective of ingathering and settlement of the land of Palestine and its environs with the "people of Israel," that is, the "Jewish people" of the world, in the "land of Israel." Their program is to acquire the land for "the Jewish people." The Zionist memorandum stated that "by violence they were driven from Palestine"--totally ignoring the historical fact that it was by violent invasion that the Hebrews themselves conquered part of the country in the first place. It should also be noted that the Palestinians of today are the earliest and the original inhabitants of Palestine. Their settlement in Palestine can be traced back at least forty centuries although, naturally, there were infusions of other racial elements into the Palestinians' ancestors.

<sup>13</sup>There will be no attempt in this paper to examine and debate the explicit meaning of Biblical texts either to support or to oppose the contention that the present Zionist State of Israel is the "fulfillment" of Old Testament prophecies. It is sufficient to say only two things in this regard. First, none of the national or international tribunals which have, in the past, wrestled with the political issues of the Palestine problem has ever admitted that ancient Biblical prophecies established any legal validity to the Zionist political claims to all, or part of, the area of Palestine. Second, even those Zionists who claim, ex post facto, that the State of Israel does fulfill the Biblical injunctions, the military/political methods used to establish the state. The best these people can say is that the Zionist-nationalist movement became the Divine instrument. The closest these people can come to "logic" is to plead the expediency and the necessity for human intervention and political efficiency to speed up the process

which was to require God's own time. The most charitable construction which can be put upon the Zionist State of Israel therefore, in the context of considering its Biblical legitimacy, is that through political and military methods having no sanction in the Bible at all, a political sovereignty (distinct from legal) has been forcefully established. No more heinous distortion of the Bible could be imagined than using it to justify the brutal expulsion from their homes and lands of modern Palestinians or to give succor to a political Israel that occupies territory and homes belonging naturally to another people and reduces minority Arab inhabitants to undesirables in preference to an exclusive "Jewish" character. Jews are pawns in an elite political and totalitarian movement. They are being concentrated in Palestine, not because they are in need of a so-called refuge or a haven, but in order to fulfill the purely secularist political aspirations of a major ideological movement called Zionism. Palestine has seen many invasions throughout its complex history, but not since the first Hebrew invasion of some 3,500 years ago has a similar situation of massacres, mass expulsions and near total dispossessions arisen in the Holy Land. To suggest that this is being done under Biblical prophecies is the height of grotesque ignorance.

<sup>14</sup> When Abraham made a covenant with God through circumcision (Genesis XVII, 8) and all the land of Canaan (Palestine) was promised to him for an everlasting possession, it was Ishmael, ancestor of the Arab tribes, who was circumcised, for Isaac had not then been born. If, therefore, one is to follow Zionist Biblical reasoning, Palestine was "promised" by God exclusively to the Arabs. The idea of the establishment of a state on the basis of arguments derived from the Bible is utterly unacceptable in international law and especially to twentieth century thinking. Considerations of a religious nature have no place in contemporary international law. There is no relation in international law between the establishment of a State and religious affiliation. But scriptural exegesis by Zionist anagogical interpreters has been utilized, but even then incorrectly, to claim "the Jewish people" right to "recover their sovereignty" over Palestine. According to the rules of international law established since the eighteenth century, a territory can only be subjected to the sovereignty of the occupier through actual indigenous occupation. In laying down conditions for the transfer of sovereignty in a State, international law has never admitted sovereignty claims based on religion. There exists no juridical precedents in international law to create a State for adherents of either a regional nor universal faith. See Edward Rizk, trans., The Palestine Question (Beirut: The Institute For Palestine Studies, 1968); Sami Hadawi, The Jews and the Bible (unpublished extract from the author to this writer); Elmer Berger, Judaism or Jewish Nationalism (New York: Bookman Associates, 1957); Israel According to Holy Scriptures (Cedar Rapids, Iowa: Igram Press, Inc., no date).



<sup>15</sup>The goal of political Zionism as early as August 21, 1921, was illustrated by one of Israel's contemporary political leaders and longtime Jewish Agency official, Golda Meir, who declared on this date: "It is not the Arabs the English will choose to colonise Palestine, it is us (the Jews)." See Mary Syrkin, Golda Meir (Paris: Gallimard, 1966), p. 63.

<sup>16</sup>Americans for Middle East Understanding, A Secret Document: The Koenig Document (New York: Americans for Middle East Understanding, 1977). This document is reproduced fully in the Appendix. The so-called "Koenig Program" is the product of establishment Israeli Jews. Israel Koenig is, at this writing, the "District Commissioner for the North." He is the Israeli official held responsible for putting into effect the policies of the Israeli Government's Interior Ministry in the Galilee District, where most of the remaining Arabs of Palestine live. Koenig handled the official processing of the document, including its delivery to "Rabin and other ministers." But the racially advocated program reflects the views of other important Israeli political figures. A full review from an authoritative, respected source of this document is found in Al-HaMishmar, one of Israel's major daily newspapers, dated September 7, 1976. Dr. Israel Shahak, of the Israeli League for Human Rights, writes in a personal letter to American Jewish Alternatives to Zionism and Americans for Middle East Understanding: "The one really shocking thing which I think you should mention is the overwhelming support that Koenig got among the religious, that is the orthodox Jews, here, including especially their rabbis. Actually the assembled rabbis of Galilee asked all the Jews to bless Koenig on the first sabbath after the publication of his report, during their 'call' to the Torah reading." Koenig's program, therefore, is not the eccentricity of a maverick; he is in his post at the disposition of the National Religious Party; this party is--as it has been for thirty years--an indispensable factor in the successive coalitions which have maintained the dominant governing position of Mapai. That is the political party of Ben-Gurion, Eshkol, Meir and Rabin, all of whom have been the toast of pro-Zionist American governmental officials professing passionate commitment to "democratic principles and human rights." Koenig was actually called "Nazi" by parties located on the left of the Israeli political spectrum. The Koenig document itself is merely an addendum to all of the earlier racist policies imposed or enacted against Palestine's Arabs (later Israel's remaining Arabs).

<sup>17</sup>Felicia Langer, With My Own Eyes (London: Ithaca Press, 1975); Sabri Jiryis, The Arabs in Israel (New York: Monthly Review Press, 1976); Sabri Jiryis, The Arabs in Israel (Beirut: The Institute For Palestine Studies, 1969). After 1948, punishment of remaining Arabs in Israel takes the form of indiscriminate imprisonment without actual legal protections and safeguards. Jiryis, an Israel Arab attorney from Haifa was first imprisoned and then exiled because of his secretive transfer of the earlier Hebrew manuscript, by chapters, out of Israel. After more than a year of imprisonment and "house arrest" he was released but ordered out of Israel to Beirut. Additional confirmation of Israeli treatment of Arabs both within Israel and the Arab occupied lands is explicitly detailed in reports of the Israeli League of Human and Civil Rights, headed by Dr. Israel Shahak.

<sup>18</sup> Palestine Government, The Political History of Palestine Under British Administration (Jerusalem: Government Printer, 1947), p. 3, paragraph 13.

<sup>19</sup> Walid Khalidi, ed., From Haven to Conquest (Beirut: The Institute For Palestine Studies, 1971), p. 235. It should be noted that the Zionists as early as 1922 did not believe that the Balfour Declaration (which incorporates the phrase "Jewish people") was a valid claim to nationhood and sovereignty in Arab Palestine. For, in 1922, Lieutenant Colonel W.F. Stirling, British military administrator in Jaffa (Palestine), declared that the British Government should have allayed the fears of the Arabs and "counter the false interpretation being placed on the declaration by the Jewish Agency in Palestine and certain responsible Jews in America."

<sup>20</sup> The United States Government has expressly rejected it, as is evidenced by a letter dated April 20, 1964, and addressed to Rabbi Elmer Berger (then executive vice president of the American Council for Judaism) wherein Assistant Secretary of State Phillips Talbot legally asserted by American municipal law criteria "that the Department of State does not regard the 'Jewish people' concept as a concept of international law." A copy of this letter is included in the Appendix.

<sup>21</sup> The American Council for Judaism, formed to counter American Zionism in 1942, was through the mid-1960's anti-Zionist; American Zionists now control the Council and exhort Israeli state interests. See Moshe Menuhin, Quo Vadis Zionist Israel? (Beirut: The Institute for Palestine Studies, 1969), pp. 52-76.

<sup>22</sup> Formal Policy Statements of the American Council for Judaism: From September, 1959 to May, 1961. The full letter is reproduced in this report as is the American Council for Judaism letter of October 15, 1959 to Secretary of State Christian A. Herter. Despite these legal safeguards, Israel still involves itself in imposing "Jewish people" nationality law obligations upon Americans of Jewish faith. This is done in diverse ways but basically through Zionist ideology of a claimed legal connection between "the Jewish people" concept and the State of Israel. Zionist organizations, such as the American Zionist Organization (ZOA), bypassing American juridical safeguards and acting as an instrumentality of the Israeli Government and the World Zionist Organization (WZO), have been able to intrude themselves into internal American politics largely because the United States Government has not enforced the provisions of the Friendship, Commerce and Navigation Treaty with Israel and the Foreign Agents Registration Act, nor the very important First Amendment of the Constitution. Said another way, the political and propaganda activities within the United States of foreign agents and their principals (in this case, the State of Israel and its



agent, the Jewish Agency/World Zionist Organization (JA/WZO), and the agent of the JA/WZO the Zionist Organization of America) are disallowed by American law, by treaty provisions between two states, and by a Constitutional First Amendment provision against religious discrimination. For a full purview of violations of American juridical standards by domestic Zionist groups and organizations serving the Israeli Government see U.S., Congress, Senate, Committee on Foreign Relations, Activities of Nondiplomatic Representatives of Foreign Principals in the United States, Hearings, before the Committee on Foreign Relations, Senate, 88th Cong., 1st sess., May 23, August 1, 1963. The purpose of the investigation was to study the activities of "nondiplomatic representatives of foreign principals including, without limitation, foreign governments, foreign political parties, and individuals, partnerships, associations, corporations, organizations or other combinations of individuals, whether foreign or domestic, acting in the place of, or in the interests of, or on behalf of a foreign government or foreign political party, tending or intended to influence the foreign or domestic policies or interests of the United States."

<sup>23</sup>Letter from Assistant Secretary of State Talbot of the United States Government to Rabbi Dr. Elmer Berger, Executive Vice President of the American Council for Judaism, April 20, 1964 in 8 Whiteman Digest of International Law 35, 1967.

<sup>24</sup>An example of the jus soli principle is inherent in the Fourteenth Amendment of the United States Constitution: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

<sup>25</sup>Where the child at birth acquires the nationality of one or both of his parents.

<sup>26</sup>Hackworth, Digest of International Law (Washington, D.C.: United States Department of State, 1942), p. 352.

<sup>27</sup>This category includes the Zionist Organization. In addition to national states there are other significant group participants in the contemporary world community, including international public organizations or bodies, political parties, pressure groups, and private associations. But none of them has the unique juridical competence of the national state to constitute a national entity. Among the many Zionist reiterations of the basic legal claim to "the Jewish people" doctrine, in varying political and legal contexts, the following are set forth as representative illustrations: Theodor Herzl declared "Let the sovereignty be granted us over a portion of the globe large enough to satisfy the rightful requirements of a nation; the rest we shall manage for ourselves.... The creation of a new State is neither ridiculous nor impossible.... The Governments of all countries scourged by anti-Semitism will be keenly interested in assisting us to obtain the sovereignty we want." Quote

taken from Theodor Herzl, The Jewish State (New York: American Zionist Emergency Council, 1946), p. 92. The Basle Program of the First Zionist Congress in 1897 stated, "The aim of Zionism is to create for the Jewish people a home in Palestine secured by public law." Quote taken from Alan R. Taylor, Prelude to Israel: An Analysis of Zionist Diplomatic 1897-1947 (New York: Philosophical Library, 1959), p. 5. Chaim Weizmann declared, "The Zionist Organization has taken the political steps necessary to obtain the recognition by the other nations of the Jewish right to a home in Palestine. But we have never wanted Palestine for the Jews. The development of Palestine Jewry is not a party affair. The Balfour Declaration is addressed to all Jewry. It is only logical that we have approached the Jewish communities of the world in order to put the work, whose maximum can never be achieved by a limited circle of Jews, on a broader basis, and in order to mobilize for it systematically all the forces of Jewry." Quote taken from Paul Goodman, ed., Chaim Weizmann (London: Victor Gollancz, Ltd., 1945), p. 203. Former longtime President of the World Zionist Organization Nahum Goldmann stated, "The object of the Jewish State has been the preservation of the Jewish people, which was imperilled by emancipation and assimilation...." Quote taken from Taylor, op.cit., p. 2. A textbook on Zionism sponsored by the Zionist Organization of America declares, "The homeland itself must be not only the home of Palestinian Jewry, but also the home of the whole people, i.e., potentially the home of all Jews. In striving to accomplish its task the Zionist organization has regarded itself as the representative and trustee of the whole of the nation." Quote taken from Joseph Heller, The Zionist Idea (New York: Schocken Books, Inc., 1949), p. 73. The Declaration of the Establishment of the State of Israel states, "We appeal to the Jewish people throughout the Diaspora to rally round the Jews of Eretz-Israel in the tasks of immigration and upbuilding and to stand by them in the great struggle for the realization of the age-old dream--the redemption of Israel." Quote taken from Badi, ed., Fundamental Laws of the State of Israel (New York: Twayne Publishers, 1961), p. 10. David Ben-Gurion, former longtime Zionist official and Prime Minister of Israel declared, "On the world scene and in the Middle East, Israel's endeavours must be the same--military and moral, but its destiny depends wholly upon the third domain, the Jewish people in all its dispersion. The State of Israel is a part of the Middle East only in geography, which is, in the main, a static element. From the more decisive standpoints of dynamism, creation and growth, Israel is a part of world Jewry. From that Jewry it will draw all the resources and the means necessary for the upbuilding of the nation of Israel and the development of the Land; through the might of world Jewry it will be built and built again. A community of destiny and destination joins together indissolubly the State of Israel and the Jewish people. There is an indestructible bond, a bond of life and death, between them." Quote taken from State of Israel, Governmental Year-Book, 1952 (Jerusalem: The Government Printing Press, 1952), p. 29. The District Court of Jerusalem in the Eichmann Trial Judgment declares, "In the light of the recognition by the United Nations of the right of the Jewish people to establish their State, and in the light of the recognition of the established Jewish State by the family of nations, the connection between the Jewish people and the State of Israel constitutes an integral part of the law of nations." Quote taken from Criminal Case No. 40/61, p. 32, section 34.



The last quotation is particularly significant in explaining the Zionist-Israel purpose of continued reiteration of the basic legal claim in varying political and legal contexts. The purpose is to take any voluntary relationships between Jews across national boundaries, such as relationships of philanthropy and religion, and change them into relations recognized in and established by public law.

<sup>28</sup> An interesting feature of the Zionist State violations of customary international law precepts is Israeli intrusions into the municipal legal system of the United States, although by no means confined solely to the United States. While it should be obvious that the United States Government has the constitutional obligation to protect the American citizen's undivided nationality status, the Israeli State Zionist establishment has refused to abide by this customary international law provision. In the American constitutional system, an individual (an American does not receive his constitutional rights by virtue of his membership in groups or collectivities) is legally entitled to his full and equal measure of constitutional rights without regard to extraneous factors such as his religious affiliation, national origin, or other incidentals which in our constitutional system are legally irrelevant. Such is not the case in the Zionist State of Israel.

<sup>29</sup> Adolph Eichmann was charged with crimes against humanity, but the principal Zionist charges were "crimes against the Jewish people." See the Israeli Nazis and Nazi Collaborators Punishment Law (1950), 4 Israel Laws 154, Fundamental Laws 162, defining "crimes against the Jewish people." This Israeli statute was applied in the Attorney-General of the Government of Israel v. Adolf, the son of Karl Adolf Eichmann, Criminal Case No. 40/61, District Court of Jerusalem, Israel, December 11-12, 1961, affirmed Criminal Appeal No. 336/61 Supreme Court of Israel, May 29, 1962, cited hereafter when used as Eichmann Trial Judgment.

<sup>30</sup> "Since I called, at the beginning of my remarks, for absolute allegiance to the Jewish revolution, I shall now make a few concluding remarks about the goal, of our revolution: It is the complete ingathering of the exiles into a socialist Jewish state." This quotation is taken from Ben Gurion, "The Imperatives of the Jewish Revolution (1944)," in Hertzberg, ed., The Zionist Idea: A Historical Analysis and Reader (1959), pp. 606-619.

<sup>31</sup> Inconsistency of this Zionist concept of a "Jewish nation" is very peculiar: On the one hand Zionist doctrine rejects and condemns integration of Jews in the various countries; on the other hand, Zionism considers it normal that Jews should enjoy the advantages of "dual nationality" defined by Zionist jargon. Obviously, Zionism's strange inconsistency is wrapped up in political expediency. The official attitude of Israel's Zionist establishment is that it condemns the integration of Jews into the various nations in which they live. The 1950 Zionist Law of Return is based on the narrowest racial and confessional principles. The absurdity of this Zionist law--which legally opens up the State of Israel to Jews only--is well illustrated in the case of the American Negro entertainer

Sammy Davis, Jr., who converted to Judaism. According to Zionist thinking, as legally formulated in the Israeli Status Law and the Law of Return, Davis is now considered to be living in "exile" in the United States, his homeland, pining for the day to return "home" to Palestine! Ludicrously, while a total stranger in language, color, culture and race, can acquire the "right" to live in the Jewish State of Israel merely by adopting Judaism, the evicted indigenous Moslem and Christian Palestinian Arab inhabitants of their ancestral homeland are denied the right to live in the country of their birth and ancestors!

<sup>32</sup>An excellent historical and legal purview can be found in Henry Cattán, Palestine and International Law: The Legal Aspects of the Arab-Israeli Conflict (London: Longman, 1973).

<sup>33</sup>The King-Crane Commission, appointed in 1919 at the suggestion of President Woodrow Wilson, summed up the specious Zionist legal claim to Arab Palestine by declaring that "the initial claim, often submitted by Zionist representatives, that they have a 'right' to Palestine based on an occupation of two thousand years ago, can hardly be seriously considered." Quotation taken from J.C. Hurewitz, op. cit., p. 70.

<sup>34</sup>In the context of both history and sociology, the even more aberrational conceptual elements in "the Jewish people" transnational nationality claims must, a fortiori, make them permanently invalid under public international law precepts. In fulfilling its constitutional and international juridical obligations by rejecting the absurd discriminatory "Jewish people" racial-religious Zionist concept, the United States and the international community is also justified by the most fundamental considerations of morality. For, not the least of these fundamentals is separation of religious and political values sufficient to permit the exercise and development of religions of universal moral values free from political interference, coercion and discrimination. The writer presumes that religious behavior is based on positive moral values, although some inculcate negative values such as the ultra-nationalistic religious officialdom in Israel that is part of the Zionist ruling establishment.

The fundamental role of theocracy in Israeli governing processes is not a subject of this paper. But the Israeli state system politically, religiously and juridically depicts the involuntary and coercive aspects of the "membership and identity" religious-racial conception of Zionist nationalism. Such a conception is readily seen, by official Israeli actions, as totally inconsistent with democratic values and individual equality including religious freedom and secular integration/assimilation. Concerning the Zionist conception of "democracy" see the information collected by Norman F. Dacey, The Golden Calf, especially chapter 25, and other public information sources from Dr. Israel Shahak of the Israeli League for Human and Civil Rights.

<sup>35</sup>Semite is a depiction for, including in ancient times, people such as Babylonians, Assyrians, Phoenicians, Hebrews and Arabs, and others of the eastern Mediterranean area. Before the invasion of migrant Hebrews Palestine had always been Semitic-Canaanite, that is to say, Arab, in view of the fact that the Semite is, geographically speaking, of Arab origin. Consequently, the basic historical fact that must be emphasized in any discussion of the Middle East problem, is that the land of Canaan or Palestine, which was inhabited by Canaanite people, who were Semites and therefore Arab, was later partially conquered by alien Hebrew tribes. Contrary to Zionist mythmaking, Hebrews were not originally indigenous to the Palestine area. They were early invaders in the land.



## CHAPTER IV

### ZIONIST-BRITISH TERRITORIAL ASPIRATIONS IN THE MIDDLE EAST

The creation of the State of Israel was an extension of European imperialism.<sup>1</sup> That the Palestinians simply did not "exist" as a national people in the European consciousness is explicable only in terms of the imperialistic "white-man's burden" mentality that during the nineteenth and early twentieth centuries led to a wave of European expansion. European supremacy had planted in the minds of even the most deprived of those who shared in it the idea that any territory outside Europe was open to European occupation. A territory could be declared "unpopulated" simply because it was not inhabited by Europeans under a European administration; that it was inhabited by a non-European people posed an "administrative problem," or a challenge to missionaries, whether religious or technological, but was of little significance otherwise.<sup>2</sup>

It was this attitude that made it possible for the Zionist leaders and theoreticians to all but completely ignore the Arabs and deal exclusively with the European powers within the framework of their colonialist policies. As one of many examples, a note written to the British War Cabinet in 1917 by Chaim Weizmann reads in part as follows:

In submitting our resolution we entrusted our national and Zionist destiny to the Foreign Office and the Imperial War Cabinet in the hope that the problem would be considered in the light of imperial interests and the principles for which the Entente stands.<sup>3</sup>

A book review from the Jerusalem Times stated the following:

That the Zionists shared the imperialistic mentality of nineteenth and early twentieth-century Europe "explains" their indifference to the Palestinian Arabs, but it does not, of course, excuse it. Neither can it be excused as an indifference resulting from lack of information, or misinformation, that led...immigrants and ardent,



idealistic apologists alike to imagine Palestine as an uninhabited territory: "there can be no doubt that if [Palestine] had been occupied by one of the well-established industrial nations that ruled the world at the time, one that had thoroughly settled down in a territory it had infused with a powerful national consciousness, then the problem of displacing German, French or English inhabitants and introducing a new nationally coherent element into the middle of their homeland would have been in the forefront of the consciousness of even the most ignorant and destitute Zionists."<sup>4</sup>

With the building of the Suez Canal<sup>5</sup> in the 1850s-1870s Palestine received the close attention of Britain and France, both rival colonial powers. Moreover, the European Powers at the conclusion of the nineteenth century were fiercely competitive and had no regard for international law precepts.<sup>6</sup> Zionism used that colonial competitiveness to their political advantage; Zionism tried to induce the relevant power--although it failed until 1917--to extend the necessary political support.<sup>7</sup> The competitiveness of the powers was related to their imperial ambition for the domination and ultimate occupation of the Middle East, then still part of the sovereign political entity known as the Ottoman Empire.<sup>8</sup> The aspiration of the European Zionists to induce the Ottoman Sultanate to concede the political right of exclusive Jewish colonization of Palestine ultimately was denied;<sup>9</sup> hence the similar political activity of Zionists in major capitals of the European world in the hope that the powers--those competing for the control, dismemberment and eventual colonial occupation of what was euphemistically called "the sick man of Europe"--would perceive the "benefits" to be derived from the support they could extend in realizing the Zionist Judenstaat scheme.<sup>10</sup> The independent colonial ambitions of the European powers for the dismemberment of the Ottoman Empire was long contained by their mutual fears and suspicions of one another. But their respective interests in the Ottoman Empire were maintained by

the exercise of extraterritoriality through the Capitulations encroachments of Turkish sovereignty, a direct violation of international law precepts even at this time.<sup>11</sup> As for example, British imperial interests in the Ottoman Sultanate is recorded as early as the immediate turn of the twentieth century by Julian Amery.<sup>12</sup> Amery confirms the accuracy of Chamberlain's statement in 1902 to Herzl (if Herzl could show him "a spot in the English possessions where there were no white people as yet, they could talk" about Jewish colonial settlement<sup>13</sup>) but also reveals the motives of Chamberlain: "Chamberlain...was the first among British statesmen to see in Zionism...a means of advancing the interests of the British Empire,"<sup>14</sup> and that "a Jewish colony in Sinai might prove a useful instrument for extending British influence into Palestine proper, when the time came for the inevitable dismemberment of the Ottoman Empire."<sup>15</sup> When Chamberlain saw that a public political storm might be aroused by Herzl's colonial "Cyprus, El Arish and the Sinai Peninsula" scheme,<sup>16</sup> Herzl confided "that not everything in politics is really disclosed to the public--only results, or whatever may happen to be needed in a discussion."<sup>17</sup>

The fundamental Zionist differentiation between Jew and non-Jew in itself does imply the superiority of one over the other.<sup>18</sup> Zionists do believe in the superiority of the European Jew (Ashkenazim) over the Gentile Arab in Palestine, and this is a function of Zionism's close association to European colonialism.<sup>19</sup> To obtain the necessary political support and commitment from the European colonial powers, Zionism presented itself as a European colonial movement that sought not only the involuntary removal of the Jew from European society long before the rise of German National Socialism, but, more importantly, their relocation in

an area of economic and strategic value to European colonialism.<sup>20</sup> It was no accident that Herzl and subsequent European Zionists actively presented themselves as collaborative agents of Europe in the Middle East thoroughly subservient and ready to protect European imperial interests.<sup>21</sup>

As Europeans of the Jewish faith (although many Zionists were irreligious), Zionists were imbued with European ideas of racial superiority vis-a-vis African and Asian people and shared in the general European contempt of and whim to exploit the Asian-African worlds. Accordingly, Zionist Jewish nationalism justified its act of colonial settlement in Palestine on several conditions: (1) that such settlement would entail an occupation of an Asian land by a European people; (2) that they would confer the benefits of European material civilization on the "backward," "nomadic," "uncivilized" inhabitants of the land; and (3) that a settlement, entirely composed of European people, protected by European colonialism, would provide an important strategic base for a secure imperial presence.

From the very beginning of Zionist settlement in Palestine Zionism pursued three policies simultaneously. The first policy, still in evidence today, was the absolute denial of the Palestinian Arab presence in Palestine. When that policy was exposed by Zionist Europeans of different humane interests and political persuasions,<sup>22</sup> Zionists admitted that the Arab Palestinian people existed but ignored and demeaned their traditional culture as devoid of the rudiments of civilization, or described the people as a nomadic population lacking the normal human attachment to their homeland. The third Zionist policy, in close collaboration with British imperial interests, was predaciously designated in the words of the Balfour Declaration (a "Jewish national homeland" in Palestine) and

later in the League of Nations Mandate: The denial of the national and cultural affiliation of the Palestinian people who, in 1917, constituted 93 per cent of the population, by referring to them as "the non-Jewish communities" of Palestine. It was under the protective umbrella of Britain, which lasted for thirty years, that the Zionist infrastructure was laid in Palestine and Zionism created the conditions for a Jewish State in the Arab world.<sup>23</sup>

Zionists arrived in Palestine as arrogant, separatist colonists certain of their superior culture.<sup>24</sup> Their "Jewish" State, Herzl's Judenstaat, to use the term founded by the founder of political Zionism,<sup>25</sup> would be as pure as "England is English" or as "France is French."<sup>26</sup> Zionist consciousness led to racially based political, economic and social institutions in Palestine.<sup>27</sup> The Palestinian presence was ignored; when that presence was felt, as through 1936-1939, it was confronted by military force. From the time of the Mandate on the Palestinian became the "invisible person": present everywhere as a person and as a culture but absent from the Zionist reality. One is amazed to read Zionist literature for nowhere does the Palestinian in any shape inform the Zionist delusion.<sup>28</sup> This invisibility was not accidental. It is rooted in the racial consciousness of the European Zionist: Asians and Africans, to this mentality, were an undifferentiated whole; if they existed at all, they existed to be exploited, expelled or suppressed lest they dilute the purity of the superior culture. When they resist, they must be hunted, destroyed or exiled as "terrorists." (Terrorist is only the most recent national and cultural identity the Zionists have bestowed on the Palestinians who have sought to confront the Zionist alien state.)

At no point were the Zionists willing to acknowledge the humanity,



equality or cultural affinities of the Palestinian people. For the Zionist movement is, still today, a creature of nineteenth century European racialism, and Europe justified its occupation, colonialism and exploitation of Africa and Asia on racial and cultural grounds.<sup>29</sup> In actual fact the Zionists purposefully excogitated an exclusionist system from which the national Palestinian population was first excluded and later became, as Herzl's Diary reveals, "spirited but penniless."<sup>30</sup> Zionists established a labor federation, but it was a "Jewish" federation (the Histadrut) from which non-Jews were excluded. Membership with all attendant benefits are still exclusively Jewish despite the presence of an Arab Department in the Histadrut, which in itself, reveals the racial discrimination practiced by Zionism. Arab labor was excluded from all industrial enterprises and urban occupations. When some Jewish workshops violated this Zionist dictum, they were physically sacked and assaulted by Zionists and Histadrutists.<sup>31</sup> The Zionists established a Jewish system of "Zionist education" predating the Balfour Declaration and, as one eyewitness Russian Jewish immigrant to Palestine recalled as early as 1909, became a "hot bed for wild insane political nationalism" and "started an almost unbridgeable wave of hatred."<sup>32</sup> Non-Jews were automatically excluded. Zionist educators emphasized the collective race entity of "the Jewish people" irrespective of place, citizenship or culture, instilled Zionist Jewish values, proselytized intense Jewish political nationalism and postulated the idea of "Moladtaynooh."<sup>33</sup> These political-educational practices fulfilled their Zionist goal. They produced a recognizable system of em-bittered apartheid in Palestine very early in the twentieth century.<sup>34</sup>

It was at the Basle Conference in 1897<sup>35</sup> that the term "national home" was first used instead of Jewish State (Judenstaat).<sup>36</sup> Max Nordau, an associate of Theodor Herzl explained:

I did my best to persuade the claimants of the Jewish State in Palestine that we might find a circumlocution that would express all we meant, but would say it in a way so as to avoid provoking the Turkish rulers of the coveted land. I suggested 'Heimstätte' as a synonym for 'State'...This is the history of the much commented expression. It was equivocal, but we all understood what it meant. To us it signified 'Judenstaat' then and it signifies the same now.<sup>37</sup>

Incidentally, the central theme of this historic Zionist Congress testified, as well, to the great influence of the German Zionists: "Zionism seeks to secure for the Jewish people a publicly recognized, legally secured 'home-location' (Heimstätte) in Palestine for the Jewish people." The weak term "Heimstätte" rather than "state" or "Judenstaat" represented a political victory of the moderate German Zionist leadership<sup>38</sup> over Herzl's personal wishes in that matter.<sup>39</sup>

Consequently, the declared aim of the First Zionist Congress in 1897 was the creation of a Jewish State. Toward this political goal the intentionally ambiguous sixty-seven word Balfour Declaration, presented deceptively as the work of the British Government, had been drafted with elaborate care by the Zionists.<sup>40</sup>

Interestingly, it was a prominent Jewish American, Mayer Sulzberger, former president of the Court of Common Pleas of the Commonwealth of Pennsylvania, who most vehemently addressed himself to the imperialistic philosophy inherent in Zionist thought. Sulzberger opposed Zionism, contending that it denied democracy to those who lived in Palestine,

Democracy means that those who live in a country shall select their rulers and shall preserve their powers. Given these principles a Convention of Zionists looking to the government of people who are in Palestine would be in contravention of the plainest principle of democracy. It can have no practical meaning unless its intent is to overslaugh the people who are in Palestine and to deprive them of the right of self-government by substituting the will of persons outside, who may or may not ever see Palestine.<sup>41</sup>

By 1917, persistent Zionist efforts began to show signs of success.

In no small part, victory with the British Cabinet was due to the role played by Herbert (Viscount) Samuel,<sup>42</sup> who espoused the founding of a Jewish State with the help of Britain and the United States. He proposed the annexation of Palestine and argued that a protectorate over Palestine<sup>43</sup> would "enable England to fulfill in yet another sphere her historic part of the civilizer of the backward countries."<sup>44</sup> Samuel, a Zionist, submitted a revised memorandum in March of 1915, which, according to one authority, "marked a turning point in the history of the Middle East and of the world,"<sup>45</sup> for it enunciated what would eventually be translated into British policy. Samuel's argument for a British protectorate was that,

Its establishment would be a safeguard to Egypt. It is true that Palestine in British hands would itself be open to attack, and the acquisition would bring with it extended military responsibilities. But the mountainous character of the country would make its occupation by an enemy difficult, and, while this outpost was being contested time would be given to allow the garrison of Egypt to be increased and the defense to be strengthened....

A British protectorate, according to the Egyptian Intelligence Department report already quoted, would be welcomed by a large proportion of the present population. There have been many previous indications of the same feeling. I am assured, both by Zionists and non-Zionists, that it is the solution of the question of Palestine which would be by far the most welcome to the Jews throughout the world.

It is hoped that under British rule facilities would be given to Jewish organizations to purchase land, to found colonies, to establish educational and religious institutions, and to cooperate in the economic development of the country, and that Jewish immigration, carefully regulated, would be given preference, so that in the course of time the Jewish inhabitants grown into a majority and settled in the land, may be conceded such degree of self-government as the conditions of that day might justify....

The course which is advocated would win for England the gratitude of the Jews throughout the world. In the United States, where they number about 2,000,000, and in all the other lands where they are scattered, they would form a body of opinion whose bias, where the interest of the country of which they were citizens was not involved, would be favorable to the British Empire.<sup>46</sup>



Chaim Weizmann, president of the English Zionist Federation, confirms that in December of 1914 while breakfasting with Lloyd George (then Chancellor of the Exchequer), Herbert Samuel, M.P. (then president of the Local Government Board), related that he was preparing a memorandum for Prime Minister Asquith on the subject of a Jewish State in Palestine.<sup>47</sup> In fact, Samuel wrote three memoranda on the subject of Palestine becoming a Jewish State; the first he submitted January, 1915:

The course of events (the war) opens a prospect of change, at the end of the war, in the status of Palestine....

I am assured that the solution of the problem of Palestine which would be much the most welcome to the leaders, and supporters of the Zionist movement throughout the world would be the annexation of the country to the British Empire...It is hoped that under British rule facilities would be given to Jewish organizations to purchase land, to found colonies, to establish educational and religious institutions....It is hoped also that Jewish immigration, carefully regulated, would be given preference so that in course of time the Jewish people, grown into a majority and settled on the land, may be conceded such degree of self-government as the conditions of that day may justify....<sup>48</sup>

That the Zionists pressed the theme for a British protectorate is without question. For Weizmann wrote,

If Great Britain does not wish anybody else to have Palestine, this means that it will have to watch it and stop any penetration of another Power. Such a course involves as much responsibility as would be involved by a British Protectorate over Palestine, with the sole difference that watching is a much less efficient preventive than an actual Protectorate. I therefore thought that the middle course could be adopted: viz. the Jews take over the country; the whole burden of organization falls on them, but for the next ten or fifteen years they work under a temporary British Protectorate.<sup>49</sup>

Weizmann's tentative ideas belonged to a period before the Mandate system had been thought of and before the issuance of the Balfour Declaration. Palestine was to be administered in the style of a British protectorate rather than in the juridical style of an internationally mandated territory.



Many individual schemes were being mooted for the partition of the Turkish Empire. Asquith outlined the views of three of his Cabinet colleagues when he wrote to Venetia Stanley<sup>50</sup> March 13, 1915:

H. Samuel has written an almost dithyrambic memorandum urging that in the carving up of the Turks' Asiatic dominions, we should take Palestine, into which the scattered Jews could in time swarm back from all the quarters of the globe, and in due course obtain Home Rule. (What an attractive community!) Curiously enough, the only other partisan of this proposal is Lloyd George, who, I need not say, does not care a damn for the Jews or their past or their future, but who thinks it would be an outrage to let the Christian Holy Places--Bethlehem, Mount of Olives, Jerusalem & c--pass into the possession or under the protectorate of 'Agnostic Atheistic France'! Isn't it singular that the same conclusions should be capable of being come to by such different roads?....So he (Kitchener) is all for Alexandretta, and leaving the Jews and the Holy Places to look after themselves.<sup>51</sup>

On March 12, 1915, Lord Crewe<sup>52</sup> informed Lord Hardinge<sup>53</sup> of the various territorial acquisitions and schemes under discussion in London:

The fighting departments consider it important to hold a strong position on the flank of our direct road to the East, and they regard Alexandretta as the most favourable place. I can quite believe in its merits; but if its possession means holding the whole of the Euphrates valley, above Aleppo to Urfah, on to Baghdad, and thence to the (Persian) Gulf, it is a large proposition in itself; which if Russia takes Armenia, Italy Adana, France Syria, and Greece wants Smyrna, the Turks remain with Anatolia and little else. This may be inevitable....<sup>54</sup>

The third volume in the extensive biography of Winston S. Churchill completed by Martin Gilbert, himself a British Zionist, included private papers of the Royal Archives that detail the complex evolution of British war and imperial policy. His narrative relates the British War Council proceedings of March 10, 1915:

The war Council then discussed the future of Constantinople. It was agreed that Russia's claim both to the city and to the Straits should be accepted, provided, as Asquith wrote to Venetia Stanley, 'that both we and France should get a substantial share of the carcass of the Turk'. Lloyd George pointed out to his colleagues that 'the Russians were so keen to obtain Constantinople that they would be generous in regard to concessions elsewhere. Both Asquith and Kitchener jumped at the chance of pressing Britain's claim for the annexation of Alexandretta, which had, said Kitchener, a military as well as a naval importance.

Because of the significance of these territorial questions Asquith had invited Bonar Law and Lansdowne to be present during this stage of the discussion, wanting any territorial decisions to be given an aura of all-Party acceptance....Churchill...argued that 'after the war there might be mutual jealousies and heartburnings' and that it was therefore 'very desirable to block in the general lines of the terms we required'. He feared that if this were not done, Britain would be at loggerheads with France when the war was over, as some of their respective claims particularly over Alexandretta (in Syria), overlapped.

Lloyd George suggested that rather than quarrel with France over Alexandretta, they should give it to France. A good alternative, he suggested, 'owing to the prestige it would give us', would be Palestine. Kitchener declared dogmatically 'that Palestine would be of no value to us whatsoever', and pressed the claim for Alexandretta. Fisher strongly supported Kitchener, and argued that Alexandretta had 'a special importance as an outlet for the oil supplies of Mesopotamia and Persia'. McKenna wanted to turn the discussion to questions of 'compensation outside the Mediterranean'....<sup>55</sup>

At this meeting the Council concluded with the following:

It was finally agreed that Russia would be informed that Britain accepted her demand for Constantinople and the Straits, subject to Britain herself obtaining her own territorial desiderata, which would be put forward 'as soon as there has been time to consider them'....<sup>56</sup>

Consequently, Herbert Samuel's proposal fell on receptive ears when, in December, 1916, Lloyd George became Prime Minister and Arthur Balfour, Foreign Secretary. Balfour's association with Zionism went back at least a decade, roughly to that period when his opinion was also vital in another area of European settlement, namely South Africa. Although that prospect was greeted with the greatest enthusiasm as a testament to the "liberal" English tradition, it would also set the stage for the subjugation of the South African majority. Balfour's defense of the proposed Union and Palestine schemes were rooted in the same creed which later dictated his approach to an analogous situation in Palestine. He thus believed,

If the races of Europe have really conquered, by centuries of difficulty and travail, great rights and privileges for themselves they have given some of those rights and some of those privileges

to men quite incapable, by themselves, of fighting for them at all, or obtaining them at all. That is the plain, historic truth of the situation, which it is perfect folly for us to attempt to forget. It is this very fact of the inequality of the races which makes the difficulty.<sup>57</sup>

During the war Allied promises to liberate Arab people of the Ottoman Empire were war maneuvers and not intended seriously. Not Wilson's fourteen points and subsequent discourses, as had been promised at the time of the armistice, but the Anglo-French-Russian-Italian treaty of April 26, 1915; the Anglo-French Sykes-Picot Agreement of 1916; the Anglo-French promises to Italy at St. Jean-de-Maurienne in 1916; the Anglo-Hedjaz treaty of 1917; and the Franco-Russian convention of February, 1917, were the actual bases of the Ottoman settlement in the minds of the Entente delegates and members of Versailles commissions. In discussing "just settlements," Entente representatives disposed of arguments that independence or self-determination measures were in the interests of the people concerned or even in their own interests.

The American "experts" on near Eastern affairs were met constantly by the statements, "our treaty obligations come first, of course," and "our traditional policy demands this solution."<sup>58</sup> In brief, history now reveals the actions of the Entente delegates at the Versailles Peace Conference to self-aggrandizement policies. With regard to British policy, in lieu of maintaining the composition of the Ottoman Empire which was no longer possible at the war's termination, Great Britain would control the approaches to the Suez Canal and the Persian Gulf, prevent any other European power from approaching Persia on the land side, acquire the Mesopotamian and Syrian portion of the Baghdad Railway, and substitute herself for Russia in Central Asia, Northern Persia and the Caucasus.



The open declarations for Arab consumption were always correct and equitable, while the agreement with Zionist leaders was that Palestine should be transformed into a Jewish State under Zionist control. Sir Rubert Young, a senior official in the Colonial Office, summarized the British position in a memorandum on negotiating with the Arab Delegation which came to London in the summer of 1921:

The problem which we have to work out now is one of tactics, not strategy, the general strategic idea as I conceive it, being the gradual immigration of Jews into Palestine until that country becomes a predominantly Jewish State....But it is questionable whether we are in a position to tell the Arabs what our policy really means.<sup>59</sup>

The imperialist and colonialist nature of the collaborative British-Zionist scheme in Palestine and environs was clearly revealed in 1920 by Winston Churchill, who was to become the British Colonial Secretary in 1921:

If, as may well happen, there should be created in our own lifetime by the banks of the Jordan a Jewish State under the protection of the British Crown which might comprise three or four millions of Jews, an event will have occurred in the history of the world which would from every point of view be beneficial, and would be especially in harmony with the truest interests of the British Empire.<sup>60</sup>

Remembering that even before the war possession of Palestine was considered necessary for the British Empire, a British Palestine and a Zionist Palestine became complementary schemes to the pro-Zionists in the British Government, the realization of which would put a tremendous weapon in the Allies' hands and, precisely in so, satisfy a British ambition. With the pro-Zionists such as Lloyd George and Balfour, the prospects of a Zionist scheme for Palestine, which would be used as a lever to bring about British control of the country, became much brighter.

## Chapter Four

<sup>1</sup>Richard P. Stevens, "Colonization By Proxy: Two Franchising Ventures of the Home Office," The Arab World, March-April, 1972, pp. 18-25; Alan R. Taylor, The Zionist Mind (Beirut: The Institute For Palestine Studies, 1974); Maxime Rodinson, Israel A Colonial-Settler State (New York: Monad Press, 1973); Doreen Ingrams, Palestine Papers 1917-1922: Seeds of Conflict (New York: George Braziller, 1973); Desmond Stewart, Theodor Herzl Artist and Politician: A Biography of the Father of Modern Israel (New York: Doubleday and Company, Inc., 1974); Vincent Sheean, Personal History (Boston: Houghton Mifflin Company, 1969), pp. 333-398; Marvin Lowenthal, ed., The Diaries of Theodor Herzl (New York: Universal Library Edition, 1962); Walid Khalidi, ed., From Haven To Conquest (Beirut: The Institute For Palestine Studies, 1971); Martin Gilbert, Winston S. Churchill, Vol. III: The Challenge of War 1914-1916 (Boston: Houghton Mifflin Company, 1971); Desmond Stewart, The Middle East: Temple of Janus (New York: Doubleday and Company, Inc., 1971); Israel Zangwill, "Zionism To-Day," The Yale Review, January, 1921, pp. 246-57; Herbert Samuel, Memoirs by the Rt. Hon. Viscount Samuel (London: Cresset Press, 1945); Chaim Weizmann, Trial and Error: The Autobiography of Chaim Weizmann (New York: Harpers, 1949).

<sup>2</sup>Marvin Lowenthal, ed., The Diaries of Theodor Herzl (New York: The Universal Library, 1962), p. 375. Both domestic and international considerations, it was perceived by Herzl, could be used to gain British endorsement of the Zionist colonial scheme. Support of Zionism, argued Herzl, in 1902 before a Royal Commission, would not only spare the British government the distasteful necessity of imposing immigration restrictions against growing numbers of East European Jews, but would also serve British imperial interests. Joseph Chamberlain, the Colonial Secretary, informed Herzl that "he liked the Zionist idea" and that if Herzl "could show him a spot among the British possessions which was not yet inhabited by white settlers, then they could talk." See Dr Uri Davis, "The Land Where Palestinians Are 'Non-Persons'," Palestine Digest, July, 1976, pp. 1-3. See Israel Zangwill, "Zionism To-Day," The Yale Review, January, 1921, pp. 246-57.

<sup>3</sup>Stein, The Balfour Declaration, p. 514.

<sup>4</sup>The Palestine Digest, September, 1974, p. 25.

<sup>5</sup>The Suez Canal was to the British their imperial lifeline, and the Suez base was the hub of her regional defense. Consequently, the British grip over the Suez and environs remained virtually unshaken until 1956. The British favor of an autonomous Jewish national state in Arab Palestine was characterized publicly as a humanitarian gesture but was merely a camouflage for their imperialistic, strategic desire to fashion the Indian Ocean into a closed English sea; further, the establishment of a British controlled land bridge reaching from Egypt to British India via the areas of Palestine, Mesopotamia, Persia (Iraq) and Afghanistan. Hence, Palestine as a so-called "Jewish" State was to become a British protectorate which in the process of time would become dissipated as Jewish strength in Palestine increased to a point where British imperialism would have its regional political interests protected by close collaboration with the Jewish State. In essence, the transformation of a *modus vivendi* into regional military dependence mutually collaborative in order to protect each other's interests.

<sup>6</sup>See, for example, how Britain violated the territorial sovereignty of the Ottoman government in Desmond Stewart, Theodor Herzl Artist and Politician, op. cit., p. 305; Neville J. Mandel, "Ottoman Practice as Regards Jewish Settlement in Palestine: 1881-1908," Middle Eastern Studies, January, 1975, pp. 33-46. Turkey shortly upon the outbreak of World War I denounced the Capitulations as violations of "the general principles of international law." See the American Journal of International Law, VIII (October, 1914), p. 873.

<sup>7</sup>Stein, op. cit., p. 514. See the Weizmann-Rothschild memorandum submitted to Balfour in October 3, 1917, for transmission to the full British War Cabinet.

<sup>8</sup>Historically, Syria, an integral part of the Arab World, stretched from the Taurus mountains on the north to Egypt on the south, with no intervening linguistic, natural, or racial boundaries of importance, and unbroken, in the nineteenth century, by any national frontier. The sea on the west, the mountains on the north, the desert south and east gave it unity. But by 1922 this area had been arbitrarily carved up in the acquisitive interests of Western world politics. Palestine was one of the fragments of the entity known as Syria. Palestinians considered themselves "Syrians" and their country as "Southern Syria" for at the turn of the present century the economic, lingual, cultural and ethnogenic background of the Syrians and Palestinians was identical. Sir Ronald Storrs wrote at the end of the First World War that, "For four centuries the Arabs, Moslem as well as Christian, of Syria and Palestine" were "one country though administratively divided into two" and that "Owing to the number and delicacy of international problems in Jerusalem, the Mutasárréf, or Governor of Judea, corresponded directly with Constantinople, and not through the Vall of Syria, though Palestine and Syria were one military command." See Storrs, The Memoirs of Sir Ronald Storrs (New York: Arno Press, 1972), p. 370.



When it became evident that England would carry out the Balfour policy to make Arab Palestine a "national home" of the Jews, the Palestinian people turned politically to Syria and King Faisal for political assistance. It was only on this desire of protection from the Zionist national home threat that the Palestinians joined the Syrian independence movement with Faisal as its nationalist leader. The Palestinians were not slow to collectively express their official disapproval of the "Zionist peril," as the people of Palestine and Syria called Zionism, and the policy of the Balfour Declaration, for soon after the meeting of the Peace Conference, Palestinian Arabs formed a national Congress and on December 27, 1919, forwarded to Paris a strong protest against Zionism. Part of their protest was published in the Arabic newspaper Mirat-ul-Gharb: "...how can it be possible to obliterate our sovereignty over this land, which has lasted for 1,200 years, and while its sons are still masters of it? How can the Zionists go back in history two thousand years to prove that by their short sojourn in Palestine they have now a right to claim it and return to it as to a Jewish home, thus crushing the nationalism of a million (Palestinian) Arabs?"

<sup>9</sup>Marvin Lowenthal, ed., The Diaries of Theodor Herzl (New York: Grosset and Dunlap, 1962), pp. 139-172. Caution should be exercised by the reader because Lowenthal has taken pains to edit out much significant information from the diaries of Herzl in order to deflect a more historically accurate purview of the founder of "political Zionism." See also Maxime Rodinson, Israel A Colonial-Settler State? (New York: Monad Press, 1973), pp. 45-48.

<sup>10</sup>See Lowenthal, ibid., pp. 173-190, 230-275.

<sup>11</sup>The Capitulations topic is very complex. But generally speaking, the Ottoman Empire was an immense structure, governed from Istanbul. The Sultan resided over a tremendously varied population extending from Belgrade and Bucharest to Algeria and the Yemen. His power was sanctified, by Islamic religious doctrine. The minority religions, Christianity and Judaism in particular, were allowed considerable autonomy. The various Ottoman provinces were ruled by governors for the Sultan. Towards the end of the eighteenth century the preponderance of European power began to make itself felt. European merchants who had a foothold in the Muslim countries enjoyed an increasingly privileged position. European ambassadors were now admitted to the Sultan's councils and even began to dictate Ottoman policies. Over time the French took Algeria in 1830, the British Aden in 1839, thus beginning the movement of direct European intervention and colonization. After a pause during which the European powers consolidated their indirect but effective hold over the whole of the Ottoman Empire, Anglo-French colonial expansion moved inexorably forwards: Tunisia in 1881, Egypt in 1882, the Sudan in 1899, Libya and Morocco in 1912. At the same time the cultural influence of Europeans grew everywhere stronger. European powers introduced new political structures and interventions, one of which was the Capitulations. The European powers imposed restrictions on the Ottoman Empire in that

European subjects or nationals living in Ottoman administered provinces came under the forceful protective jurisdiction of the local European powers. The Sublime Porte had no administrative or sovereign jurisdiction over nationals of the European nations in the remaining Ottoman Empire nor in the Ottoman areas forcefully acquired from the Ottoman Empire, such as in Egypt.

In an article written on the "Turkish Rule" period for the Encyclopedia Britannica, 1973 edition, about Palestine, Professor Walid Ahmed Khalidi, a Palestinian Arab history scholar, wrote about the Capitulations: "In 1831 his (Viceroy Mohammed Ali) armies occupied Palestine, and for nine years he and his son Ibrahim gave the Holy Land a fairly enlightened administration. Their tolerant rule opened the country to Western influences and enabled Christian missionaries to establish many schools which proved of inestimable value in accelerating the process of modernization. When in 1840 the British, the Austrians, and the Russians came to the aid of the sultan, the Egyptians were forced to withdraw and Palestine reverted to the Ottomans. Increased European interest, however, led to the establishment of consulates and vice-consulates by the powers in Jerusalem and in the ports. In the meantime, the "reforms" which the powers had induced the sultan to promulgate did not fail to improve the lot of minorities. Later the country witnessed a marked increase in the inflow of foreign settlements and colonies, French, Russian, and German. By far the most important, in spite of their initial numerical insignificance, were the Zionist agricultural settlements which foreshadowed later Zionist endeavours for the the establishment of a Jewish national home and still later a Jewish state in Palestine. The earliest of these settlements was established by Russian Jews in 1882. In 1896 Theodor Herzl issued his Der Judenstaat and advocated an au tonomous Jewish state...." (p. 168).

"The number of Zionist colonies, mostly subsidized by Baron Edmond de Rothschild, rose from 22 to 47 from 1900 to 1918, but the majority of the Jews were town-dwelling, Orthodox (Challukkah) Jews...." (p. 168).

<sup>12</sup>Life of Joseph Chamberlain, (London, 1951). Amery was the biographer of Chamberlain who was Colonial Secretary from 1895 to 1906 in the British Conservative Party government headed by Arthur James Balfour, Prime Minister from 1902-1905.

<sup>13</sup>Raphael Patai, ed., The Complete Diaries of Theodor Herzl (New York: Herzl Press and Thomas Yoseloff), p. 1361.

<sup>14</sup>Amery, op. cit., p. 256. The Rand gold mines in South Africa were largely controlled by Jews; on the economic prosperity of the Rand mines Chamberlain largely counted for the reconstruction of South Africa. Like his Prime Minister, Balfour, Chamberlain was concerned by the numbers of immigrant Jews in Britain. A concentration of Jews and Jewish money in Sinai or elsewhere, indebted to Britain, would serve British foreign policy interests ("a Jewish colony in Sinai might prove a useful instrument for extending British influence into Palestine proper, when the time came for the inevitable dismemberment of the Ottoman Empire" (p. 261) and siphon off immigrants from England.



<sup>15</sup>Ibid., p. 261.

<sup>16</sup>In 1878, in return for a political promise of British support against the Russians, the Ottoman Sultan had allowed Britain, as a military-political base for this purpose, to administer Cyprus, which remained in actuality under the legal sovereignty of the Ottoman Empire. El Arish and the Sinai Peninsula were part of Egypt, whose Khedive, Abbas II, ruled a vassal state also under the legal territorial suzerainty of the Ottoman Government. Hence, in the context of international law and the colonial willingness to violate it by the British Government even at this earlier time (Britain had, since 1882, been in illegal military occupation of Egypt), neither Cyprus, Sinai nor Egypt was juridically a British possession at this time. By the time the Zionists were pressing the major powers for recognition of their scheme for the colonization of Palestine and environs (1897-1917), the Ottoman Empire had experienced a continual violation of its territorial sovereignty by the Western nations.

<sup>17</sup>Patai, op. cit., p. 1361. Herzl's remark to Chamberlain reveals his acceptance of political deception and effort to violate international law to achieve the Zionist result.

<sup>18</sup>American Jewish Alternatives to Zionism, Report #25, December-January, 1975-1976, pp. 11-22. Dr Israel Shahak, chairman of the Israeli League for Human and Civil Rights and former inmate of the Bergen-Belsen concentration camp in Nazi Germany, described the State of Israel racist Zionist institutions as follows: "The State of Israel is a racist state in the full meaning of this term: In this state people are discriminated against, in the most permanent and legal way and in the most important areas of life, only because of their origin. This racist discrimination began in Zionism and is carried out today mainly in cooperation with the institutions of the Zionist movement. I will prove this...by quoting facts, laws and regulations which have force in Israel (and which are known really to anybody) and are enforced by the government....In the State of Israel, one who is not a Jew is discriminated against, only because he is not a Jew...." This citation originally appeared in an article written for PI-Ha'aton, a weekly paper for the students at the Hebrew University at Jerusalem. See also Moshe Menuhin, The Decadence of Judaism in Our Time (Beirut: The Institute For Palestine Studies, 1969), pp. 502-3; Israel Zangwill, "Mr. Chamberlain and Zionism: Mr. Zangwill's Work (The East African Scheme)," The Times, London, July 9, 11, 18, 1914; B. Shefi, "The Jewish Religion Abused," The Middle East International, December, 1971, pp. 31-34; Israel Shahak, "Letter to the Editor: Israeli Law," The Middle East International, April, 1976, p. 34. Early Zionism had never been reluctant to employ murder to achieve its national political goals in Palestine. The anti-Zionist Jew from Palestine Dr de Haan was murdered in 1924 on the direct orders of the Zionist Organization (Jewish Agency for Palestine). Dr de Haan was murdered when on the point of visiting London in order to start there a Jewish-Arab anti-Zionist movement to counter the Zionist movement.



The Zionist entity in Palestine is racist because it is built on the extreme Talmudic principle which considers Jews as a super-race above all races and peoples. It is racist and exclusionist because Zionist doctrine itself maintains that "Israel" is a state for Jews and in accordance with the definition of Halacha, that is, strict Jewish religious laws. A Jew is defined as a person born of a Jewish mother or who was converted to Judaism in accordance with the strict Halacha rules. Strict Jewish religious law, while also secularly politicized by atheist Zionist Jewry to achieve Zionist program goals, underscores Israel's Law of Return: its legal racial provisions enact the assumption that the establishment of "Israel" signifies the fulfillment of a "messianic promise" and that the "right of 'return'" is inherent in a divine law that transcends all other realities, historical processes or even the passage of time. According to this view, Jews the world over possess a superior claim to the possession of the land of Palestine, and any injustice, suffering or violation that is caused by Jewish settlement in the Arab country is of lesser importance than the act of "reclaiming the Jewish People's 'historical inheritance.'" The Talmud is the collection of ancient Rabbinic writings consisting of the Mishnah and the Gemara, constituting the basis of religious authority for traditional Orthodox Judaism. Mishnah refers to the first section of the Talmud, comprising a collection of early oral interpretations of the ancient scriptures as compiled about A.D. 200. Gemara refers to the second part of the Talmud, consisting primarily of commentary on the Mishnah. For an excellent review of Israel's Law of Return and Nationality Law see the Middle East International, July, 1973, in which a Jewish critic and writer from Tel Aviv, using the pseudonym David Cohen, writes about this law. For racist Zionist writings see Torah Judaism and the State of Israel by Uriel Zimmer, published in London in 1961, in which at page 12 it is stated, "The Jewish people, Rabbi Judah Halevy (the famous medieval poet and philosopher) explains in his 'Kuzari,' constitutes a separate entity, a species unique in Creation, differing from nations in the same manner as man differs from the beast or the beast from the plant." Asher Ginsberg, known as Achad Ha'am, one of the philosophers of Zionism, stated in an article in the German magazine Am Scheidewege, published in Berlin in 1923, volume two, page 103, the following: "The steps on the ladder of creation are: minerals, plants, animals, human beings, and, at the very top, Jews." The Zionist racial philosophy goes further than these sample quotes but the writer suggests that those interested should consult Zionist writings for themselves.

<sup>19</sup>Consult Theodor Herzl, L'Etat Juif, French translation (Paris: Lipschutz, 1926).

<sup>20</sup>Leon Pinsker, Auto-Emancipation, French translation by J. Schulsinger (Cairo-Alexandria, 1944), p. 69f, 79f, 92, 94-96, 96. Weizmann insists that it was he and his staff who first asked the English to accept a protectorate role over the future Jewish State. See Trial and Error (New York: Harper and Brothers, 1949), p. 192.

<sup>21</sup>Blanche E.C. Dugdale, Arthur James Balfour (New York: G. P. Putnam's Sons, 1937), p. 164; Theodor Herzl, op.cit., p. 23; J. de V. Loder, The Truth About Mesopotamia, Palestine, and Syria (London: George Allen and Unwin, Ltd., 1923), p. 149; Stein, op. cit., p. 514; Leon Pinsker, op. cit., p. 96; Chaim Weizmann, Trial and Error, p. 205.

<sup>22</sup>See the general works of Yehuda Laib Mnuchin (Moshe Menuhin), Martin Buber, Judah L. Magnes, Albert Einstein, Morris B. Cohen, William Zukerman, Henry Hurwitz, Hans Kohn, Elmer Berger, Alfred Lilienthal, Israel Shahak and Felicia Langer.

<sup>23</sup>Chaim Weizmann, op. cit., p. 205; "An Interview in Mr. Balfour's Apartment, 23 Rue Nitot, Paris, on June 24th, 1919, at 4:45 P.M.," Walid Khalidi, ed., From Haven to Conquest (Beirut: The Institute For Palestine Studies, 1971), pp. 195-199.

<sup>24</sup>Moshe Menuhin, The Decadence of Judaism in Our Time, pp. 502-505.

<sup>25</sup>The growth of the Jewish settlement in Arab Palestine was due to the "practical" Zionists, who were opposed by the "political" Zionists who insisted on the granting of a charter as an essential prerequisite for Jewish colonization. The pre-World War I Zionist movement was led by Austrian and German Jews, but its mass Zionist strength came from Russia. But, only a very few or small minority of Jews were organized in the Zionist political movement. The center of the Zionist movement was established in Vienna, Austria, where Theodor Herzl became Zionism's indefatigable organizer, propagandist and diplomat. After convening the First Zionist Congress at Basle, Switzerland in August 1897, the congresses met annually until 1901 and then every two years.

<sup>26</sup>Weizmann used the phrase "Palestine should become as Jewish as England is English" in 1919. See Chaim Weizmann: Excerpts From His Statements, Writings and Addresses (New York: The Jewish Agency for Palestine, 1952), p. 48; Chaim Weizmann, Trial and Error: The Autobiography of Chaim Weizmann (New York: Schocken Books, 1966), p. 244; and Palestine Government, The Political History of Palestine Under British Administration (Jerusalem: Government Printer, 1947), p. 3, paragraph 12.

<sup>27</sup>For the conditions of Arabs in the State of Israel, see Sabri Jiryis, The Arabs in Israel (Beirut: The Institute For Palestine Studies, 1969). For Jewish National Fund racial covenants, see "on the Employment of Arab Labor," by John Hope Simpson, in Walid Khalidi, ed., From Haven to Conquest, op. cit., pp. 303-307. Also in the same anthology by Khalidi, refer to A. Granott, "The Strategy of Land Acquisition," pp. 389-398. For conditions of Arabs in Israel see Sabri Jiryis, Democratic Freedoms in Israel (Beirut: The Institute For Palestine Studies, 1972). There is an increasing and persistent flow of information by and about the "dissidents" in Israel. Three sources are rather randomly selected from many: Report, American Jewish Alternatives to



Zionism, 133 East 73rd Street, New York City; Inter Change, Breira, 299 Riverside Drive, Suite 3D, New York City; Swasia, 3631 39th Street N.W., Washington, D.C. For a specifically insightful report of conditions of Arabs in the State of Israel and in the occupied Arab lands since 1967 see American Jewish Alternatives to Zionism, Report #25, December-January, 1975-1976, pp. 11-23. For discriminatory racial land policy covenants of the Jewish National Fund which was organized in 1903 and re-incorporated in Israel in 1954, see Walter Lehn, "The Jewish National Fund," Ibrahim Abu-Lughod and Baha Abu-Laban, eds, Settler Regimes in Africa and the Arab World (Wilmette: The Medina University Press International, 1974), pp. 43-53. For a collection of articles, memoirs, letters and documents, which appeared between July 1967 and March 1968 pertaining to the conduct of Israel's occupation forces since the June war in which some of these documents come from Israeli sources, see Israel and the Geneva Conventions (Beirut: The Institute For Palestine Studies, 1968); A. C. Forrest, The Unholy Land (Conn.: The Devin-Adair Co., 1974); A Special Kind of State: Israel and the London Times (Beirut: Hermon Books, 1970).

<sup>28</sup>Asked whether the Palestinians were not also entitled to their homeland, Israeli Premier Levi Eshkol answered, "What are the Palestinians?" Newsweek, February 17, 1969, p. 18. A statement by longtime Zionist official Golda Meir reads, "There was no such thing as Palestinians... It was not as though there was a Palestinian people in Palestine considering itself as a Palestinian people and we came and threw them out and took their country away from them. They did not exist." The Times, London, June 15, 1969, p. 1, column 3. Yet it was also Jewish Agency official Meir in Palestine who declared on August 21, 1921, "It is not the Arabs the Arabs the English will choose to colonize Palestine, it is us." Mary Syrkin, Golda Meir (Paris: Gallimard, 1966), p. 63. One should note the word "colonize" in the Meir statement and observe how Zionism in 1968 chose to call itself a "national liberation movement."

Arthur Ruppin who settled in Palestine in 1907 and ran the first Zionist office in Jaffa and headed the Zionist department of colonization after World War I stated that, "Herzl's concept of a Jewish state was possible because he ignored the presence of the Arabs. He believed he could make Weltgeschichte through the diplomatic methods of the Quai d'Orsay. Zionism has not yet discarded this diplomatic and imperialist approach." See Amos Elon, The Israelis Founders and Sons (New York: Holt, Rinehart and Winston, 1971), p. 178.

Herbert Adams Gibbons observed: "At the time of the Dardanelles Expedition, Syrian physicians, educated in the American and French colleges of Beirut, when they learned the terrible need of medical care for British soldiers, volunteered their services. They received no answer. An Entente diplomat took up the case with the British authorities, and urged that Syrians be used. 'We do not want niggers looking after our men', was the answer. I should not tell this story, for the truth of which I can vouch, were it not that here may lie the reef which will wreck the ship of a durable peace. Greeks, Armenians, Persians, Arabs, Syrians, and Egyptians are not 'niggers', and the sooner we wake up to this truth the better for the Anglo-Saxon race...We can no longer get away with the 'my man' and 'here there' and 'boy' fashion of addressing them. In the



near East, as in the far East, arrogance, insolence, indifference to the political and social rights of 'natives' in their own countries will have to go the way of ante-bellum diplomacy. If we do not change radically our attitude toward all Asiatic races, the present war is nothing to what is coming, and in the twentieth century, too." See Gibbons, "Zionism and the World Peace," The Century Illustrated Monthly Magazine, January, 1919, p. 376.

Lieutenant Colonel Walter Francis Sterling, British Governor in the British administrative area including Jaffa during the pre-Mandate years reports, "...Lord Northcliffe\* visited Palestine....At Richon-le-Zion...Northcliffe made a speech which left most of us gasping. He told the Jews of Palestine some home truths which no one hitherto had dared voice. He said that they should realise that they could not always be guarded by British bayonets, and that their future status in the country depended on how well they co-operated with the Arabs, whose guests, after all, they were." See Khalidi, op. cit., p. 234. While Israel Zangwill reported that "Palestine is to be ruled like a British crown colony, and its (Arab) inhabitants have lost the democratic rights which they enjoyed even under Turkey" (p. 251) he referred to the indigenous Arab people as "a degenerate Arab type." See Zangwill, "Zionism To-Day," The Yale Review, January, 1921, p. 247. Theodor Herzl, the founder of the Zionist Organization, had written in his Diary on June 12, 1895 that "when we occupy the land...we must expropriate gently the private property on the estates assigned to us" and "try to spirit the penniless population across the border." See Raphael Patai, ed., The Complete Diaries of Theodore Herzl, Vol. I, translated by Harry Zohn (New York: The Herzl Press, 1960), p. 88. Moshe Dayan candidly stated that while "economically we can" absorb the Palestinian dispossessed he ruled out the return of the displaced Palestinians as being "not in accord with our aims....we want to have a Jewish state." See CBS News, "Transcript: Face the Nation (as broadcast over the CBS Television Network and the CBS Radio Network)," June 11, 1967, p. 12. Even before his espousal of Zionism, in keeping with his racist colonialist outlook Max Nordau suggested the settlement of unemployed European workers with the European emigrants taking "the place of the 'lower races' who were not surviving in the struggle of evolution." See Desmond Stewart, Theodore Herzl, op. cit., p. 192. Uri Avnery, Israeli political figure and writer, notes that not once did Theodor Herzl, the founder of political Zionism in 1897, mention the Arabs of Palestine in his writings. To a question from Albert Einstein, Chaim Weizmann answered angrily: "What Arabs? They are hardly of any consequence." To Israel Zangwill and later to Chaim Weizmann "there was a country which happens to be called Palestine, a country without a people...." In 1967, I.F. Stone noted: Jewish terrorism "encouraged" Arabs to leave areas the Jews wished to take over for strategic or demographic reasons. They tried to make as much of Palestine as free of Arabs as possible. In 1895, Theodor Herzl was considering menial tasks to assign to the "natives," i.e., Arabs of Palestine; like killing wild beasts and drying swamps before he "spirited" the "penniless" Arabs outside Palestine circumspectly. In Herzl's later draft Charter

for Zionist colonization of Palestine and Syria which he submitted to the Ottoman Sultanate, Article III was to give Zionists the right to deport the native population--in other words, the Arabs. See Leonhard Van der Hoeven, The Truth About the Palestine Problem (The Hague, 1960).

<sup>29</sup>Paul F. Boller, Jr., American Thought in Transition: The Impact of Evolutionary Naturalism, 1865-1900 (Chicago: Rand McNally and Company, 1970); Jacques Barzun, Race: A Study in Superstition (New York: Harper and Row, 1965); Alan R. Taylor, The Zionist Mind: The Origins and Development of Zionist Thought (Beirut: The Institute For Palestine Studies, 1974); Elmer Berger, ...Who Knows Better Must Say So! (New York: The Bookmailer, 1955).

<sup>30</sup>Raphael Patai, ed., The Complete Diaries of Theodor Herzl, 5 volumes translated by Harry Zohn (New York: The Herzl Press, 1960), Vol. I, p. 88.

<sup>31</sup>See Neville Barbour, Nisi Dominus: A Survey of the Palestine Controversy (Beirut: The Institute For Palestine Studies, 1969), pp. 132-141, 116; Sir John Hope Simpson, Palestine, Report on Immigration, Land Settlement and Development, 1930, Cmd. 3686 (London: His Majesty's Stationery Office, 1930); Sir John Hope Simpson "On the Employment of Arab Labour," Walid Khalidi, ed., From Haven to Conquest (Beirut: The Institute For Palestine Studies, 1971), pp. 303-307; Walter Francis Stirling, Safety Last (London: Hollis and Carter, 1953), pp. 112-23.

<sup>32</sup>Moshe Menuhin, The Decadence of Judaism in Our Time (Beirut: The Institute For Palestine Studies, 1969), p. 502-507.

<sup>33</sup>"Moladtaynooh" is Hebrew meaning "a birth place" or "our homeland." For an excellent original political description of this Zionist translated term see Moshe Menuhin, Ibid., p. 503.

<sup>34</sup>The term "apartheid" is described as a policy of racial segregation promulgated with a view to promoting and maintaining Jewish supremacy or ascendancy in an Arab nation. After May 14, 1948, this Zionist discriminating system became systematically codified in the new State of Israel.

<sup>35</sup>The Zionist Congress met August 29-31.

<sup>36</sup>With regard to the words "national home," neither Balfour, his colleagues, nor Zionists can claim originality of this deceptive terminology; Zionist history credits this terminology to Leon Pinsker of Odessa thirty-five years before the Balfour Declaration, although Pinsker did not apply this term to the geographical area of Palestine. In fact, Pinsker declared, "We must not attach ourselves to the place where our political life was once violently interrupted." See Stein's The Balfour Declaration. In historical fact Balfour and his pro-Zionist



colleagues adopted this terminology from Zionist programs and drafts, and made use of its ambiguity. For, in 1917, the term "national home" was a descriptively new political phrase. Naturally, no one could give it a definitive etiological meaning, for it had no established meaning, and was put into practice in Palestine without a publicly understood definition (except to the Zionist leaders), although it is now historically known that privately it meant an eventual "Jewish" state.

<sup>37</sup>Christopher Sykes, Cross Roads to Israel: Palestine from Balfour to Bevin (London, 1965), p. 24.

<sup>38</sup>Klaus J. Herrmann, "Political Responses To The Balfour Declaration In Imperial Germany: German Judaism," The Middle East Journal, Summer, 1965, pp. 303-320. Observers will be careful to detect the pro-Zionism of this writer.

<sup>39</sup>Alex Bein, Theodor Herzl, A Biography (Philadelphia: Jewish Publication Society, 1940), p. 238-39. This sense of political moderation manifested itself in the specific program of the first Zionist organization in Germany, the "National Jewish Association" (Nationaljüdische Vereinigung), evolving from the discussions among several Zionist study and students' groups in 1897. Their combined politically "moderate" program read: "Connected by common descent and history, the Jews of all countries constitute a national community. This conviction in no wise infringes upon the activation of patriotic sentiment, and fulfillment of the duties of citizenship on the part of the Jews, in particular of the German Jews, for their German Fatherland." In effect, although the words "national community" and "German Fatherland" apparently depict a question of confusing allegiance, loyalty and citizenship responsibilities, the program was strangely designed to counter the "apprehensions" of the German Jews who were more disturbed over the prospects of any diminution of their "Germanism." See Ben Halpern, The Idea of the Jewish State (Cambridge: Harvard University Press, 1961), p. 139.

Between Theodor Herzl's death in 1904 and the war of 1914, in relationship to the Zionist organizations of all countries, with the exception of Czarist Russia, German Zionism was very significant; it contributed more in terms of propagandistic effort, establishments of Palestine companies and finances than any other country's Zionists, excepting those in Russia. See Richard Lichtheim, Die Geschichte des deutschen Zionismus (Jerusalem: Rubin Mass, 1954), p. 10. The origins of German Zionism are easily traceable to Moses Hess who published in 1862 his Rome and Jerusalem, advocating therein the "re-establishment" of a national "Jewish state."

<sup>40</sup>J.M.N. Jeffries, Palestine, the Reality (London: Longmans, Green and Co., 1939), Chapter XI; Doreen Ingrams, Palestine Papers 1917-1922: Seeds of Conflict (New York: George Braziller, Inc., 1973); Walid Khalidi, ed., From Haven to Conquest (Beirut: Institute For Palestine Studies, 1971).



<sup>41</sup>J.M.N. Jeffries, Palestine: The Reality (New York, 1939), p. 153. American Zionist backing was crucial for the survival of the Palestinian Zionist communities now deprived, by the war, of European funds. "It became clear that America alone must not only save the Yishuv but keep the Zionist movement alive...." See Rufus Lears, Fulfillment: The Epic Story of Zionism (Cleveland, 1951), p. 172. Yishuv (Hebrew; literally, "settlement") refers to the Jewish community residing in Palestine prior to 1948. The collection of \$10,000,000 between November 1914 and December 1917 by the American Jewish Joint Distribution Committee underscored the potential power and influence of the American Zionists. In both the United States and Britain, Zionists had begun to direct their efforts toward obtaining a guarantee from the Allies that, in the event of Ottoman defeat, Palestine would be recognized as a "Jewish commonwealth" open to unrestricted immigration.

<sup>42</sup>Herbert Samuel was a Liberal Party Member of Parliament from 1902 to 1918 with a seat in the Cabinet from 1915-1916, Home Secretary 1916 and the first British High Commissioner in Palestine from 1920 to 1925. Israel Zangwill, fanatical Zionist, described Samuel and his family as having a "gracious Zionist romance." See Zangwill, "Zionism To-Day," The Yale Review, January, 1921, p. 250.

<sup>43</sup>According to Brierly the word protectorate in the latter half of the nineteenth century described a relation between a state and a "native community not sufficiently civilized" to be regarded as a state. Protectorates were usually established by imposed agreements, hence, involuntary, and were meant to exclude other states from making an occupation, or from maintaining any direct relations with the "protected" communities; it also serves as an obligation to maintain security for foreign subjects and property within the "protected" territory. Protectorates were, in essence, at this time colonial possessions largely acquired through a display or imposition of military power.

<sup>44</sup>John Bowle, Viscount Samuel (London, 1957), p. 170.

<sup>45</sup>Ibid., p. 172.

<sup>46</sup>Ibid.

<sup>47</sup>Weizmann, Trial and Error, p. 192.

<sup>48</sup>British Public Records Office, Cabinet Papers, 37/123/43.

<sup>49</sup>Cited in Blanche E.C. Dugdale, Arthur James Balfour (New York: G.P. Putnam's Sons, 1937), p. 164. Blanche Dugdale was James Balfour's niece.

<sup>50</sup>Beatrice Venetia Stanley, 1887-1948, was Clementine Churchill's cousin. On July 26, 1915 she married Edwin Montagu.

<sup>51</sup>Martin Gilbert, Winston S. Churchill: The Challenge of War 1914-1916, Volume **III** (Boston: Houghton Mifflin Company, 1971), pp. 343-44.

<sup>52</sup>Robert Offley Ashburton Crewe-Milnes, 1858-1945. Secretary of State for India 1910-15. Lord President of the Council, 1915-16.

<sup>53</sup>Charles Hardinge, 1858-1944. Viceroy of India, 1910-16. Re-appointed Permanent Under-Secretary of State for Foreign Affairs, 1916-20. Ambassador to Paris, 1920-23.

<sup>54</sup>Gilbert, op. cit., p. 344. This publication is replete with discussions of territorial acquisitions contemplated after the war's termination.

<sup>55</sup>Martin Gilbert, Winston S. Churchill: The Challenge of War, Vol. III (Boston: Houghton Mifflin Company, 1971), p. 332-33. Mark Sykes wrote that Lord Kitchener "was ultimately reconciled to Haifa." Sir Mark Sykes to Sir George Arthur, September 12, 1916, in Kitchener Papers, PRO 30/57/91. Such sentiments may now appear extravagant and historically inaccurate, but during the war belief in the power, or rather the omnipotence, of the Jews was then very widely held. Sir Mark Sykes was very impressed with the power of Jewry and Zionism as his letter of March 18, 1916, to Sir George Arthur reveals. The letter is reproduced in Middle Eastern Studies, October, 1970, pp. 341-42. Because of its significance the writer has reproduced the letter and included it in the appendix. In April 1917, a few months after Lloyd George became Prime Minister, he bluntly told the British Ambassador at Paris that the French would have to accept a British protectorate in Palestine: "We shall be there by conquest and shall remain." Lord Bertie, the Ambassador, accurately summed up George's attitude then and later as being: "J'y suis, j'y reste." (idiomatic for "here I am, here I stay"). With Lloyd George as head of the government meant that patronage of Zionism would be used to establish and maintain British control of Palestine. See Elie Kedourie, "Sir Mark Sykes and Palestine 1915-16," Middle Eastern Studies, October, 1970, p. 343.

<sup>56</sup>Ibid., p. 334.

<sup>57</sup>L.M. Thompson, The Unification of South Africa (1902-1910) (London, 1960), p. 38; Desmond Stewart, Theodor Herzl Artist and Politician, op. cit., pp. 301-306.

<sup>58</sup>The writer does not infer that the American Government was principled on its own espousals of democracy and independence. It too, in the case of Palestine, practiced the European art of deception.

<sup>59</sup>Ingrams, op. cit., p. 140.

<sup>60</sup>Illustrated Sunday Herald, February 8, 1920. Also cited in Middle East International, February, 1976, p. 27. Randolph Churchill described his father as "indoctrinated in the cause of Zion, long before it became fashionable" and made himself "highly acceptable to the powerful Jewish community in Manchester." See Randolph S. Churchill, Young Statesman 1901-1914, Vol. II of Winston S. Churchill (Boston: Houghton Mifflin Co., 1967), p. 80.



CHAPTER V  
THE EVOLUTION OF THE  
BALFOUR DECLARATION

The Balfour Declaration<sup>1</sup> has never possessed any juridical value,<sup>2</sup> although the Zionist establishment has employed it as such for the establishment of a "national home" (Jewish State) in Palestine, despite the fact that analysis of the Zionist negotiations reveals their interpretation to be in explicit error. Secondly, emanating from the British wartime cabinet, which at no historical time possessed any right of or sovereignty over Turkish Palestine, the declaration, even when we exclude its actual negotiative emendations, could not, in the context of modern international law, juridically recognize a title of sovereignty in favor of the Zionists.<sup>3</sup> The secret negotiating history of the declaration reveals that Weizmann and the other Zionist negotiators promised the British Government the political support of the alleged Zionist "nationality" constituency of Jews in return for the political sympathy clause of the declaration. Temperly was most succinct and accurate when he wrote that the declaration "is a pledge that in return for services to be rendered by Jewry the British Government would 'use their best endeavours' to secure the execution of a certain definite policy in Palestine" serving both British and Zionist aims.<sup>4</sup> Even though the Zionist phrase "the Jewish people" was used, it was clear that Weizmann and his fellow self-appointed representatives of "the Jewish people" had no authority to speak for all the members of Judaism, as the direct political intercession of the anti-Zionist Jews reveals.<sup>5</sup> Weizmann admitted this fact:

Certain it was that Montagu's opposition, coupled with the sustained attacks which the tiny anti-Zionist group had been conducting for

months--their letters to the press, the pamphlets, some of them written pseudonymously by Lucien Wolf, their feverish interviews with Government officials--was responsible for the compromise formula which the War Cabinet submitted to us a few days later.<sup>6</sup>

Subsequently, Weizmann again admitted this fact tens years later at Czernowitz, Roumania when he declared, "The Jews, (the British Government) knew, were against us; we (Zionists) stood alone on a little island, a tiny group of Jews...." Thus, as Mallison declared, "the claimed constituency of 'the Jewish people' was fabrication."<sup>7</sup> Mallison gives an excellent historical and juridical purview of the Zionist interpretation of the declaration:

The Declaration is regarded as providing juridical authority for "the Jewish people" nationality claims and for the Zionist national home enterprise in Palestine. The political promise clause has been extrapolated concerning the Palestine Arabs as if the first safeguard clause did not exist. In the same way, it has been extrapolated as to Jews in any other country than Palestine as if the second safeguard clause did not exist. The foregoing summary is supported by an extensive and detailed Zionist interpretation.<sup>8</sup>

The reader should keep the perjurious Zionist extrapolations in perspective as the writer analyzes the various mutational alterations of the declaration. An excellent point of departure from an extensive historical analysis of the private negotiations is the Zionist preliminary draft of July 12, 1917, recalling importantly that in the original Foreign Office draft proposal, the key words were "asylum" and "refuge", that is, the non-acceptance of a Jewish State or Jewish sovereignty over Arab Palestine. We must keep in mind that the Zionists interpreted the words "national home" to explicitly mean an exclusive Judenstaat over the Arab country and ideologically defined "the Jewish people" as previously explicated in this paper.<sup>9</sup> In other words, though yet in violation of international law as pertains to the rights of the Palestinians over their aged homeland, the British Government was prepared to arbitrarily

create in Arab Palestine "a sanctuary (haven) for Jews"<sup>10</sup> who felt they could or did not wish to live where they already resided. Contrarily, Sokolov disapproved of this British draft because it "would by no means meet the (Zionist) case."<sup>11</sup> Consequently, the Zionists prepared their more explicit draft requesting directly that the British Government (Cabinet) accept the Zionist

...principle of recognising Palestine as the National Home of the Jewish people and the right of the Jewish people to build up its national life in Palestine under a protection to be established at the conclusion of peace following upon the successful issue of the War.<sup>12</sup>

This Zionist preliminary draft is also explicit in that it called for "the grant of internal autonomy to the Jewish nationality in Palestine, (and) freedom of immigration for Jews."<sup>13</sup> The Zionist draft proposal of July 18, 1917, requested the following concession:

1. His Majesty's Government accepts the principle that Palestine should be reconstituted as the National Home of the Jewish people.<sup>14</sup>
2. His Majesty's Government will use its best endeavours to secure the achievement of this object and will discuss the necessary methods and means with the Zionist Organization.

The wording of this draft is very explicit: Arab Palestine was to become a Jewish State under Jewish sovereignty. In fact, this draft contains three Zionist political objectives:

1. That Arab Palestine be "reconstituted" as the Zionists' Judenstaat without regard to the existing rights of the Palestinian Arab people.
2. That all Jews (the comprehensive Zionist claimed racial entity of "the Jewish people") be recognized by the British governmental Zionists as constituting a distinct transnational racial group.
3. That a relationship or connection be recognized between "the National Home" and "the Jewish people" as a juridical precedent confirmed in a secretly negotiated agreement.

Radical departure from the original Zionist objectives is quickly



observable: contrary to the Zionist drafts of July 12 and July 18, the Weizmann-Sykes memorandum of about September 22, 1917 which explicitly renounced "a Jewish Republic" and any "other form of State in Palestine or any part of Palestine." This was a drastic change in the earlier demanded<sup>15</sup> Zionist political endeavour to have Britain accept the Zionist thesis of "Palestine being reconstituted as the national home of the Jewish people" and "secure the achievement of this (Zionist) object." Weizmann wrote in his diary the following:

A comparison of the two texts--the one approved by the Foreign Office and the prime minister, and the one adopted on October 4, after Montagu's attack--shows a painful recession from what the government itself was prepared to offer....We, on our part, examined and re-examined the formula (of October 4), comparing the old text with the new. We saw the differences only too clearly, but we did not dare to occasion further delay by pressing for the original formula, which represented not only our wishes, but the attitude of the members of the government.<sup>16</sup>

Here we have Weizmann's own direct admission of the radical difference between the earliest Zionist draft proposals and the rescinded government offer, which expressly denied Palestine as the contemplated Jewish State.

The Balfour draft of August, prepared by James Balfour but adopting the phraseology from the earlier Zionist draft of July 18, represented in summary the governmental Zionists' acceptance of Zionist political objectives, including the comprehensive territorial objective of Weizmann-Sokolov-Lord Rothschild in Palestine, that is, Zionist Jewry sovereignty over Palestine. The Balfour draft stated the following:

His Majesty's Government accept the principle that Palestine should be reconstituted as the national home of the Jewish people and will use their best endeavours to secure the achievement of this object and will be ready to consider any suggestions on the subject which the Zionist Organization may desire to lay before them.<sup>17</sup>

This Balfour draft, which was not submitted to the Cabinet because it was thought likely to be rejected,<sup>18</sup> represented Balfour's accep-

tance of Zionist objectives requested in their July 18 draft (that "Palestine should be reconstituted as the national home of the Jewish people"); in essence, that Palestine would become the Jewish State.

Analysis reveals that the key words in Balfour's draft are taken directly from the earlier Zionist draft. Consequently, the Milner governmental draft was prepared to replace the non-submitted Balfour draft. It read:

His Majesty's Government accepts the principle that every opportunity should be afforded for the establishment of a home for the Jewish people in Palestine, and will use its best endeavours to facilitate the achievement of this object, and will be ready to consider any suggestions on the subject which the Zionist Organization may desire to lay before them.<sup>19</sup>

To Milner is accredited the remark that, "If the Arabs think that Palestine will become an Arab country, they are very much mistaken."<sup>20</sup> The War Cabinet, according to the minutes, met September 3rd to discuss the Milner draft declaration. Lloyd George and Balfour, both Zionist sympathizers, were absent from this meeting. Even though the Milner draft delineated a significant retreat from the Zionist political objectives, it was not the rebuke to them that subsequent developments created for the Zionist negotiators. The Milner draft is significant for many changes from the Balfour and Zionist drafts: 1) The wording was now "a home" rather than "the national home"; 2) rather than "secure" the achievement of "reconstituting" Palestine as "the national home of the Jewish people," Britain would "facilitate" the achievement of simply affording "every opportunity" for the "establishment of a home in Palestine"; 3) The Zionist "opportunity should" be afforded "in" Palestine rather than "reconstituting" Palestine as "the national home" of the Jewish people, thus denying that Palestine belonged to the Zionists or to the Jews; 4) the wording "best endeavours" was repeated but in the usage of a reduced set of Zionist political objectives. On the other hand, the Milner draft did not contain

any direct wording to the "non-Jewish" population of Palestine; at this point no safeguard clauses, either for "the Jews" or Palestinian Arabs, were added. We must recall that Lord Milner, Minister without Portfolio and a Gentile governmental Zionist, considered the words "reconstituted" and "secure" of the unaccepted Balfour draft much too strong. The Zionists were still at this pivotal point not willing to accept the Cabinet's retreat from their objectives manifested in their own drafts and Balfour's draft.

The War Cabinet, meeting on September 3 to consider the Milner draft, deferred its decision because Lloyd George and Balfour were absent, because of Montagu's vehement attack of the pro-Zionist draft, and because "It was suggested that a question raising such important issues as to the future of Palestine ought, in the first instance, to be discussed with (the) Allies, and more particularly with the United States...."<sup>21</sup> Montagu voiced strong objections to any declarations in which it was stated that Palestine was the "national home" of the Jewish people.<sup>22</sup> The Zionists, although now hard-pressed by anti-Zionist opposition, after the shelving of the Milner draft were not yet prepared to accept defeat of their objectives (recall the Zionist drafts of July 12 and 18 and the withdrawn "Balfour draft" of August). Weizmann recognized "the implacability of his opposition,"<sup>23</sup> that is, Montagu who "astounded the Cabinet."<sup>24</sup> Ironically, the posture of the Zionists is revealed in Weizmann's "chagrin" at the Cabinet for "the attention paid...to a handful of assimilated Jews."<sup>25</sup> He even castigated the Conjoint Committee of representatives, the Anglo-Jewish Association, and the Board of Deputies as consisting of "old-fashioned, well-to-do assimilationist Jews."<sup>26</sup> Montagu critically attacked the Cabinet members on grounds of their "anti-semitism" and vehemently retorted that the Zionist, Balfour and Milner draft proposals



were not acceptable to the Jews.<sup>27</sup> The key to understanding the political pressure techniques crucial to the Zionists in overriding the powerful opposition of the Montagu group by the pro-Zionists in the War Cabinet comes from Weizmann's diary:

I added (in cable to Brandeis on September 19th) that the opposition of the assimilationists (Jews) was to be expected and that it would be of great assistance if the text of this declaration (the Zionist draft of July 18th) received the support of President Wilson and of Brandeis."<sup>28</sup>

Secondly,

At the same time we were doing our best to counteract the activities of the assimilationists (Jews), who were attacking us in...pamphlets, in the press, and in person-to-person propaganda, as well as in the cabinet.<sup>29</sup>

On September 18, Weizmann received a letter from Lord Rothschild stating an undesirable ominous to Zionist plans:

Do you remember I said to you in London, as soon as I saw the announcement in the paper of Montagu's appointment, that I was afraid we were done."<sup>30</sup>

In planning their political assault against the Montagu group, Weizmann and Mark Sykes, the pro-Zionist Secretary of the War Cabinet, collaborated on a memorandum which was distributed to the Cabinet members before the issues involved in a declaration were discussed again. Before that memorandum is reproduced here, we must retain in mind the political objective of the Zionist negotiators and their treacherous guile in the face of the active anti-Zionist opposition.<sup>31</sup> The first installment of explicit Zionist duplicity during the declaration's negotiations occurred in the Weizmann-Sykes memorandum of September in which the Zionists "specified" what they were and were not asking for:

What the Zionists do not want is:

I. To have any special political hold on the old city of Jerusalem itself or any control over the Christian or Moslem Holy Places.

II. To set up a Jewish Republic or other form of State in Palestine or any part of Palestine.

III. To enjoy any special rights not enjoyed by other inhabitants of Palestine.

On the other hand, the Zionists do want:

I. Recognition of the Jewish inhabitants of Palestine as a national unit, federated with [? other] national units in Palestine.

II. The recognition of [the] right of bona fide Jewish settlers to be included in the Jewish national unit in Palestine.<sup>32</sup>

The retreat from the original Zionist draft proposal is indeed perceptively striking; the Zionists renounced "a Jewish Republic" or any "form of (Jewish) State in Palestine or any part of Palestine." Weizmann's object, because of the effective anti-Zionist Montagu group,<sup>33</sup> was to have the Cabinet agree to some kind of a declaration. If Weizmann's memorandum was to reassure Montagu and the other anti-Zionist Jews<sup>34</sup> to accept a pro-Zionist declaration, it was a complete failure as the Milner-Amery draft (which replaced the Milner draft) of October 4th will shortly reveal. Another significant aspect of the Weizmann-Sykes memorandum is that in denying or retreating from the Zionist scheme for Jewish homeland or nation (Weizmann's exact expression was "Jewish Republic or other form of State in Palestine or any part of Palestine") in Palestine, Weizmann (Sykes also) was perfidious; for, as Weizmann declared in his diary,

The first full-dress conference leading to the Balfour Declaration took place at the home of Dr. Gaster on the morning of February 17, 1917....The discussions touched on several points which were to constitute the heart of the problem in the ensuing months....Second, the term "nation," as applied to the emergent Jewish homeland in Palestine, referred to the Jewish homeland alone, and in no wise to the relationship of Jews with the lands in which they lived. So much was made clear by Herbert Samuel. To this I added that the Jews who went to Palestine would go to constitute a Jewish nation, not to become Arabs or Druzes or Englishmen.<sup>35</sup>

In essence, regardless of the political and juridical nullities proscribing the Judenstaat scheme, Weizmann and Zionism would simply

ignore the proscriptions designated in the declaration. The Milner-Amery draft of October 4 reflects the critical impact of Montagu's implacable anti-Zionism and the failure of the Zionists, both Jewish and Gentile, to cast aside his objections:

His Majesty's Government views with favour the establishment in Palestine of a national home for the Jewish race and will use its best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed in any other country by such Jews who are fully contented with their existing nationality and citizenship.<sup>36</sup>

Amery,<sup>37</sup> an assistant secretary of the War Cabinet, has written that before the October 4 Cabinet meeting, he was privately asked by Lord Milner, a member of the Cabinet, to draft "something which would go a reasonable distance to meeting the objections, both Jewish and pro-Arab, without impairing the substance of the proposed Declaration."<sup>38</sup> Since Amery's draft included the addition of the two safeguard clauses (these not being in the August Milner draft), Milner's private request to Amery was obviously inconsistent and unintelligible because the Zionist demands (of sovereignty in a Jewish State over Palestine) were dichotomous to the anti-Zionist and pro-Arab objections of the previous drafts. The Milner-Amery draft reveals, with the addition of the two safeguard clauses for anti-Zionist Jews and "non-Jewish communities in Palestine" (that is, the majority Palestine's Arab Christian and Muslim people along with other minority Palestine groups), an additional retreat from the original Zionist draft proposal and a failure of the Weizmann-Rothschild-Sykes memorandum of October 3 that the declaration "would be considered in the light of (British) Imperial interests." Stein, the English-Zionist (Jewish) historian of the Balfour Declaration said of the Milner-Amery draft:



The progressive watering down of the formula submitted by Rothschild in July, and in substance accepted at the time by Balfour (in the Balfour draft), was clearly a response, not only to the pressure of the Jewish anti-Zionists, but also to reminders that in dealing with the Palestine question there were other claims and interests to be considered besides those of the Jews.<sup>39</sup>

Weizmann's diary appraisal of the Milner-Amery draft is caustically recorded in his letter of October 7 to Philip Kerr, Lloyd George's secretary, when he wrote, "expressing my chagrin and bewilderment at the attention paid by the British government to a handful of assimilated Jews."<sup>40</sup> It is precisely because of the Cabinet's refusal to accept the Zionist claimed constituency of "the Jewish people" or Weizmann's Zionist attitude that assimilated Jewish nationals counted for nothing (when actually they represented an anti-Zionist majority) that the Cabinet inserted the safeguard phrase "it being clearly understood that nothing shall be done which may prejudice the...rights and political status enjoyed in any other country by such Jews who are fully contented with their existing nationality and citizenship." We must recall that the Zionist negotiators arbitrarily spoke and acted in behalf of the Zionist claimed constituency of "the Jewish people" and that the British governmental pro-Zionists did not unequivocally curtail his claimed authority as "spokesman" for "the Jewish people" until anti-Zionist British Jewry entered into the negotiations and made it vehemently clear that Weizmann lacked authority to speak for or represent anti-Zionist Jews. (Despite the specific safeguard clause one of the inane anomalies of Zionism is that it still provides "juridical authority" for "the Jewish people" nationality claims, although this was specifically rejected by the Declaration's second safeguard clause.) Weizmann explicitly admits, recalling the original Zionist draft proposals (and Balfour's draft which iterated the Zionist

drafts), that "the draft adopted on October 4...shows a painful recession from what the government itself was prepared to offer,"<sup>41</sup> that is, to the Zionists that "Palestine should be reconstituted as the National Home of the Jewish people" and that Zionists spoke for all world Jewry. The reader should also recall that in the Declaration of the Establishment of the State of Israel (1948) the Zionists, despite the explicit denial of their "the Jewish people" claim in the second safeguard clause, still arrogated to themselves that, "This right [of the Jewish people to national rebirth in its own country] was recognised in the Balfour Declaration...." The Zionist state establishment Declaration also, despite the denial in the Balfour Declaration phraseology, speciously stated that "the Balfour Declaration...gave international sanction to... the right of the Jewish people to rebuild its National Home." Zionists' subversions and distortions of the Balfour Declaration are not really so strange. While Weizmann would declare that the Zionist negotiators and Organization ("We") "examined and reexamined the formula (of October 4), comparing the old text with the new"<sup>42</sup> and that

We saw the differences only too clearly, but...did not dare to occasion further delay by pressing for the original (Zionist) formula, which represented...our wishes....<sup>43</sup>

while Weizmann would ask as a change in the Milner-Amery draft,

Instead of the establishment of a Jewish National Home, would it not be more desirable to use the word "re-establishment"? By this small alteration the historical connection with the ancient tradition would be indicated....May I also suggest "Jewish people" instead of "Jewish Race",....<sup>44</sup>

though the Cabinet would deny the change to "re-establishment," and while Weizmann intensively shifted Zionist tactics from the private negotiating forum to the political one of Jewish-Zionist pressure group tactics<sup>45</sup> on the Cabinet and Foreign Office on October 11 (this political pressure

device would also fail), Weizmann would later pacify his "chagrin" of failure and disappointment at the Declaration by subsequently developing a personal interpretation which satisfied him: "It would mean exactly what we would make it mean--neither more nor less."<sup>46</sup>

Relevant to this chapter is the intriguing deception of Leopold Amery, whose scandalous official conduct in support of Zionism included treasonable acts because they aggravated the difficult and dangerous situation of the British army in Palestine which was being subjected to incessant assaults from Jewish terrorists. When, on May 11, 1940, the Chamberlain government was replaced by Winston Churchill's election, the Zionists felt much as they did when the Asquith government was replaced by that of their exponent Lloyd George, for on December 17, 1939, before Weizmann left for the United States from Portugal, Churchill agreed with Weizmann that after the Second World War a Jewish State of three or four million Jews should be created in Arab Palestine,<sup>47</sup> another obvious violation of the Palestine Mandate responsibility. Weizmann's immediate objective was a Jewish army in Palestine.

A brief review of the pro-Zionist collaboration of important British officials in violation of the administration of the Mandate reveals the extraordinary behavior normally considered scandalous, improper and treasonable.<sup>48</sup> Amery was directly active in this role and the role of Amery leads us to Orde Wingate, an English Zionist who was assigned to an intelligence unit at Haifa, Palestine in the autumn of 1937.<sup>49</sup> As previously stated, an immediate objective was a Palestine Jewish army which Weizmann had privately discussed with Sir Edmund Ironside, Chief of the Imperial General Staff, Churchill and other select British officials. Captain Wingate's biographer records that from November of 1939, Wingate,



Blanche Dugdale and another prominent English Jewish Zionist, Victor Cazalet, Member of Parliament, met frequently at Cazalet's country home. It was Cazalet who introduced Wingate to the Zionist Leopold Amery,<sup>50</sup> whose close friendship with Churchill can not be disputed through 1940.<sup>51</sup> Keeping in mind that Amery's draft proposal of October 4 included the two safeguard clauses, one of which protected the rights of the Palestinians to their country, his role of quietly assisting the Zionists becomes, to say the least, intrinsic and furtive. In July, 1940, at a meeting of the Middle East Committee of the British Cabinet, Amery suggested to General Haining, Vice-Chief of the Imperial General Staff under Sir Edmund Ironside, that Wingate be used in the Middle East. On July 15 Weizmann, seeking a Palestine Jewish army and Wingate's assistance in Palestine, had an interview with Haining, the result of which Haining promised to telegraph General Sir A. P. Wavell, British Commander-in-Chief of Middle East (1939-1941), urging him "to get on with the training of cadres of Jewish (Zionist) officers and N.C.Os."<sup>52</sup> Mrs. Dugdale's diary reveals an elated but solemn Weizmann returning from a similarly successful mission with British Foreign Secretary Anthony Eden and other private parlor meetings with the backstairs pro-Zionists Lewis Namier and Wingate.<sup>53</sup> Subsequently, the appointment of the new Chief of the Imperial General Staff, Sir John Dill, upset the plans of Weizmann and Wingate.<sup>54</sup> Dill felt that Wingate would be of more significant help in the war cause in Allied operations against Italian East Africa; his instructions also added the stipulation that because of Wingate's pro-Zionism and willingness to violate direct military orders he "was prohibited from going to Palestine for any reason whatever, either on duty or on leave."<sup>55</sup> An enraged Wingate asked Weizmann to demand a Jewish

army from Churchill. Churchill hesitated to assent immediately to the formation of a Jewish army although his consent to recruitment was given in September of 1940.<sup>56</sup> Instead, the British armed and trained a force of Jewish "special constables" which numbered nearly 16,000 by 1941.

Amery's officious help in the above synopsisized proceedings harkens back to an earlier period, that is, the First World War and the Balfour Declaration negotiations.<sup>57</sup> Amery's contribution of the so-called safeguard clauses would appear to have been sincerely made to protect the rights of the Palestinian Arabs in their country. This is not actually the case because he wrote one year later:

The population of Palestine will consist in the main of two elements: Palestinian Arabs and the Jews. The former are closely linked up by every sort of affiliation with the Arabs across the Jordan who are to form part of the Arab State. It is essential for the peace and good government both of Palestine and of the Arab State that Arab questions should be handled in the same spirit and on parallel lines on both sides of the Jordan. On the other hand the Jewish settlement of Palestine is not likely in the long run to be confined to Palestine in the narrower sense. It is sure to spread not only into the trans-Jordan country, but to Egypt, Mesopotamia and the Near East generally....<sup>58</sup>

Although the British had set up a military administration in Palestine in 1918, it was not known what decision the victorious Allies would enact as to the future status of the country; although the first safeguard clause of the declaration, authored by Amery, explicitly stated "it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of the existing (Palestinian Arab) communities in Palestine," Amery furtively backed a Jewish State over Palestine, that the Arab State would be formed in the "trans-Jordan country" and that eventually the Jews would expand into Egypt, Mesopotamia, the Near East and Trans-Jordan (Jordan) thereby expanding the Jewish State in time to these additional areas. Amery is obviously incredibly surreptitious

because he explicitly understood that the Zionist negotiators, especially Weizmann, wanted an exclusive Jewish State over Palestine; moreover, Amery speaks of an "Arab State" in Transjordan but suggests that in time Jewish settlement in the "Arab State" area would convert it into part of the expansive Jewish State. Consequently, what becomes of the national, "civil and religious rights" of the Arab people in the "Arab State" if, as Amery projected, the Zionist goal of an exclusivist and expanded "Jewish" State encroaches into the "Arab State" area!

Weizmann may have expressly recognized that the Milner-Amery draft could be interpreted to "cripple" Zionism's actual central political-national objectives in Palestine,<sup>59</sup> but as both he and Amery furtively construed, the Zionists would simply ignore and violate the first safeguard clause, as the following three decades would vividly reveal. When Weizmann, on October 9, telegraphed the Milner-Amery draft to American Zionist leader Brandeis in America, Brandeis and his Zionist associates disagreed with the draft on two points: 1) They disliked the phrase "by such Jews who are fully contented with their existing nationality and citizenship," preferring "the rights and civil political status enjoyed by Jews in any other country";<sup>60</sup> 2) Brandeis suggested the change of "Jewish race" to "Jewish people".<sup>61</sup> These changes were made in the final draft.

The most significant feature of the final draft was that the Zionists failed to receive Cabinet assent to any of their three central political objectives in their July draft proposal.<sup>62</sup> Even more significantly, the second safeguard clause was to undergo a drastic change in its wording as a result of Brandeis' suggestion; the final draft of the second safeguard was strengthened by eliminating reference to Jews in countries other than Palestine who were "fully contented with



their existing nationality," and making the second safeguard applicable, without exception, to "Jews in any other country" than Palestine. In essence, Britain would apply on October 31, 1917, what the American Government belatedly declared in November of 1959 that "other governments are fully aware that the United States Government does not condone the involuntary identification of its (Jewish) citizens with a foreign state";<sup>63</sup> and reaffirmed on April 20, 1964, when the Department of State said it "does not regard the 'Jewish people' concept as a concept of international law."<sup>64</sup> Another way of expressing the Zionist concept is what the final second safeguard means and protects against in the ongoing sixty-nine year old Zionist ideological objective: Can a Jewish American, as an example, claim the Jewish "nationality" that Zionism contends he possesses (even though he does not in fact assert it), and at the same time, remain compatible with those citizenship obligations and rights imposed by the Constitution and laws of the United States? Zionism maintained that their concept of a continuing "Jewish people" throughout the history of mankind was implicitly (note, not explicitly) recognized in the Declaration. This view has ignored the second safeguard provision of the Declaration, "It being clearly understood that nothing shall be done which may prejudice the...rights and political status of Jews in any other country."<sup>65</sup> This provision was specifically designed to avoid the juridical and political consequences of the involuntarily encompassing "Jewish people" nationality concept which violates the legal tenets of nationality status in international law.<sup>66</sup>

Consequently, the Balfour Declaration and later international instruments, such as the Covenant and Mandate for Palestine (July 24, 1922) denied the Zionists juridical authority for "the Jewish people" trans-

national nationality claims. The safeguard clauses of these instruments are so unequivocal that they can only be interpreted as prohibiting the Zionist claims.<sup>67</sup> Moreover, in terms of contemporary nationality law the Zionist claim to represent a "Jewish nation" in which every Jew is and remains a de facto natural citizen until he claims it de jure is unprecedented, without legal foundation in international law.<sup>68</sup>

Consequently, how is it juridically possible that the notion of a continuing "Jewish people" throughout the history of mankind, rejected in the Declaration, could be, the Zionists argue, implicitly recognized in the Declaration? Ironically, this opprobrious Zionist ascription was rejected in the final declaration as a result of the direct intervention of the American Zionists led by Brandeis. Despite Zionism's latter desires to simply ignore the Cabinet's rejection of their "Jewish people" concept in the second safeguard, ironically, it was Weizmann himself who accepted this rejection<sup>69</sup> by writing to the Cabinet<sup>70</sup> after October 4 (the intent to issue the Milner-Amery draft proposal remained after this date), that

in order to avoid any misunderstanding I respectfully suggest that the part of the declaration in question (the safeguard pertaining to Jews) be replaced by the following words: 'the rights and political status enjoyed by Jews in any other country of which they are loyal citizens.'<sup>71</sup>

Weizmann explicitly agreed to the rejection of "the Jewish people" Zionist negotiation objective.<sup>72</sup> Even if Weizmann was attempting a vague nuance by adding "of which they (Jews) are loyal citizens" (which was not included in the change telegraphed by Brandeis to him), he again failed because the Cabinet accepted the unequivocal Brandeis recommendation "the rights and civil political status enjoyed by Jews in any other country."<sup>73</sup> It is significant to note that Brandeis and Balfour considered (Weizmann continued to adhere to Jewish State ulterior motives in violation of the

declaration and Mandate) the issuance of the declaration not to be the end of Zionism's plot for a Jewish State.<sup>74</sup> American Zionist aims were outlined to Balfour during a private session among him, Felix Frankfurter,<sup>75</sup> Lord Eustace Percy,<sup>76</sup> and Brandeis.<sup>77</sup> Brandeis explicitly stated to Balfour:

First, that Palestine should be the Jewish homeland and not merely that there be a Jewish homeland in Palestine. That, he assumed, is the commitment of the Balfour Declaration and will, of course, be confirmed by the Peace Conference.<sup>78</sup>

Brandeis was seriously in error; a Jewish sovereignty over Arab Palestine was not the commitment of the declaration.

Under the direct insistence of anti-Zionist Jews in Britain, among other reasons, the framers of the declaration recognized that the nationalist aspirations of some Jews could endanger the rights and political status of anti-Zionist Jewry--those who did not seek an involuntary transformation of their religious commitment into a nationalist political commitment, nor jeopardize their political rights in their respective countries.<sup>79</sup> Chaim Weizmann, the Zionists' leading negotiator, has stated:

But we have never wanted Palestine for the Zionists; we wanted Palestine for the Jews. The development of Palestine Jewry is not a party affair. The Balfour Declaration is addressed to all Jewry.<sup>80</sup>

By the mere acceptance of the declaration by the British Cabinet and, in 1924, by the United States in the Anglo-American Convention which incorporated the entire declaration, the political Zionist definition of "the Jewish people" was not introduced into customary international law; Zionism simply succeeded in publicly distorting the religiosity of Jewish terminology.<sup>81</sup> Not coincidentally, while the language of this concept was studiously vague, neither on the British governmental pro-Zionist nor on the Zionist side was there any disposition, at the time, to probe deeply into the meaning of "the Jewish people"--still less was there any agreed interpretation.<sup>82</sup> But the Zionist misuse of the declaration is



typical because Zionism's interpretation intentionally ignores the safeguards and deliberately treats the declaration as consisting only of the "favour" clause which is only a "declaration of sympathy with Jewish Zionist aspirations." It should be noted that, despite the Cabinet's denial and rejection of "the Jewish people" concept--to which the Zionists assented in the final draft of the declaration<sup>83</sup>--neither the Zionist Organization nor the State of Israel, which controls the World Zionist Organization, has ever accepted any limitation on the Zionist conceptual membership in "the Jewish people".<sup>84</sup> As for example, in December, 1961, Israel declared:

The connection between the Jewish people and the State of Israel constitutes an integral part of the Law of Nations\*....The Balfour Declaration and the Palestine Mandate given by the League of Nations to Great Britain constituted an international recognition of the Jewish people....<sup>85</sup>

Between October 4 and November 2, ensuing Zionist political pressure tactics by Weizmann reveal Zionism's critical concern that the Milner-Amery draft, without substantial changes and retaining the safeguards, would become the final Cabinet declaration. The political pressure tactics failed to produce a statement consistent with Zionist objectives of (1) "Palestine being reconstituted as the National Home of the Jewish people,"<sup>86</sup> (2) recognition of "the Jewish people" concept.<sup>87</sup> Weizmann understood the distinction between the Balfour draft (which was actually the earlier Zionist draft) and the Milner-Amery draft:

...the one adopted on October 4, after Montagu's attack--shows a painful recession from what the Government itself was prepared to offer<sup>88</sup>

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\*Concerning the Zionist alleged historic title and right to Palestine it is significant that an Israeli legal writer, Yehuda Blum, does not even mention the Balfour Declaration in a book dealing with historic titles: Historic Titles in International Law (The Hague, 1965).

which to the Zionists were demands listed above. Whatever his subsequent vacillation,<sup>89</sup> he declared that "we did not dare to occasion further delay by pressing for the original (Zionist) formula";<sup>90</sup> hence, Weizmann did accept the declaration with both safeguard clauses and a substantial weakening of the "sympathy" clause in which the Cabinet "view(ed) with favour the establishment in Palestine of a national home for the Jewish people" rather than "accept the principle that Palestine should be reconstituted as the national home of the Jewish people." At the Cabinet meeting of October 31, Lord Curzon succinctly stated the difference between the original Zionist demands and what they were to get; he

recognized that some expression of sympathy with Jewish aspirations would be a valuable adjunct to our propaganda, though...we should be guarded in the language used in giving expression to such sympathy.<sup>91</sup>

The actual declaration itself is prefaced in the Balfour letter to Lord Rothschild as a "declaration of sympathy," not a governmental "promise."<sup>92</sup> The writer is not splitting a fine hair. There is a world of difference between an agreement explicitly specifying a "promise" and one declaring "sympathy" with a cause. To promise is to pledge; to sympathize is to commiserate. The difference is much too obvious; Weizmann perceptively understood it as the "painful recession" in which "We saw the differences only too clearly." The sympathy expression, in contrast to the more specific desire for a Cabinet principle, commitment, or promise should be quickly observable: the sympathy clause promises nothing.

The interesting question remains as to why, if the Zionists' central political objectives were rejected by the Cabinet (assuming theoretically that the Cabinet pro-Zionists empathized with Zionist political desires) the Cabinet issued a declaration? The answer is quite simple: The British Government in the midst of the world war received some propaganda benefits from the declaration<sup>93</sup> (except in the Arab lands where every at-

tempt was made to suppress its publication<sup>94</sup>), and the British for post-war imperial reasons symbiotically used but subtended the Zionist scheme in Palestine. And Zionist leadership used the declaration as a hook on which to hold the Middle East policies of successive British Governments. This debunks the proposition that the British had any sort of altruistic motivation to assist Zionist political goals. The Cabinet, in fact, after careful consideration of six drafts and both Jewish anti-Zionist and Zionist memorandum, issued a declaration which met Jewish anti-Zionist criticisms, including the protection of the rights of the Arab Palestinian people, and repudiated Zionist ones. This indicates that the Cabinet, as a result of the intervention of the anti-Zionists, probed far too deeply from the Zionist standpoint and rejected the Zionist objectives with deliberation and precision, though some of the Cabinet members may have been chagrined, such as Balfour.<sup>95</sup>

The year 1917 was a grave one for the Allies. The Russian revolution weakened and jeopardized the fight against the Central Powers on the eastern front, and the Germans were about to transfer divisions from the Russian to the western front before the United States sent soldiers to France. Not ignoring the fact of postwar British imperial aims in the eastern Mediterranean,<sup>96</sup> William Ormsby-Gore,<sup>97</sup> Parliamentary Under Secretary for the Colonies, wrote a memorandum on the origins of the declaration for Churchill, then Secretary of State for the Colonies:

The earliest document is a letter dated 24th April 1917 in which a certain Mr Hamilton suggested that a Zionist mission should be sent to Russia for propaganda purposes. It is clear that at that stage (Britain)...were mainly concerned with the question of how Russia (then in the first stages of revolution) was to be kept in the ranks of the Allies. At the end of April the Foreign Office were consulting the British Ambassador at Petrograd as to the possible effect in Russia of a declaration by the Entente of sympathy for Jewish national aspirations. The idea was that such a declaration might counteract Jewish pacifist propaganda in Russia.



In the same month (April 1917) Mr. Balfour, then Secretary of State for Foreign Affairs, went on his official mission to the United States [to scheme out ways of co-operating with them in prosecuting the war'.<sup>11</sup>] The Foreign Office note observes that 'during this visit the policy of the declaration as a war measure seems to have taken more definite shape'. It was supposed that American opinion might be favourably influenced if (Britain) gave an assurance that the return of the Jews to Palestine had become a purpose of British policy.<sup>98</sup> (Original document.)

On June 13, 1917, Sir Ronald Graham,<sup>99</sup> Assistant Under Secretary of State for Foreign Affairs, prepared a memorandum to Lord Hardinge, permanent Under Secretary of State for Foreign Affairs:

We ought therefore to secure all the political advantage we can out of our connection with Zionism and there is no doubt that this advantage will be considerable, especially in Russia...I submit for consideration that the moment has come when we might meet the wishes of the Zionists....<sup>100</sup>

Synoptically, the minutes of the War Cabinet session of September 3 report that in consideration of a proposal declaration (another draft), Lord Robert Cecil, the Acting Secretary of State for Foreign Affairs, who was replacing Balfour temporarily because the latter was in the United States, declared:

There was a very strong and enthusiastic organization (the Zionists), more particularly in the United States (the Provisional Commission for General Zionist Affairs), who were zealous in this matter (of a declaration), and his belief was that it would be of most substantial assistance to the Allies to have the earnestness and enthusiasm of these (Zionists) people enlisted on our side. To do nothing was to risk a direct break with them....<sup>101</sup>

On October 4 Balfour discussed the need for a declaration with the Cabinet members:

...that the German Government were making great efforts to capture the sympathy of the Zionist Movement. This Movement...had behind it the support of...Jews...in Russia and America, and possibly in other countries.<sup>102</sup>

After the October 4 Cabinet session, at which a declaration was avoided, Ronald Graham addressed a memorandum to Balfour:

regretting the Cabinet's delay in giving an assurance to the Zionists as this delay would throw them into the arms of the Germans. The moment...this assurance is granted the Zionist Jews are prepared to start an active pro-Ally propaganda throughout the world.<sup>103</sup>

Balfour gave attention to this request during the Cabinet session of October 31:

If we could make a declaration favourable to such an ideal, we should be able to carry on extremely useful propaganda both in Russia and America.<sup>104</sup>

Lord Curzon agreed with Balfour:

However, he recognized that some expression of sympathy with Jewish aspirations would be a valuable adjunct to our propaganda, though... we should be guarded in the language used in giving expression to such sympathy.<sup>105</sup>

Firsthand confirmation does not preclude the Zionist historical source of Samuel Landman, a leader of the Zionist-Revisionists and secretary of the World Zionist Organization from 1917 to 1922, who stated:

After an understanding had been arrived at between Sir Mark Sykes and Weizmann and Sokolow, it was resolved to send a secret message to Justice Brandeis that the British Cabinet would help the Jews to gain Palestine in return for active Jewish sympathy and for support in the U.S.A. for the Allied cause, so as to bring about a radical pro-Ally tendency in the United States.<sup>106</sup>

Secret messages were also sent in cipher through the Foreign Office to the Zionist leaders in Russia to obtain their support for the Allied cause. Messages were also sent to Jewish leaders in neutral countries in order to strengthen the pro-Ally sympathies of Jews everywhere. The Zionists had accurately foreseen their way to Palestine, an objective which they had found impossible "to surmount by ordinary political means" prior to the world war.<sup>107</sup> Herzl's prophecy that the Zionists would get Palestine "not from the goodwill but from the jealousy of the Powers,"<sup>108</sup> was being made to come true in the close wartime collaboration between the British officials and the pro-Ally based Zionists in England. Lastly, the October 31 session of the Cabinet authorized Balfour not to declare Jewish or Zionist acquisition of sovereignty over Arab Palestine or the

grant of sovereignty over the land to "the Jews"<sup>109</sup> but to make "the following declaration of sympathy with the Zionist aspirations" to Lord Rothschild the nominal head of Zionism in England. Early in 1923, the Duke of Devonshire, who succeeded Churchill as Secretary of State for the Colonies, prepared a memorandum on British policy in Palestine from 1917:

Briefly stated, the object [of the Balfour Declaration] was to enlist the sympathies on the Allied side of influential Jews and Jewish organisations all over the world...It is arguable that the negotiations with the Zionists...did... have considerable effect in advancing the date at which the United States Government intervened in the war. However that may be, it must always be remembered that the Declaration was made at a time of extreme peril to the cause of the Allies... The Balfour Declaration was a war measure...designed to secure tangible benefits which it was hoped could contribute to the ultimate victory of the Allies.<sup>110</sup>

Lord Curzon, who even after its issuance did not understand the meaning and intention of the Balfour Declaration, except to acknowledge that Weizmann was furtive about actual Zionist goals, disclosed in a memorandum dated October 26, 1917, Weizmann's negotiation technique:<sup>111</sup>

He once told me that 2,000 interviews had gone to the making of the Balfour Declaration. With unerring skill he adapted his arguments to the special circumstances of each statesman. To the British and Americans he could use biblical language and awake a deep emotional undertone; to other nationalities he more often talked in terms of interest. Mr. Lloyd George was told that Palestine was a little mountainous country not unlike Wales; with Lord Balfour the philosophical background of Zionism could be surveyed; for Lord Cecil the problem was placed in the setting of a new world organization; while to Lord Milner the extension of imperial power could be vividly portrayed. To me, who dealt with these matters as a junior officer of the General Staff, he brought from many sources all the evidences that could be obtained of the importance of a Jewish national home to the strategical position of the British Empire, but he always indicated by a hundred shades and inflections of the voice that he believed that I could also appreciate better than my superiors other more subtle and recondite arguments. This skilful presentation of facts would, however, have been useless unless he had convinced all with whom he came into contact of the probity of his conduct and the reality of his trust in the will and strength of Britain.<sup>112</sup>

Zionist actions clearly reveal, and quite often are stated, that the avowed intention of Zionism has always been the establishment



of a Jewish State in the whole of Palestine, including its environs such as Transjordan. And Balfour clearly understood the meaning of the "Jewish national home"; he privately confided to his Prime Minister Lloyd George in a letter dated February 19, 1919, from the Paris Peace Conference:

The weak point of our position of course is that in the case of Palestine we deliberately...decline to accept the principle of self-determination. If the present (Arab) inhabitants were consulted they would unquestionably give an anti-Jewish verdict. Our justification for our policy is that we regard Palestine as being absolutely exceptional....<sup>113</sup>

Balfour goes on to explicitly admit the intent of "giving the" Zionists Arab Palestine "providing that home can be given them without either dispossessing or oppressing the present (Arab) inhabitants."<sup>114</sup> In 1947-1948 Zionist military power would be utilized to forcefully dispossess the majority Arab Palestinian population though Balfour never lived to see that moment. And the Zionist military infrastructure would be constructed, with the direct assistance and training of British mandatory authorities in direct violation of the Mandate provisions.

## Chapter Five

<sup>1</sup>There was no international law authority for the British Government to make a promise of Arab territory (which was under Turkish sovereignty) to Zionist territorial aspirations, for even the international law of peace and war of the war period juridically disallowed a British territorial concession to the Zionist nationalists. The Hague Convention No. IV entitled "Respecting the Laws and Customs of War on Land," in addition to prohibiting explicit juridical limitations upon belligerents, including juridical limitations upon states or groups acting as military occupants, decrees in its Preamble: "Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience...." See 36 Stat. pt. 2, p. 2277 at 2279-80 (1910).

<sup>2</sup>Balfour's letter was privately addressed to another English citizen. Zionist propaganda gave it a sacrosanct character and called it the "Balfour Declaration" to clothe it with importance. While Zionists took pains to publicize it widely, they also took care not to mention the safeguard proviso in the letter that guaranteed and protected the rights of the Arab people who were referred to as "the non-Jewish communities" in Palestine which represented 93 per cent of the population of Palestine.

<sup>3</sup>The same legal consideration applies to the various partitions schemes, especially to the partition resolution adopted by the General Assembly of the United Nations on November 29, 1947: legally possessing no right of sovereignty over Palestine the United Nations could not validly partition the Arab country, nor dispose of it, nor grant any right of sovereignty to the Zionist Jews over any part of Palestine. International law recognizes only the illegality of depriving indigenous people of their natural and imprescriptible rights of sovereignty over their own country.

<sup>4</sup>Temperley, ed., A History of the Peace Conference of Paris (London, 1924), p. 173-74.

<sup>5</sup>At the 17th Zionist Congress in Basle, in July of 1931, Weizmann declared, "...I often asked myself what we, I and my friends who were speaking for the Jewish people, could answer were we asked to 'show our credentials' and to prove our right to act as the representatives of world Jewry. That no such question was ever put is perhaps the strongest proof of the intuitive understanding of those men who spoke with us on behalf of Great Britain, and who saw us, not as the nominated or elected representatives of this or that group, but as the spokesmen of a people in the making. And this attitude is the more surprising when one remembers that these so-called 'big Jew' and the official Jews (such as Montagu's group), were than very strongly opposed to Zionist ideals and

aspirations." Quote is from Elmer Berger, "Disenchantment of a Zionist," Middle East Forum (Beirut: American University, April 1962).

<sup>6</sup>Trial and Error, p. 259. The words "Compromise formula" refer to the denial of the primary Zionist objective which was that "Palestine should be reconstituted as the national home of the Jewish people," which was emended by the Milner-Amery draft.

<sup>7</sup>"Claims To Constitute 'The Jewish People'," John Norton Moore, ed., The Arab-Israeli Conflict (Princeton: Princeton University Press, 1974), Vol. I, p. 107. The Mallison study is an excellent legal explication of the Zionist "the Jewish people" nationality concept.

<sup>8</sup>Ibid., p. 108.

<sup>9</sup>In 1947, the Zionist Organization/Jewish Agency publicly interpreted the phraseology of the Balfour Declaration: "The phrase 'Jewish Zionist aspirations'...referred to the age-old hope of Jews the world over that Palestine shall be restored to its ancient role as the 'Land of Israel.' These aspirations were formulated as a concrete aim at the first World Zionist Congress at Basle, Switzerland, in 1897, under the leadership of Dr. Theodore Herzl, in these words: 'Zionism aims to create a publicly secured, legally assured home for the Jewish people in Palestine.'" The same Zionist source provided the Zionist interpretation of the words "national home for the Jewish people": "The phrase 'the establishment in Palestine of a National Home for the Jewish people' was intended and understood by all concerned to mean at the time of the Balfour Declaration that Palestine would ultimately become a 'Jewish Commonwealth' or a 'Jewish State,' if only Jews came and settled there in sufficient numbers." These statements are quoted from Jewish Agency for Palestine, Book of Documents Submitted to the General Assembly of the United Nations, ed., Abraham Tulin, (New York, 1947), p. 1 and 5. The inaccuracy of the Zionist statement that the alleged meaning of an ultimate "Jewish State" was "intended and understood by all concerned" is historically obvious, although it is kind of the Zionists to reveal their actual illegal aims in Palestine both before and after the Balfour Declaration. I would specifically direct critics to the Zionist memorandum of about September 22, 1917, which declared, "What the Zionists do not want is: (II) To set up a Jewish Republic or other form of State in Palestine or any part of Palestine." This Weizmann-Mark Sykes memorandum explicitly refutes the Zionist Organization/Jewish Agency interpretation of the meaning of the Balfour Declaration made in 1947. Additionally, Sokolov, president of the World Zionist Organization in 1917, wrote in 1918: "It has been said, and is still being obstinately repeated by anti-Zionists again and again, that Zionism aims at the creation of an independent 'Jewish state.' But this is wholly fallacious. The 'Jewish state' was never a part of the Zionist programme." See Nahum Sokolov, History of Zionism, 1600-1918 (London, 1919), Vol. I, pp. xxiv-xxv. Sokolov is simply being atrociously deceptive because in the Zionist draft proposal of July 18, 1917, Sokolov (1861-1936)



stated explicitly that he wanted Britain to "accept(s) the principle that Palestine should be reconstituted as the national home of the Jewish people," and in the Zionist draft of July 12, 1917, Sokolov along with other Zionist officials wanted the British to accept the "principle of recognising Palestine as the National Home of the Jewish people and the right of the Jewish people to build up its national life in Palestine" under the protection of a Western power.

<sup>10</sup>Stein, The Balfour Declaration, p. 468.

<sup>11</sup>Ibid.

<sup>12</sup>Ibid., p. 468-69. Note the specific Zionist conceptual phraseology in the words "recongising," "the National Home," "the Jewish people," "national life," all of which means the creation of the Zionist Judenstaat over Arab Palestine.

<sup>13</sup>Ibid., p. 469. Note the specific reference to "the Jewish people" and the "Jewish nationality" which depict the Zionist conception of a transnational nationality racial entity. Difficult interpretive problems concerning the scope and meaning of these phrases were never explicated by the British governmental Zionists and the Zionists Jewish negotiators were certainly not voluntarily providing any clear definitions of these ideological-philosophical words. As Sir Harold Nicolson declared in reference to the British Foreign Office preliminary draft and the protesting Zionists' preliminary drafts of July 12 and 18, "We believed that we were founding a refuge for the disabled (Jews) and did not foresee that it would become a nest of hornets." See Stein, op. cit., p. 468, n. 24.

<sup>14</sup>The use of the term "National Home" in this Zionist draft was a continuation of the euphemism deliberately adopted since the First Zionist Congress in 1897, when the term "Heimstätte" was employed instead of Herzl's "Judenstaat" term meaning "Jewish State." As has been shown, Nordau, the inventor of the term "Heimstätte," coined it "to deceive by its mildness" until such time as "there was no reason to dissimulate our real aim," which was an exclusive Jewish State. See Sykes, Two Studies in Virtue: On the basis of Nordau's manuscript "The Prosperity of His Servant," p. 160, footnote 1.

<sup>15</sup>Weizmann makes specific reference to the British Government invoking "favorable action on our demands" which to the Zionists meant a "reconstituted" Jewish State over Palestine. See Chaim Weizmann, "The Balfour Declaration," N. Gordon Levin, Jr., ed., The Zionist Movement in Palestine and World Politics, 1880-1918 (Lexington, Mass.: D. C. Heath and Company, 1974), p. 191. Significantly, Sykes, as Weizmann detailed, "understood entirely what was meant by (Jewish) 'nationality'" and "the idea of a Jewish Palestine."

<sup>25</sup>Ibid.

<sup>26</sup>Ibid., p. 200.

<sup>27</sup>It would have been impossible for even such committed Zionists as Lloyd George and Balfour to represent a declaration as having support from Jews following the resignation of the only member of the Cabinet in protest.

<sup>28</sup>Levin, op. cit., pp. 194-95. Actually, the Zionist draft to which Weizmann refers had already been rejected by its replacement with the Milner draft of August, which was not cabled to Brandeis. Obviously, Weizmann's omission was intentional.

<sup>29</sup>Ibid., p. 195.

<sup>30</sup>Ibid., p. 194.

<sup>31</sup>Political Zionism emphasized the importance and need of a politically independent Jewish State over Arab Palestine. Relevant to the desire of a territory by political Zionism is the premeditated policy of "gradualism" first developed by Chaim Weizmann and inherited by subsequent leaders, even at the present day. In accepting the Balfour Declaration, the Churchill White Paper, and the partition plan of the Peel Commission, Weizmann did not really agree to their terms or intend to abide by them. Throughout his tenure as the recognized leader of organized Zionism, he tried ceaselessly to circumvent the restrictions of official British policy without openly challenging their legality until the 1940s. Emphatically, the limitations he sought to overcome were directly related to the Zionist Jewish State scheme. A disturbing problem to Zionist "gradualism" is the ongoing vivid discrepancy between its statement and its scheme, a dichotomy that led to a format based on expedient equivocation and quiet duplicity. Zionist design and intent were concealed by equivocation of statement and purpose after the Milner draft proposal of the Balfour Declaration which radically denied acceptance of Zionist objectives over Palestine.

<sup>32</sup>Stein, The Balfour Declaration, p. 512. Material in brackets supplied by Stein.

<sup>33</sup>This group included such important British Jews as Lucien Wolf, Claude Montefiore and Sir Mathew Nathan. Weizmann suggested to Brandeis in the United States via cable that anti-Zionist opposition had to be overcome; that it would "greatly help if President Wilson and yourself support the text (wired to Brandeis September 19). Matter most urgent." Weizmann also sent a telegram to two leading New York Zionists, asking them to "see Brandeis and Frankfurter immediately discuss my last two telegrams with them," adding that it might be necessary for him to come to the United States himself. On October 9 Weizmann cabled Brandeis



again stating difficulties from the "assimilants" opposition: "They have found an excellent champion...in Mr. Edwin Montagu who is a member of the Government and has certainly made use of his position to injure the Zionist cause."

<sup>34</sup>The Jews of Britain in 1917 totalled about 300,000 of whom only 8,000 were Zionists. See Stein, op. cit., p. 66.

<sup>35</sup>Levin, op. cit., p. 186. Emphasis in the quote is from the original diary entry of Weizmann.

<sup>36</sup>Stein, op. cit., p. 521. The last two words in the draft were added two days later (ibid., pp. 524, 525, n. 31). Note the Zionist racial doctrine in the phrase "the Jewish race."

<sup>37</sup>Amery, a professed Zionist, along with W. G. Ormsby-Gore and Winston Churchill, Amery's school friend at Harrow, had dominated almost the entire decade between 1919-1929 of British-Palestine relations. In the fight against the 1930 Passfield White Paper (which announced the British Government's intention to suspend Jewish immigration, restrict Zionist-Jewish land purchases, and reduce the irregular power of the Jewish Agency in Palestine, which was a shadow Zionist government) the Zionists were strongly backed by such important Zionist non-Jewish individuals as Stanley Baldwin, Sir Austen Chamberlain, General Smuts, Sir John Simon and Amery. Lord Passfield was the British Colonial Secretary and author of the White Paper. For an example of the fashion in which Jewish constituent votes are effectively used to suppress anti-Zionist policies, see Alan Bullock, The Life and Times of Ernest Bevin: Trade Union Leader 1881-1940, Vol. I (London: Heinemann, 1960), chapter entitled "The Second Labour Government, 1929-1931," in which placating the English-Jewish vote took the form of, on November 4, 1931, of Bevin issuing a statement declaring that his Labour Government had no intention of stopping Jewish immigration into Palestine nor of setting limits to the expansion of the "Jewish National Home" in Palestine. Facts concerning the Zionist shadow government in Palestine are included in the Anglo-American Committee of Inquiry, Report to the United States Government and His Majesty's Government in the United Kingdom: "There thus exists a virtual Jewish nonterritorial State [through the Jewish Agency] with its own executive and legislative organs, parallel in many respects to the Mandatory Administration, and serving as the concrete symbol of the Jewish National Home. This Jewish shadow Government has ceased to cooperate with the (British) Administration in the maintenance of the law and order, and in the suppression of terrorism." (p. 39)

<sup>38</sup>Quoted in Stein, op. cit., p. 520. The words "pro-Arab" does not mean that any Arabs had any role in the private negotiations; in fact, the Arabs did not even know of the private discussions which would lead to the issuance of the Balfour Declaration. So extensive was the influence of the Jewish community at Whitehall that the Cabinet paid more attention to expressions of opposition to Zionism when they came from Jews than when they came from Arabs, whose land the Cabinet was illegally



bartering away in the style of nineteenth century imperial diplomacy. One decision of the War Cabinet declared, "Before coming to a decision (the Cabinet) should hear the views of representative Zionists as well as of those who held the opposite opinion, and that meanwhile the declaration, as read by Lord Milner, should be submitted confidentially to a) President Wilson, b) leaders of the Zionist Movement, c) representative persons in Anglo-Jewry opposed to Zionism." See PRO CAB 23/4. The Cabinet simply ignored the Arabs whose land they were arbitrarily giving to the Zionists as their "national home."

<sup>39</sup>Stein, op. cit., p. 522.

<sup>40</sup>Levin, op. cit., p. 196.

<sup>41</sup>Ibid., p. 197.

<sup>42</sup>Ibid., p. 198.

<sup>43</sup>Ibid.

<sup>44</sup>Ibid. The suggestion of "Jewish people" actually came from Brandeis in the United States.

<sup>45</sup>The Council of the English Zionist Federation with Weizmann presiding decided on Jewish pressure group tactics on October 11. Weizmann attempted in a letter to Herbert Samuel of October 18 (the day Montagu sailed for India) to reach a "satisfactory arrangement" with anti-Zionists Sir Phillip Magnus and Sir Stuart Samuel but this also failed.

<sup>46</sup>Weizmann, Trial and Error, p. 242. The First World War had enabled the Zionist movement to illegally extract the Balfour Declaration with its ambiguous "Jewish national home" idea. The intended ambiguity of the Balfour Declaration (and the Palestine Mandate) had served the Zionist purpose. It would still take the Second World War to bring the opportunity for the exclusive Judenstaat which was the Zionist goal. As for example, on April 28, 1944, Weizmann, contrary to his officious denials of Palestine becoming a Jewish State during the declaration's negotiations (along with Sokolov's public denial), while dining with British Colonel Richard Meinertzhagen, a member of the British delegation to the Paris Peace Conference and Chief Political Officer in Palestine and Syria 1919-20, disclosed his desire for the whole of Palestine as a Jewish State. See Meinertzhagen, Middle East Diary 1917-1956, pp. 191-92. When Weizmann was asked why he had favored partition under the Peel Plan of 1937, he declared that he had done so because "he knew that war was inevitable and he thought that if there was only a small Jewish Palestine, the Jews might have gained by conquest what they wanted in a general world war." Yet, conversely,

he would cunningly declare a few years later to the United Nations Special Committee on Palestine (UNSCOP) with regard to Zionism employing organized Jewish terrorism in Palestine often under Jewish Agency direction in order to forcefully drive out the mandatory administration in direct violation of the Palestine Mandate and international law, "I hang my head in shame when I have to speak of this fact before you." See The Guardian, November 23, 1974, p. 16. Weizmann was President of the World Zionist Organization and Jewish Agency for Palestine from 1921 to 1931 and again from 1935 to 1946.

<sup>47</sup>Weizmann, Trial and Error, p. 419.

<sup>48</sup>Excellent reading selections are: David Ben-Gurion, "Britain's Contribution to Arming the Hagana," Jewish Observer and the Middle East Review, September 20, 1963, pp. 13-14. As chairman of the Jewish Agency for Palestine, 1935-48, he wrote, "The most successful and complete cooperation between the Jews and the British was achieved with the establishment of Special Night Squads by a distinguished British Officer, Captain Charles Orde Wingate. This was a practical step towards the establishment of a Jewish military force within the framework of the British Army." See Leonard Mosley, Gideon Goes to War (London: Arthur Barker Ltd., 1955), Chapter 4, "Orde Wingate and Moshe Dayan 1938," who wrote "The first occasion Wingate chose to take the Jews into action against the Arabs caused one of the biggest rows in the history of the Palestine Mandate, and nearly got him sacked on the spot." See David Ben-Gurion, "Our Friend: What Wingate Did For Us," Jewish Observer and Middle East Review, September 27, 1963, pp. 15-16. Ben-Gurion wrote: "The disturbance in Palestine brought (Wingate) back to the East. In the autumn of 1937, Wingate was posted to an intelligence unit at Haifa. He sought contact with the Jews, and met Emanuel Wilenski, head of the Hagana's Intelligence Service.... A short time later, Wingate met Dr. Weizmann, myself, Shertok (later renamed Sharett) and Eliahu Colomb (a founder of the Haganah and member of its High Command). He told us of his plans for the establishment of a Jewish Army...." The Hagana's Special Night Squads were broken up as World War II approached although the Jewish Agency still used these units as part of the overall Jewish underground army assaults against the British administration in Palestine from 1939-1948 and against the Palestinian Arab population.

<sup>49</sup>Wingate's superior officers of the Palestine Mandate administration recorded in his service file, "Orde Wingate, D.S.O. A good soldier, but as far as Palestine is concerned he is a security risk, and not to be trusted. Places the interests of the Jews before the interests of his own country. Not to be permitted to enter Palestine again." See Jewish Observer and Middle East Review, September 27, 1963, p. 16. Ben-Gurion, who collaborated with Wingate in the latter 1930's, wrote of Wingate's military assistance to the Hagana, "The Hagana's best officers were trained in the special Night Squads, and Wingate's doc-



trines were taken over by the Israel Defense Forces, which were established twelve days after the birth of the Jewish State" (*ibid.*, p. 16). Wingate, chief trainer of Hagana's young officers who were chosen from all districts in Palestine and convened at Ein Harod on September 13, 1938, declared at a parting meeting with the Hagana elite, "I am being sent away because we are too good friends. They want to strike at me and at you. But I promise you I will come back, and if I cannot do it in the regular way, I will come back as an illegal immigrant" (*ibid.*, p. 16).

<sup>50</sup> At this time Amery was Secretary of State for India. On September 29, 1938, Wingate was ordered home to England from Ein Harod; he departed Palestine on October 12 and returned in December of 1938 but was not permitted to return to his chief training functions at Ein Harod.

<sup>51</sup> See Martin Gilbert, Winston S. Churchill, Vol. III: The Challenge of War 1914-1916 (Boston: Houghton Mifflin Co., 1971).

<sup>52</sup> Non-Commissioned Officers. See Robert John and Sami Hadawi, The Palestine Diary 1914-1945, Vol. I: Britain's Involvement (New York: New World Press, 1970), p. 335. Haining personally disagreed with the appointment of Wingate's role, but with Prime Minister Winston Churchill's support (Churchill agreed with Weizmann's Jewish Army and Jewish State proposition at their private meeting on December 17, 1939 when he was still not elected to lead the British Government), Haining went along with the training project.

<sup>53</sup> At this time Weizmann was president of the World Zionist Organization and Palestine Jewish Agency.

<sup>54</sup> Dill was appointed C.I.G.S. in May, 1940.

<sup>55</sup> *Ibid.*, p. 335.

<sup>56</sup> While Weizmann presented a memorandum to Churchill for Sir John Dill, C.I.G.S., at their meeting at Brendan Bracken, the British Colonial Office insisted that there should be approximate parity in the number of Jews and Arabs recruited for units in Palestine. Weizmann despaired because according to his memorandum he wanted the following: (a) recruitment of the greatest possible number of Jews in Palestine for the fighting services, to be formed into Jewish battalions or larger formations; (b) officer cadres, sufficient for a Jewish division in the first instance, to be picked immediately from Jews in Palestine, and trained in Egypt; (c) the formation of a Jewish "desert unit"; (d) the recruitment of Jewish refugees in England (for the Jewish units in the Middle East). The codicil to this request was that the Jewish units be exclusively Jewish and totally separated from Palestine Arab military units. Interestingly, to the Jewish Stern terrorist group, which had



the quiet support of the Palestine Jewish Agency officials, military cooperation with the British was absurd. Stern, their leader, directly stated that his group would fight not only the British in Palestine but British imperialism everywhere. By now it is well known that their methods were terroristic as well against the Palestinian Arabs because the Sternists did not mince words about their desire for a "Jewish" State over Palestine. For them, there was a war only between Jews and goyim (non-Jews which included Arabs).

<sup>57</sup>Amery's pro-Zionism predates 1914, though that phase is not discussed in this paper.

<sup>58</sup>Public Records Office, Foreign Office, 371/3384. Amery, while in the Cabinet Secretariat, submitted a memorandum in January, 1917, which argued that Britain should do all in her powers to obtain "a continuity of territory or of control both in East Africa and between Egypt and India."

<sup>59</sup>Weizmann, Trial and Error, p. 260.

<sup>60</sup>Stein, op. cit., p. 531

<sup>61</sup>Ibid.

<sup>62</sup>W. Thomas Mallison, Jr., "The Balfour Declaration: An Appraisal in International Law," Ibrahim Abu-Lughod, ed., The Transformation of Palestine (Evanston: Northwestern University Press, 1971), p. 84.

<sup>63</sup>Letter to the American Council for Judaism from Parker T. Hart, Acting Assistant Secretary for Near Eastern and South Asian Affairs, United States Department of State, on November 12, 1959. Hart was specifying "the status of American citizens of the Jewish faith" because Israel was still attempting to involuntarily impose the "Jewish people" Zionist concept upon Americans of the Jewish religion.

<sup>64</sup>Letter from the United States Department of State to the American Council for Judaism dated April 20, 1964, and addressed to Rabbi Elmer Berger (then executive vice president of the American Council for Judaism) by Assistant Secretary of State Phillips Talbot. See Whiteman, Digest of International Law, VIII, (1967), p. 35. This letter was drafted for Talbot by the Legal Adviser's office.

<sup>65</sup>A decision of mandatory powers including the United States was made on April 25, 1920, "to accept the terms of the mandates' articles as given below with reference to Palestine on the understanding that there was inserted in the proces-verbal an undertaking by the mandatory powers that this would not involve the surrender of the rights hitherto enjoyed by the non-Jewish communities in Palestine."

<sup>66</sup>For American constitutional law prohibitions against religious discrimination, see Cantwell v. Connecticut, 310 U.S. 296 (1940); Hackworth, Digest of International Law, Vol. III (Washington, D.C.: U.S. Dept. of State, 1942), p. 352; Adler and Margalith, With Firmness in the Right: American Diplomatic Action Affecting Jews 1840-1945 (1946), pp. 249, 250, 251; W. Thomas Mallison, Jr., "Zionist-Israel Claims on 'The Jewish People' Are Unconstitutional," Issues (published by the American Council for Judaism), Winter, 1962-1963, pp. 1-16, 12; Lurie v. United States, 231 U.S. 9 (1913); M. Cherif Bassiouni and Eugene M. Fisher, "The Arab-Israeli Conflict--Real and Apparent Issues: An Insight Into Its Future From the Lessons of the Past," St. Johns Law Review, January, 1970, pp. 415-424, 415; M. Panhuys, The Role of Nationality in International Law (1959). Axiomatic knowledge of the American constitutional system declares that the Government has the legal obligation to protect the citizen's undivided citizenship/nationality status, and that the citizen has the right and duty of undivided national attachment to the United States sovereignty. The only recognized exception to the undivided nationality/citizenship status of the United States citizen is the legal status of dual nationality (*jure sanguinis*) in which case the United States recognizes the legal status of dual nationality with certain juridical limitations and qualifications. The Zionist-Israel claimed system of transnational legal "rights" and "obligations" to be arrogated upon and arbitrarily exacted from United States citizens of Jewish religion has nothing in common with the recognized legal exception of dual nationality.

<sup>67</sup>Lord Curzon, at the War Cabinet meeting of October 4, "urged strong objections upon practical grounds" to the Milner draft proposal and the Milner-Amery redraft proposal. The minutes of the meeting show that Curzon asked, "How was it proposed to get rid of the existing majority of Mussulman (Palestinian Arab people) inhabitants and to introduce the Jews in their place?...To secure for the Jews already in Palestine equal civil and religious rights seemed to him a better policy than to aim at repatriation on a large scale (i.e., a Jewish State over Palestine). He regarded (the Jewish State Zionist scheme)...as sentimental idealism, which would never be realized, and that (Britain)...should have nothing to do with it." Incidentally, two weeks after the 1918 Armistice Lord Curzon, a member of the War Cabinet who succeeded Balfour as British Foreign Secretary, stated categorically: "The Palestine situation is this. If we deal with our commitments, there is first the general pledge to Hussain in October, 1915, under which Palestine was included in the areas to which Britain pledged itself that they should be Arab and independent in the future." See Public Records Office document CAB 27/24.

<sup>68</sup>For an excellent legal explication of this contemporary international law doctrine see Bassiouni and Fisher, ibid., pp. 415-424. Also see Elmer Berger, The Jewish Dilemma (New York: The Devin-Adair Co., 1946), "Part I: The Myth of 'a Jewish People.'" The Zionist concept of a subjective "Jewish nation," existing through more than 20 centuries without territory, government, or political continuity, and imposing

limitations and obligations upon all adherents of the Jewish religious faith, regardless of ethnic origin, choice of nationality or time of conversion to Judaism (or for that matter continued adherence to Judaism), has no foundation or precedent in any recognized legal doctrine; moreover, as early as 1917, in the second safeguard clause of the Balfour Declaration, the British Government denied its acceptance as either a legal or political doctrine.

<sup>69</sup>Weizmann, Trial and Error, p. 261. See also the Zionist draft proposal herein.

<sup>70</sup>Weizmann was agreeing to the change suggested by Louis Brandeis.

<sup>71</sup>Weizmann, op. cit., p. 261. Emphasis mine.

<sup>72</sup>Mallison, The Balfour Declaration, op. cit., p. 93.

<sup>73</sup>With the exception of the singular word "civil."

<sup>74</sup>Weizmann, op. cit., p. 301. Also see Lloyd George, Peace Treaties, p. 1139. Balfour was still the Foreign Secretary at this time.

<sup>75</sup>President Wilson's Consultant at the Paris Peace Conference in 1919.

<sup>76</sup>British diplomat, later Conservative Member of Parliament, 1921-1937.

<sup>77</sup>Chairman of Provisional Commission for General Zionist Affairs, United States, 1914-1916 and Associate Justice, Supreme Court of United States, 1916-1939.

<sup>78</sup>Public Records Office, Foreign Office 800/217. For the full Frankfurter memorandum of the meeting see Walid Khalidi, ed., From Haven to Conquest (Beirut: The Institute For Palestine Studies, 1971), pp. 195-200.

<sup>79</sup>See Edwin Montagu's memorandum entitled "The Anti-Semitism of the Present Government," Public Records Office, Cabinet No. 24/24 (August 23, 1917).

<sup>80</sup>Paul Goodman, ed., Chaim Weizmann (London: Victor Gollancz Ltd., 1945), p. 203. One of the principal purposes of the iterated claims to "the Jewish people" is to obtain the assent of governments other than the Government of Israel through the implied processes of agreement of customary international law even though such other governments have never over the past seven decades given express international agreement to the Zionist entity of "the Jewish people."



81 The harshest martial forms of nationalism and ethnocentrism are to be found in the early history of Judaism. Israel's fundamental laws are based upon classic Zionist ideology. Zionism proceeds from the social experiences of those Jewish inhabitants (by religion) of Russia and Poland whose unassimilated condition (which was as much desired), great numbers and dense aggregation had given them the impression of being a separate nationality. Hence, they responded instinctively to the two political impulses of the European world of the nineteenth century, nationalism and expansion by colonization. The case was in no way altered by the recognized fact that the Jewish nationalists exploited Jewish religious sentiment about Zion and "Israel" in the same way that the promoters of the crusades had once exploited Christian feelings about the tomb of the Redeemer and other Christian symbolisms in Jerusalem and the Holy Land.

82 The anti-Zionist Jewish interventionists did extrapolate "the Jewish people" Zionist concept without the willingness of the Zionist negotiators to lend cooperative appraisal to Zionist jargon.

83 Weizmann declared, "It is one of the 'ifs' of history whether we should have been intransigent, and stood by our guns. Should we then have obtained a better statement?...Our judgment was to accept, to press for ratification." See Trial and Error, p. 261.

84 See W. Thomas Mallison, Jr., "Zionist-Israel Claims On 'The Jewish People' Are Unconstitutional," Issues, Winter, 1962-1963, pp. 1-16. An interesting picture of Zionist support among anti or pro-Zionist Jews is given by Herbert Adams Gibbons ("Zionism and the World Peace," The Century Illustrated Monthly Magazine, January, 1919) who covered the Paris Peace Conference: "...Jewish friends have been urging me for a year to write for publication what I have said in private conversation about the danger to the world from the erection of a Zionist state in Palestine. When the idea of a Zionist state in Palestine is broached, I have found opinions strongly pro and strongly contra among American Jews, mostly pro among British Jews, and mostly contra among French Jews. Prominent Jews in the intellectual and business and commercial world, whose names and statements appear in Zionist publications in favor of the Zionist interpretation of the Balfour letter, have assured me privately that they view the whole (Zionist) movement with the gravest misgivings, and that they openly sponsor the project simply because at the present moment no Jew can without injury to himself throw cold water on Zionism" (p. 370). The "Zionist interpretation of the Balfour letter" is also clarified by Gibbons: "...the Zionists have not interpreted the declaration of the British Government according to its clear wording. From the day of its publication they have looked upon the letter...as official British sanction to the establishment of a Jewish state in Palestine by means of wholesale immigration and buying up of the land. They consider it as a recognition of Jewish nationality in the sense of separate political and civil status for the Jew from the international point of view" (p. 369). Gibbons also states: "The Grand Rabbi of France stated a few months ago that there are only a hundred thousand Zionists in the world outside of America, that most of the Zionists in France are of Russian or Rumanian origin...." (p. 371).

<sup>85</sup>See Criminal Case No. 40/61 (District Court Jerusalem, Israel, December 11-12, 1961), aff'd, Criminal App. No. 336/61 (Supreme Court, Israel, May 29, 1962). It has already been shown that the British Cabinet rejected the Zionist claim.

<sup>86</sup>Weizmann, Trial and Error, p. 260.

<sup>87</sup>Ibid.

<sup>88</sup>Ibid.

<sup>89</sup>"It is one of the 'ifs' of history whether we should have been intransigent, and stood by our guns. Should we then have obtained a better statement?...Our judgment was to accept, to press for ratification." Ibid., p. 261.

<sup>90</sup>Ibid., p. 207.

<sup>91</sup>Ingrams, op. cit., p. 17-18.

<sup>92</sup>The writer has no idea where the phrase "political promise clause" originated and is not particularly concerned with its derivation because the historical explication of the evolution of the Declaration reveals that "His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people" is not a promise.

<sup>93</sup>Klaus J. Herrmann, "Political Response to the Balfour Declaration in Imperial Germany: German Judaism," The Middle East Journal, Summer, 1965, pp. 303-320. See the section of the article subtitled Counter-acting the Balfour Declaration, pp. 313-320.

<sup>94</sup>Ronald Storrs, The Memoirs of Sir Ronald Storrs (New York: Arno Press, 1972), p. 358; Doreen Ingrams, op. cit., p. 20, 22; Public Records Office, CAB. 27/23.

<sup>95</sup>Balfour was prepared to concede the Zionist-sought "principle" of the reconstitution of Palestine as the national home of the Jews; when this failed he was privately prepared, regardless of the Balfour Declaration, to furtively assist Zionism in Palestine. Interestingly, Herbert Samuel, himself a leading Zionist and one of the first to insist that the British Cabinet favor Zionism, interpreted the Declaration in a speech in the House of Lords April 23, 1947, as not agreeing to the creation of a Jewish State over Palestine. Samuel stated, "The Jewish State...is not contained in the Balfour Declaration....There was no promise of a Jewish State. What was promised was that the British Government would favour the creation of a Jewish National Home--the term was most carefully chosen--in Palestine. The Declaration did not say that Palestine should be the Jewish National Home, but that it favoured a Jewish National Home in Palestine, without prejudice to the civil and religious rights of the Arab population." This quote is taken from

Viscount Samuel's speech in the Palestine Debate in the House of Lords, April 23, 1947. Samuel was appointed British High Commissioner to Palestine under the Mandate from 1920 to 1925.

<sup>96</sup>See Elie Kedourie, "Sir Mark Sykes and Palestine 1915-16," Middle Eastern Studies, Vol. 6, No. 3, pp. 340-345.

<sup>97</sup>Ormsby-Gore was not being candid because he ignored his own role and the British-Zionist entrenchment which developed much earlier than April 24, 1917.

<sup>98</sup>Public Records Office, Cabinet Papers, 24/158.

<sup>99</sup>Graham is privately described by Weizmann as "of considerable help in bringing about the Balfour Declaration." See Trial and Error, page 231. Graham was in the confidence of Sir Mark Sykes and was of unfailing help to the Zionists.

<sup>100</sup>Ingrams, op. cit., p. 8. Zionists drafted their versions of the declaration in July.

<sup>101</sup>Public Records Office, Cabinet Papers, 23/4.

<sup>102</sup>Ibid.

<sup>103</sup>Public Records Office, Foreign Office, 371/3054.

<sup>104</sup>Public Records Office, Cabinet Papers, 23/4. Lord Curzon agreed with Balfour by stating "that he admitted the force of the diplomatic arguments in favour of expressing sympathy" with the Zionists' aims.

<sup>105</sup>Ibid.

<sup>106</sup>Robert John and Sami Hadawi, The Palestine Diary 1914-1945, Vol. I (New York: New World Press, 1970), p. 72. The approach to the Zionist movement by Mark Sykes, as representative of the British Government, began as early as four days after Britain's declaration of war on Turkey in November of 1914. The informal committee of Zionists and Mark Sykes met privately on February 7, 1917, at the house of Moses Gaster, the (Roumanian) Chief Rabbi of the Sephardic (Spanish and Portuguese) congregations in England. Gaster opened the meeting with a statement that stressed Zionist support for British strategic interests in Palestine which were to be an integral part of the agreement between them. Sykes, Balfour, Lloyd George and Churchill, as claimed in their subsequent statements, were of the opinion that proclaimed Allied support for Zionist aims would especially influence the United States to play an active and major role in the war and would have a strong political repercussion in Russia and with the Central Powers of Germany and Austro-Hungarian.



<sup>107</sup>Report of the Twelfth Zionist Congress (London: Central Office of the Zionist Organization, 1922), p. 13ff.

<sup>108</sup>Stein, The Balfour Declaration, p. 25.

<sup>109</sup>See for example, Norman Bentwich, Palestine of the Jews (London, 1919), p. 195. Bentwich, a Zionist Jew who held for several years the office of Attorney General of Palestine during the Mandate, declared on a number of occasions that Zionist/Jewish sovereignty was no part of the "Jewish national home" in Palestine.

<sup>110</sup>Public Records Office, Cabinet Papers, 24/159. For an academic perspective of the interest of the Central Powers in their own version of a declaration as an effort to their war plans see Klaus J. Herrmann, op. cit., pp. 303-320. There is no doubt that the declaration had substantial propaganda value to Britain and the Allies. Balfour recognized the propaganda value of the declaration. So did Lloyd George. Propaganda reasons are referred to in the ESCO Study at page 117: "The essential reason, accounts agree, was strategic and had to do with the need of strengthening Britain's lifeline to the East." And at page 118: "Through the Balfour Declaration Great Britain ultimately strengthened and extended her position in the whole Near East." The Lasswell study, Propaganda Technique in the World War (1927), declares at page 176: "General Ludendorff regarded the Balfour Declaration as the cleverest thing done by the Allies in the nature of war propaganda and lamented the fact that Germany had not thought of it first." See Stein, op. cit., pp. 533-542 concerning Zionist contacts with the German Government during the war. A cautious German Government wartime statement concerning Zionists and Palestine, issued on January 8, 1918, is quoted in Stein at pages 602-603.

<sup>111</sup>Curzon asked: "(a) What is the meaning of the phrase 'a national home for the Jewish race in Palestine', and what is the nature of the obligation that we shall assume if we accept this as a principle of British policy?" Strangely, Curzon, the anti-Zionist opponent of the Balfour Declaration and the Jewish State scheme in Palestine, and who had vetoed a knighthood for Weizmann in 1920, declared to the Cabinet in 1923 that it would be impossible for any British Government to withdraw from the pro-Zionist policy "without a substantial sacrifice of consistency and self-respect if not of honour." Ironically, Curzon added to Zionist allurements: "Those of us who have disliked the policy are not prepared to make that sacrifice." Quotes are taken from Bernard Wasserstein, "A Vision of Mount Zion," The Guardian, November 23, 1974, p. 15. For Curzon's criticisms of the Zionist Palestine scheme see Ingrams, op. cit.

<sup>112</sup>Taylor, Prelude to Israel, p. 24. It was C. P. Scott, the publisher of The Manchester Guardian who opened the doors of Downing Street to Weizmann. In December, 1914, Scott introduced Weizmann to Lloyd George. That was only the beginning of Scott's help. He advised Weizmann how to play his cards in the high level politics of the British Government. Scott told him, for instance, how Lloyd George ignored letters but answered telegrams and how Balfour's "indolence" left him

in the hands of his officials. Scott personally lobbied his important friends in the Cabinet on behalf of the Jewish national home in Palestine.

<sup>113</sup>Ingrams, op. cit., p. 61. We must recall that this private declaration of British intention came after the issuance of the Balfour Declaration.

<sup>114</sup>Ibid.

## CHAPTER V I

### THE MANDATES SYSTEM

In the Autumn of 1921 I returned to London where I was called to supervise the drafting of the covenant of the British Mandate in Palestine. The rough draft should have been submitted to the League of Nations in order that it might adopt a resolution upon it. Afterwards the Conference of St. Remo approved the very idea of the Mandate.<sup>1</sup>

--Chaim Weizmann

The mandate specifically aims at an independent and eventually self-governing Palestinian state or 'commonwealth'....<sup>2</sup>

--Sir Eric Graham Forbes Adam

I feel there are no further observations that I can usefully offer on this oft-redrafted (the Palestine Mandate) document. All that now remains is, if your Lordship approves, to submit it to the Cabinet, after first showing it to the Zionists.<sup>3</sup>

--Lord Robert Gilbert Vansittart

The history of Palestine from the institution of the mandate until 1939 was the history of an Arab people in almost continuous rebellion as they saw themselves gradually subjugated by piecemeal Zionist conquest which became full military conquest in 1947-48. Over the period from 1920 to 1948 the Palestinian people observed their right to self-determination being systematically denied by British deference to world Zionism and minority status imposed upon them through the mandatory's military occupation. Remembering the natural and legal rights of the Palestinian Arab people even in the juridical context of the Covenant, Article 5 of the Palestine Mandate legally assured the native inhabitants that "The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under control of, the Government of any foreign Power." Through the incremental Zionist



faits accomplis under British administration during the mandate period, the Zionists began gradually to translate the idea of "a national home" in the Balfour Declaration into an exclusivist sovereign Jewish state; in 1947, the Zionists accepted the principle of a "Jewish" state but kept silent on its extent and boundaries, and shortly before the British Mandate arbitrarily terminated, the Zionists began to expel the Palestinians and made an all-out effort to grab the whole of Palestine and face the world with an illegal fait accompli. But the faits accomplis of Israel still do not constitute a norm for international law. With this cognizance in mind we can proceed to analyze the legal interpretation of the mandates system because the modern problem of Palestine involves certain legal issues which it is essential to decide authoritatively before any solution consistent with international law and justice can be reached.<sup>4</sup>

Brierly asserts that there are certain modes of acquiring territory, the most important modes being categorized as occupation, cession, conquest, prescription, and accretion.<sup>5</sup> But, at Versailles, the Entente Powers implemented a new political facade for acquiring territories, the mandates system.

In the latter half of the nineteenth century the colonizing states of Europe introduced forms of staking out their claims in territories where for one reason or another they were for the time being unable or unwilling to make an effective physical occupation. Among these devices, besides colonial protectorates, spheres of influence, and leases, came the mandates. But Article 22 of the Covenant of the League of Nations created a new status for territories surrendered by Germany and Turkey to the Principal Allied and Associated Powers, these wartime Powers being the United States, Great Britain, France, Italy and Japan.

The guiding principle of the new institution was declared to be that the well-being of these peoples formed a "sacred trust of civilization"; and this trust was to be carried out by placing them under the "tutelage" of different members of the League as "mandatories on behalf of the League." Of the thirteen mandates, divided into three classes known as A, B and C, the British mandate over Palestine (which included the area known as Trans-jordan) was in the A class.<sup>6</sup> These A class mandate countries were described in the Covenant, not very ingenuously, as "independent nations", but "subject to the rendering of administrative advice and assistance until such time as they are able to stand alone." The mandatory state, unlike a protecting state, was in theory disinterested, and it assumed obligations both to the population under mandate and to the League. The Palestine mandate became anomalous in that the party issuing the very political Balfour Declaration was not selected as the mandatory state by the Palestinian people and Britain unilaterally imposed the establishment therein of a "Jewish national home", a policy which the mandatory power confusingly had to reconcile with its more important and obviously preeminent legal obligation to the Arab inhabitants of Palestine.

The mandatory system was supposedly instituted as an attempt to deal with one of the most difficult of world problems in the post-war period; namely, how to interrupt the Powers' competition for Turkish and German territorial war spoils while still imparting some sort of agreed strenuous for acquiring administrative control in the former enemy territories. The mandatory system had some curious dichotomies; for example, the Covenant provided that the wishes of the communities were to be the principal consideration in the selection of Class A mandatories, but actual selection was made by the Allied Powers alone. Moreover, if the

system was considered to be a good one or legally impartial why was it limited to ex-German and Turkish territories? Another interesting failure, as if intended, was that the League had strangely no power to coerce a mandatory power or to verify its reports by direct investigation; it had to rely on public opinion and the spirit of willing cooperation to make its criticisms effective. Thus Britain was knowingly left to administer the Palestine Mandate in anyway it so determined.

On the mandate system there had been much discussion of the question of sovereignty over mandated territories; for example the cyclical argument goes "did it reside in the League?" But the League did not appoint the mandatory powers, hence it cannot revoke the mandates, or at any rate it cannot do so at discretion, and it exercised no governing powers in the territories or over the mandatory powers. But the mandatory must account for its actions, the territories were not annexed to mandatory dominions, and the populations did not take the mandatory's nationality. It would appear that the powers exercised by the mandatory states were supposedly inconsistent with any eventual solution to the termination of mandates. Actually, the mandates were quite clear in terms of the eventual self-determination of the people in the territories. But this clarity came only from the International Courts of both the League and United Nations era although we may include the treaty obligation proposed by the Permanent Mandates Commission, adopted by the League Council and accepted juridically by all the League members.

The League of Nations was an association of states which, while retaining their respective sovereignty, agreed with one another to pursue a certain juridical line of conduct on the international mandates system as laid down in the Covenant Article 22; this instrument became the legal



international convention (treaty) through which the indigenous occupants of all the mandated areas occupied a new position in international law and received a new international legal status, this being adopted by the Council in April 1923.<sup>7</sup> The Council accepted with slight modifications the following draft resolution of the Permanent Mandates Commission:

The Council of the League of Nations,  
Having considered the report of the Permanent Mandates Commission on the national status of the inhabitants of territories under B and C mandates.

In accordance with the principles laid down in Article 22 of the Covenant: Resolves as follows:

(1) The status of the native inhabitants of a mandated territory is distinct from that of the nationals of the Mandatory Power and cannot be identified therewith by any process having general application.

(2) The native inhabitants of a mandated territory are not invested with the nationality of the Mandatory Power by reason of the protection extended to them.

(3) It is not inconsistent with (1) and (2) above that individual inhabitants of the mandated territory should voluntarily obtain naturalization from the Mandatory Power in accordance with arrangements which it is open to such Power to make, with this object under its own law.

(4) It is desirable that native inhabitants who receive the protection of the Mandatory Power should in each case be designated by some form of descriptive title which will specify their status under the mandate.<sup>8</sup>

The members of the League accepted this resolution and inasmuch as A territories by Article 22 were provisionally recognized as independent nations, the international legal principle adopted in this resolution applied to the Palestine Mandate.<sup>9</sup> Its relevancy to the A mandates was not discussed by the Council and Permanent Mandates Commission because it was already presumed that A mandated territories approximated independent states.<sup>10</sup> With regard to Palestine, the juridical precedent explicitly establishing the precise position of the B and C mandated territories in the juridical principle on the question of the occupants' legal status was later applied to the Palestinian people.

The British legal code for administering the Palestine Mandate was called the Palestine Order-in-Council instituted in 1922. Legal

citizenship qualifications were created under the Palestinian Citizenship Order-in-Council, 1925; the provisions of this Order were based upon the Treaty of Lausanne and Article 7 of the Palestine Mandate which declared that "The Administration of Palestine shall be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestine citizenship by Jews who take up their permanent residence in Palestine."<sup>11</sup> This article is unequivocal that the nationality is the Palestinian nationality, and that the Jews who took up their permanent residence in Palestine--even against the collective will of the Palestinian inhabitants--could take up this nationality.<sup>12</sup> Explicitly, Article 1 of the Palestinian Citizenship Order, 1925, declares that

Turkish subjects habitually resident in the territory of Palestine upon the 1st day of August, 1925, shall become Palestinian citizens.<sup>13</sup>

The extent of the open violation of the Palestine citizenship laws by immigrant Jews is revealed by the fact that, although Britain in 1922 and 1939 specifically rejected the notion that Jewish immigration could be allowed against the will of the Arab inhabitants when it reached such proportions as to change the Arab character of Palestine,<sup>14</sup> it is estimated that over one-half of the 700,000 persons of Jewish faith present in Palestine in 1947 who were estimated to constitute some 45 per cent of the entire population of Palestine were not Palestinian nationals.<sup>15</sup> Palestinian nationality did not exist and was so recorded on official documents including passports, which were issued only to Palestine's nationals. Noting that the Palestine nationality entity was juridically implemented and recognized by the international community through the League and United Nations as well as other non-member states and assuming, therefore,

the validity of the estimate that only one-half or approximately 350,000 persons of the Jewish faith were Palestinian nationals (this estimate includes those who completed immigration requirements and were eligible for Palestinian nationality), less than one-third of the entire population dictated (and by armed force) the outcome of the future of Palestine against the express will of two-thirds of the remaining legitimate nationals. This is not considered in international law a valid expression of self-determination (even less justifiable is the territorial apportionment of 56 per cent of Palestine to a "Jewish" state which would have included a 50 per cent Arab population with the Jews owning less than 10 per cent of the total land area where they were to be established as the ruling body--a settlement which no self-respecting indigenous people could accept from an alien immigrant population). By denying the Palestinian Arabs, who formed over two-thirds majority of the country--actually a larger majority percentage when the number of illegal and non-national Jewish faction is considered--the right to decide the question of self-determination, the United Nations had violated its own Charter.<sup>16</sup> In international law, the de facto presence of illegal occupants who are non-nationals cannot be given de jure recognition neither by the United Nations in a partition plan predicated on the basis of a semblance of application of a right of self-determination nor under the indigenous circumstances of municipal naturalization/citizenship legal provisions, especially in the case of Palestine where the nationality statutes were invoked by the international convention of the Palestine Mandate. In effect, and in violation of international law, the United Nations nullified the Palestinians' right to implement self-determination by including in the category of people eligible to vote persons (nonnationals) who did not



prefer nor qualify under the Palestinian nationality legal criterion.

Another often overlooked violation of international law which illegally impaired the legitimate right to the exercise of self-determination to the indigenous Arab population of Palestine previous to the radical Zionist military demographic transformation in 1947-48 lies in the violation of the international mandates system and its successor the United Nations trusteeship system. These systems did not juridically envision, nor did they in legal theory permit, a trust territory to be so irregularly administered by a mandatory as to allow an imposed or forceful demographic transformation designed to radically and irreparably alter the indigenous character of that territory and change its population for aliens. To allow a trustee to inject aliens into the population of trust territories against the will of the original native people and to subsequently recognize in these aliens the same rights as in the original native people is a flagrant violation of the mandate and trusteeship system. For the United Nations to then act on the basis of these illegally imposed conditions is in gravest manifest derogation of its international juridical obligations to the original indigenous population and their legitimate rights already instituted by the international convention (treaty), which were to be guarded as a "sacred trust." To be in accordance with legitimate criteria determined by the juridical rights and obligations stemming from the trusteeship system and its international stated purposes to which it was morally and legally bound the right of self-determination in the case of Palestine should have been considered by the United Nations when it politically opted for territorial partition.

The question of the legal definition and purpose of the international mandate and trusteeship systems will now be analyzed with appro-

priate juridical interpretations by the international courts of justice.

In the South-West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa) the International Court of Justice, in its judgment of July 18, 1966, unquestionably clarified the meaning of the mandates system.<sup>17</sup>

When the juridical decision was made with regard to the future of these territories which as a consequence of the war of 1914-1918 had ceased to be under the sovereignty of the states which formerly governed them, and which were inhabited by peoples considered "not yet able" to assume a full measure of self-government, two principles were considered to be of paramount importance: the principle of non-annexation and the principle that the well being and development of such peoples formed "a sacred trust of civilization." With a view to giving practical effect to these principles, an international supervision, the mandates system was created by Article 22 of the Covenant of the League of Nations. A "tutelage" was to be established for these peoples and this tutelage was to be entrusted to certain "advanced" nations and exercised by them "as mandatories on behalf of the League." A legal review of the advisory opinion of the International Court of Justice on the case of the status of South-West Africa, July 11, 1950, iterates the two principles of "non-annexation" and "sacred trust of civilization."

The decision of the Court of July 18, 1966 in the South-West Africa Cases should be given careful explication because the Court was very careful to analyze the intent of the Mandates System and in the legal context at the time the system originated. The writer has been careful to include only the more significant provisions of the Court's advisements and has underscored certain passages to add emphasis.

16. It is in their capacity as former members of the League of Nations that the Applicants appear before the Court; and the rights they claim are those that the members of the League are said to have been invested with in the time of the League. Accordingly, in order to determine what the rights and obligations of the Parties relative to the Mandate were and are (supposing it still to be in force, but without prejudice to that question); and in particular whether (as regards the Applicants) these include any right individually to call for the due execution of the 'conduct' provisions, and (for the Respondent) an obligation to be answerable to the Applicants in respect of its administration of the Mandate, the Court must place itself at the point in time when the mandates system was being instituted, and when the instruments of mandate were being framed. The Court must have regard to the situation as it was at that time, which was the critical one, and to the intentions of those concerned as they appear to have existed, or are reasonably to be inferred, in the light of that situation. Intentions that might have been formed if the Mandate had been framed at a much later date, and in the knowledge of circumstances, such as the eventual dissolution of the League and its aftermath, that could never originally have been foreseen, are not relevant. Only on this basis can a correct appreciation of the legal rights of the Parties be arrived at. This view is supported by a previous finding of the Court (Rights of United States Nationals in Morocco, I.C.J. Reports 1952, at p. 189), the effect of which is that the meaning of a juridical notion in a historical context, must be sought by reference to the way in which that notion was understood in that context.

17. It follows that any enquiry into the rights and obligations of the Parties in the present case must proceed principally on the basis of considering, in the setting of their period, the texts of the instruments and particular provisions intended to give juridical expression to the notion of the 'sacred trust of civilization' by instituting a mandates system.

.....

19. As is well known, the mandates system originated in the decision taken at the Peace Conference following upon the world war of 1914-1918, that the colonial territories over which, by Article 119 of the Treaty of Versailles, Germany renounced 'all her rights and titles' in favour of the then Principal Allied and Associated Powers, should not be annexed by those Powers or by any country affiliated to them, but should be placed under an international régime, in the application to the peoples of those territories, deemed 'not yet able to stand by themselves', of the principle, declared by Article 22 of the League Covenant, that their 'well-being and development' should form a 'sacred trust of civilization'.

20. The type of régime specified by Article 22 of the Covenant as constituting the 'best method of giving practical effect to this principle' was that 'the tutelage of such peoples should be entrusted to advanced nations...who are willing to accept it',--and here it was specifically added that it was to be 'on behalf of the League' that 'this tutelage should be exercised by those nations as Mandatories'. It was not provided that the mandates should, either additionally or in the alternative,



be exercised on behalf of the members of the League in their individual capacities. The mandatories were to be the agents of, or trustees for the League,--and not of, or for, each and every member of it individually.

21. ...the Mandatory, in agreeing to accept the Mandate, had undertaken 'to exercise it on behalf of the League of Nations'....The effect of this recital, as the Court sees it, was to register an implied recognition...(b) on the part of both the Mandatory and the Council of the League, of the character of the Mandates as a Juridical régime set within the framework of the League as an institution....

49. The Court must now turn to certain questions of a wider character. Throughout this case it has been suggested, directly or indirectly, that humanitarian considerations are sufficient in themselves to generate legal rights and obligations, and that the Court can and should proceed accordingly. The Court does not think so. It is a court of law, and can take account of moral principles only in so far as these are given a sufficient expression in legal form. Law exists, it is said, to serve a social need; but precisely for that reason it can do so only through and within the limits of its own discipline. Otherwise, it is not a legal service that would be rendered.

50. Humanitarian considerations may constitute the inspirational basis for rules of law, just as, for instance, the preambular parts of the United Nations Charter constitute the moral and political basis for the specific legal provisions thereafter set out. Such considerations do not, however, in themselves amount to rules of law. All States are interested--have an interest--in such matters. But the existence of an 'interest' does not of itself entail that this interest is specifically juridical in character.

51. It is in the light of these considerations that the Court must examine what is perhaps the most important contention of a general character that has been advanced in connection with this aspect of the case, namely the contention by which it is sought to derive a legal right or interest in the conduct of the mandate from the simple existence, or principle, of the 'sacred trust'....in order that this interest may take on a specifically legal character, the sacred trust itself must be or become something more than a moral or humanitarian ideal. In order to generate legal rights and obligations, it must be given juridical expression and be clothed in legal form. One such form might be the United Nations trusteeship system,--another, as contained in Chapter XI of the Charter....

52. In the present case, the principle of the sacred trust has as its sole juridical expression the mandates system. As such, it constitutes a moral ideal given form as a juridical régime in the shape of that system. But it is necessary not to confuse the moral ideal with the legal rules intended to give it effect. For the purpose of realizing the aims of the trust in the particular form of any given mandate, its legal rights and obligations were those, and those alone, which resulted from the relevant instruments creating the system, and the mandate itself, within the framework of the League of Nations.

53. Thus it is that paragraph 2 of Article 22 of the Covenant, in the same breath that it postulates the principle of the sacred trust, specifies in terms that, in order to give 'effect to this principle', the tutelage of the peoples of the mandated territories should be entrusted to certain nations, 'and that this tutelage should be exercised by them' as mandatories 'on behalf of the League'. It was from this that flowed all the legal consequences already noticed.

54. To sum up, the principle of the sacred trust has no residual juridical content which could, so far as any particular mandate is concerned, operate per se to give rise to legal rights and obligations outside the system as a whole; and, within the system equally, such rights and obligations exist only in so far as there is actual provision for them. Once the expression to be given to an idea has been accepted in the form of a particular régime or system, its legal incidents are those of the régime or system. It is not permissible to import new ones by a process of appeal to the originating idea--a process that would, ex hypothesi, have no natural limit. Hence, although, as has constantly been reiterated, the members of League had an interest in seeing that the obligations entailed by the mandates system were respected, this was an interest which, according to the very nature of the system itself, they could exercise only through the appropriate League organs, and not individually.

.....

93. ...., it so happens that there is in fact one test that can be applied, namely by enquiring what the States who were members of the League when the mandates system was instituted did when, as Members of the United Nations, they joined in setting up the trusteeship system that was to replace the mandates system. In effect, as regards structure, they did exactly the same as had been done before, with only one though significant difference...., the Trusteeship Council was to play the same sort of role as the Permanent Mandates Commission had done, and the General Assembly (or Security Council in the case of strategic trusteeships) was to play the role of the League Council; and it was to these bodies that the various administering authorities became answerable....

As was said in the separate opinion of Judge Sir Percy Spender in Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter):

'A general rule is that words used in a treaty should be read as having the meaning they bore therein when it came into existence....this meaning must be consistent with the purposes sought to be achieved....'<sup>18</sup>

Since World War I and the implementation of the mandates system it has been the duty for a mandatory to prepare the peoples of the mandates

to stand by themselves in the context of their own self-determination. There can be no question that Britain failed its international legal obligations to the Palestinian people. The evidence has been their destruction as a national people in their own indigenous territory.

Earlier, in its advisory opinion of July 11, 1950, International Status of South-West Africa, the Court made the following observations regarding the legal nature of the Mandates System, a situation in which the Union of South Africa maintained that the mandate over South-West Africa had lapsed and that it could annex the territory to the Union Government:

It is now contended on behalf of the Union Government that this Mandate has lapsed, because the League has ceased to exist. This contention is based on a misconception of the legal situation created by Article 22 of the Covenant and by the Mandate itself. The League was not, as alleged by that Government, a 'mandator' in the sense in which this term is used in the national law of certain States. It had only assumed an international function of supervision and control. The 'Mandate' had only the name in common with the several notions of mandate in national law. The object of the Mandate regulated by international rules far exceeded that of contractual relations regulated by national law. The Mandate was created, in the interest of the inhabitants of the territory, and of humanity in general, as an international institution with an international object--a sacred trust of civilization. It is therefore not possible to draw any conclusion by analogy from the notions of mandate in national law or from any other legal conception of that law. The international rules regulating the Mandate constituted an international status for the Territory recognized by all the Members of the League of Nations including the Union of South Africa.<sup>19</sup>

In this same decision a detailed analysis appears in the separate legal opinion, to which the Court concurred, of Judge Sir Arnold McNair in this same proceeding:

2. The objective character of Article 22 of the Covenant of the League of Nations

From time to time it happens that a group of great Powers, or a large number of States both great and small, assume a power to create by a multipartite treaty some new international régime or status, which soon acquires a degree of acceptance and durability extending



beyond the limits of the actual contracting parties, and giving it an objective existence. This power is used when some public interest is involved, and its exercise often occurs in the course of the peace settlement at the end of a great war. In 1920 the Council of the League had to deal with a dispute between Finland and Sweden, which, inter alia, involved an examination of the existing condition of a Convention dated March 30, 1856, between France and Great Britain on the one hand and Russia on the other, whereby Russia, in compliance with the desire of the other two States, declared 'that the Aaland Islands shall not be fortified, and that no military or naval base shall be maintained or created there'.<sup>20</sup>

Judge McNair proceeded to explain the juridical precedents imparted by the Commission in the Aaland Islands case, transferring the Commission's legal interpretations to the mandates system:

It may seem a far cry from the Aaland Islands to South-West Africa, but reference to this case is demanded by the high standing of the members of the Commission and by the relevance of their reasoning to the present problems. I may also refer to the statement by the Permanent Court in the SS. Wimbledon case...that as a result of Article 380 of the Treaty of Versailles of 1919 the Kiel Canal 'has become an international waterway intended to provide under treaty guarantee easier access to the Baltic for the benefit of all nations of the world'--which was referred to as 'its new régime'. The Mandates System seems to me to be an a fortiori case....A large part of the civilized world concurred in opening a new chapter in the life of between fifteen and twenty millions of people, and this article (22) was the instrument adopted to give effect to their desire. In my opinion, the new régime established in pursuance of this 'principle' has more than a purely contractual basis, and the territories subjected to it are impressed with a special legal status, designed to last until modified in the manner indicated by Article 22. The dissolution of the League has produced certain difficulties, but, as...they are mechanical difficulties, and the policy and principles of the new institution have survived the impact of the events of 1939-1946, and have indeed been reincarnated by the Charter under the name of the 'International Trusteeship System', with a new lease of life.<sup>21</sup>

But, significantly, McNair analyzed the underlying policy and principles of Article 22 and of the mandates system:

Any English lawyer who was instructed to prepare the legal instruments required to give effect to the policy of Article 22 would inevitably be reminded of, and influenced by, the trust of English and American law, though he would soon realize the need of much adaptation for the purposes of the new international institution. Professor Brierly's opinion, stated in the British Year Book of International Law, 1929, pages 217-219, that the governing principle

of the Mandates System is to be found in the trust, and his quotation from an article by M. Lepaulle, are here very much in point, and it is worth noting that the historical basis of the legal enforcement of the English trust is that it was something which was binding upon the conscience of the trustee; that is why it was legally enforced. It also seems probable that the conception of the Mandates System owes something to the French tutelle.

.....

There are three general principles which are common to all these institutions:

- (a) that the control of the trustee, tuteur or curateur over the property is limited in one way or another; he is not in the position of the normal complete owner, who can do what he likes with his own, because he is precluded from administering the property for his own personal benefit;
- (b) that the trustee, tuteur or curateur is under some kind of legal obligation, based on confidence and conscience, to carry out the trust or mission confided to him for the benefit of some other person or for some public purpose;
- (c) that any attempt by one of these persons to absorb the property entrusted to him into his own patrimony would be illegal and would be prevented by the law.

These are some of the general principles of private law which throw light upon this new institution, and I am convinced that in its future development the law governing the trust is a source from which much can be derived. The importance of the Mandates System is marked by the fact that, after the experience of a quarter of a century, the Charter of the United Nations made provision for an 'International Trusteeship System', which was described by a Resolution of the Assembly of the League of April 18th, 1946, as embodying 'principles corresponding to those declared in Article 22 of the Covenant of the League'.<sup>22</sup>

Another authority on the subject of the legal nature and definition of the mandates explicitly declared:

The territories or entities for which mandates have been conferred and accepted are not States, although they may be States in the making. They are populated areas which the Principal Allied Powers have, in consequence of their control thereof, and with the approval of the Council of the League of Nations, placed under the administration of designated mandatories on conditions set forth in the terms of the particular mandates, and in pursuance of the requirements of the Covenant. Those terms and conditions indicate the measure of authority of the mandatories, and emphasize the obligation of each to accept the cooperation and oversight of the League, and to make annual reports to the Council. The mandatory is not free to deal with the territory or people assigned to it as though either were its own; the relationship sharply differs from that existing, in an international sense, between the United States and its colonial possessions such as the Philippine Islands. A territory or entity under mandate is thus to be distinguished from the colonial possession which, in

international contemplation, is a part of the State to which it belongs. The outstanding, and perhaps novel, feature of the mandatory system is the international obligation imposed upon and accepted by the mandatory to administer a territorial area not its own, and not constituting a State, under the supervision of an international agency.<sup>23</sup>

In the final League of Nations study on the mandates system there appears the following authoritative explication of the main characteristics of this system:

The aim of the institution is to ensure the well-being and development of the peoples inhabiting the territories in question. The method of attaining this aim consists in entrusting the tutelage of these peoples to certain advanced nations. The acceptance by a nation of this mission carries with it certain obligations and responsibilities established by law. Like guardians in civil law, they must exercise their authority in the interests of their wards--that is to say, of the peoples which are regarded as minors--and must maintain an entirely disinterested attitude in their dealings with them. The territories with the administration of which they are entrusted must not be exploited by them for their own profit. Again, the phrase 'peoples not yet able to stand by themselves' is used. It follows from this and from the very conception of tutelage that this mission is not, in principle, intended to be prolonged indefinitely, but only until the peoples under tutelage are capable of managing their own affairs.<sup>24</sup>

.....  
In a first group--'A' Mandates (Syria and Lebanon, Palestine and Transjordan, and Iraq)--the nation is provisionally recognized as independent, but receives the advice and assistance of a Mandatory in its administration until such time as it is able to stand alone.<sup>25</sup>

.....  
The 'A' Mandates differ appreciably from those of the other two categories. In the countries to which they apply, the inhabitants had reached a more advanced stage of development and their independence could, in principle, be recognised by the Covenant itself, subject to the conditions which have been mentioned above. The mission of the Mandatories in these countries has therefore consisted mainly in developing their capacity to govern themselves, and in establishing their economic systems and social and other institutions on a more secure footing in order to fit them to take their position as independent nations.<sup>26</sup>

Succinctly stated, this authoritative League study described the purpose of the mandates system as "to fit (all the mandated territories) to take their position as independent nations." This authoritative source



makes it clear that Palestine was to become a sovereign independent state for the indigenous Palestinian Arab population. This same study unquestionably confirmed Palestine as an eventual independent state by iterating that "A nationality law is to be enacted containing provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine."<sup>27</sup> This provision clearly depicts that Palestine was never to become, as Zionism maintains, a "Jewish State", that is, the Zionist "Judenstaat" envisioned by Herzl and successive Zionist leaders over the past eighty years.

Consequently, in the legal opinion of the International Court of Justice on the juridical status of South-West Africa of July 11, 1950, the Court specified international legal rules regulating the mandate trust and explicitly declared all mandated territories "are impressed with a special legal status, designed to last" until native independence was achieved. Regardless of the collusive Zionist-British perfidy through 1939 the mandate system was predicated on the existence of a Palestinian national entity, which under the international law was to develop into complete independence as a nation. The right of self-determination was reserved for the indigenous population. However, to provide the eventual creation of a "Jewish national home"--and we should recall that the British understood the Zionist Judenstaat scheme regardless of what they were publicly assuring--the history of the Palestine Mandate reveals that stringent restrictions upon the right of self-determination were imposed by the British who autocratically controlled the Palestinian people under colonialist administrative policies, more often in open violation of its legal mandatory responsibilities.<sup>28</sup> Significantly, to the extent that the British placed greater restrictions and roadblocks upon the right of self-determin-

ation, the establishment of the "Jewish national home" conflicted with the more preeminent principle of the right of self-determination and mandatory juridical obligations to prepare Palestine for independence. In essence, the legal doctrine failed juridical implementation because the British failed in its international trusteeship responsibility. The principle of international law specifically applying the mandates system's doctrine of self-determination was, in the case of the Palestinian people, unfortunately but grievously violated.

## Chapter Six

<sup>1</sup>Chaim Weizmann was Russian by birth, British by naturalization before the First World War, and in 1914 a lecturer in chemistry at Manchester University, a seat acquired at the time of his first meeting with Balfour in 1906. Weizmann was one of the leading Zionist negotiators whose efforts led to the issuance of the Balfour Declaration.

<sup>2</sup>Doreen Ingrams (comp.), Palestine Papers 1917-1922: Seeds of Conflict (New York: Braziller, 1973), p. 95. This quote is taken from official British Government documents. Sir Eric (1888-1925) served in the British Diplomatic Service and attended the Paris Peace Conference 1918-1919 and the San Remo Conference in 1920.

<sup>3</sup>British Public Records Office, Foreign Office, 371/5245; cited in Ingrams, ibid., p. 97. From 1920 to 1924 Lord Vansittart was private secretary to the Secretary of State for Foreign Affairs, Lord Curzon, who became British Foreign Secretary in 1919. The quote is from a letter Vansittart sent Curzon on August 2, 1920, pertaining to a new revised draft of the proposed British version of the Palestine Mandate.

<sup>4</sup>To have taken the British Government thirty years to find out that the Mandate for Palestine was "unworkable" and Britain's legal obligations thereunder "irreconcilable" after having created the problem in 1917 through the Balfour Declaration where none existed before, and after flooding the country illegally with Jewish immigrants who were mainly Zionists until the Palestine Jewish community became strong enough to wrest the country militarily from its original Arab inhabitants, and then to wash its hands at the later hour of May 1948 and declare its unwillingness to enforce a solution "not accepted by both parties" under the pretext of "conscience," does not speak well of either the British conscience or intelligence. The fact is that it is a very shameful reaction. In the context of international law it should be known that the Palestine Arabs were--and still are--the victims of an aged Zionist plan to wrest the area from its Arab inhabitants; and when the time came, Muslims and Christians were forcibly expelled and dispossessed on racial and religious grounds by aliens who established themselves, in violation of international law, as the government.

<sup>5</sup>J.L. Brierly, The Law of Nations (London: Oxford University Press, 1936), pp. 120-134.

<sup>6</sup>In actual fact, also in definite violation of its mandatory obligations, the British arbitrarily split off the territory of Trans-Jordan; it was set up as a separate mandated territory although earlier included in the Palestine Mandate.

<sup>7</sup>Officially accepted by the Council at its meeting of April 23, 1923.



<sup>8</sup>League of Nations Official Journal, 1923, 4:604. It should be noted that the distinct status which the United States accorded the indigenous nationals of the Philippines was referred to as a precedent for the proposed status of inhabitants in the mandated territories. See Ibid., 4:569. The phrase "with this object under its own law" refers to the municipal naturalization laws of the mandatory state. At the time this resolution was adopted there existed the problem of the citizenship status of the large German colonial population in the territory of South-West Africa.

<sup>9</sup>It is interesting to note that even before the League established the legal status of the inhabitants of mandated territories the Supreme Court of the Union of South Africa in the case of Christian v. Rex, South African Law Reports (1924), Appellate Division, pp. 101, 112, declared that "Article 22 [of the Covenant] describes the administration of the territories and peoples with which it deals as a tutelage to be exercised by the governing Power as mandatory on behalf of the League. Those terms were probably employed, not in their strict legal sense, but as indicating the policy which the governing authority should pursue. The relationship between the League and the mandatory could not with any legal accuracy be described as that of principal and agent." The Court declared that the residents of South-West Africa did not have the nationality of South Africa.

<sup>10</sup>The phrase of Article 22 of the Covenant of the League of Nations -- "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized...." -- did not apply to B and C mandated territories.

<sup>11</sup>This article alone should have made it legally clear that Arab Palestine was not to be converted into a Jewish State against the will of the Arab population of the country. Moreover, officially clarifying the Balfour Declaration in 1922, Winston Churchill (then British Colonial Secretary) stated that "the terms of the Declaration do not contemplate that Palestine as a whole should be converted into a Jewish National Home but that such a Home should be founded in Palestine." By this phrase, he said, was meant "not the imposition of a Jewish nationality upon the inhabitants of Palestine as a whole but the further development of the existing Jewish community...in order that it might become a center in which the Jewish people as a whole may take...an interest and pride." See the Churchill Memorandum, Cmd. 1700, Correspondence with the Palestine Arab Delegation and the Zionist Organization, 1922.

<sup>12</sup>It should be noted that on the question of Palestine before the United Nations in 1947-48, the General Assembly through the politics of the Western nations, turned down the only reasonable suggestions, i.e., a referendum in Palestine and submission of the legal problems to the International Court of Justice. The Arab delegations requested that legal aspects of the Palestine-Zionist question be referred to the International Court of Justice as the recourse provided by Article 36 of the United Nations Charter and by Article 26 of the Mandate which provided: "The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice...." When requests for legal adjudication was voted on, the count was 20 for, 21 against. Also noted, that by denying the Palestinian Arabs, who formed the two-thirds majority of the country, the right to decide for themselves, the United Nations had violated its own Charter. The action of the United Nations was also contrary to the legal principles enunciated in the Atlantic Charter of August 12, 1941, which specified that Britain and the United States "desire to see no territorial changes that do not accord with the freely expressed wishes of the people concerned." It added that the two Powers "respect the right of all peoples to choose the form of government under which they will live."

<sup>13</sup>Sir Michael McDonnell, ed., The Law Reports of Palestine (London: Waterlow and Sons Ltd., 1934), p. 215.

<sup>14</sup>Woodward and Butler, eds., Great Britain Foreign Office, Documents on British Foreign Policy 1919-1939 (1946). At that time, the British stated that the Balfour Declaration did not contemplate the disappearance or subordination of the Arabic population, language or customs in Palestine or the imposition of the "Jewish nationality" upon Palestinian Arabs.

<sup>15</sup>It is estimated that, alone, in the seven years after 1939 250,000 Jews entered Palestine illegally.

<sup>16</sup>H. Kelsen, The Law of the United Nations (1950); M. Shukri, The Concept of Self-Determination in the United Nations (1965); Bowett, "Self-Determination and Political Rights in Developing Countries," 1966 Proceedings American Society of International Law, 129. The subsequent history of the United Nations corroborates the proposition that it is more than a recognized concept and has become a general principle of international law. See, e.g., the General Assembly's request of the Commission on Human Rights to study ways and means "which would ensure the right of peoples and nations to self-determination." G.A. Res. 421, 5 U.N. GAOR Supp. 20, at 43, U.N. Doc. A/1775 (1950). At its Seventh Session the General Assembly stated that "all peoples shall have the right of self-determination." G.A. Res. 545, 7 U.N. GAOR Supp. 20, at--, U.N. Doc. A/2361 (1952). The Commission on Human Rights prepared several resolutions on the matter that were adopted by the General Assembly, G.A. Res. 837, 9 U.N. GAOR Supp. 21, at 21, U.N. Doc. A/2890 (1954); G.A. Res. 9 U.N. GAOR

Supp. 21, at 20, U.N. Doc. A/2890 (1954); G.A. Res. 738, 8 U.N. GAOR Supp. 17, at 18, U.N. Doc. A/2630 (1953); G.A. Res. 612, 7 U.N. GAOR Supp. 20, at 5, U.N. Doc. A/2361 (1952); G.A. Res. 611, 7 U.N. GAOR Supp. 20, at 5, U.N. Doc. A/2361 (1952); G.A. Res. 648, 7 U.N. GAOR Supp. 20, at 33, U.N. Doc. A/2361 (1952); G.A. Res. 637, 7 U.N. GAOR Supp. 20, at 26, U.N. Doc. A/2361 (1952); see also Colonial Resolution, G.A. Res. 1514, 15 U.N. GAOR Supp. 16, at 66, U.N. Doc. A/L. 323 (1960). At its Tenth Session the General Assembly examined the draft articles of the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, which were subsequently adopted on Dec. 16, 1966. G.A. Res. 2200, 21 U.N. GAOR Supp. 16, at 49, U.N. Doc. A/6546 (1966). See also Eagleton, Self-Determination in the United Nations, 47 Am. J. INT'L.L. 88 (1953).

<sup>17</sup>The territory of South-West Africa was one of the German overseas possessions in respect of which Germany by Article 119 of the Treaty of Versailles renounced all her rights and titles in favor of the Principal Allied and Associated Powers. Judge Jessup, in a 119-page dissenting opinion in the South-West Africa Cases, disagreed with his colleagues. Today, South-West Africa is the territory called Namibia. While South Africa has sought to annex it, the International Court of Justice and the United Nations have respectfully advised and determined that the "Namibian" people shall receive self-determination and that South Africa is to desist from territorial incursions having annexationist designs.

<sup>18</sup>International Court of Justice Reports 1962, 186, p.151.

<sup>19</sup>International Court of Justice Reports 1950, 128, p. 132. Today South-West Africa is commonly referred to as Namibia and is frequently mentioned in the news as the ongoing conflict between South Africa and the Namibian people continues.

<sup>20</sup>Ibid., 128, p. 153. The Aaland Islands are a strategic island group at the entrance to the Gulf of Bothnia, controlled by Finland since 1921. This Convention became an integral part of the General Treaty of Peace between seven States in 1856 which brought the Crimean War to an end. Sweden claimed that this status of demilitarization was still in force in 1920 in spite of many intervening events, and that she, though not a party to the Convention or Peace Treaty, was entitled to the benefit of it; her claim was based on the allegation of an international servitude. As the Permanent Court of International Justice had not then come into existence, the Council of the League set up a Commission of Jurists, Professor F. Larnaude (President), Professor A. Struycken and Professor Max Huber, and referred certain legal questions to them. They received written statements and heard oral arguments on behalf of Finland and Sweden. The Jurists rejected the argument based on an alleged servitude and reported that the provisions of the Convention and Treaty of 1856 for demilitarization were still in force.: "These provisions were laid down in European interests. They constituted



a special international status, relating to military considerations, for the Aaland Islands. It follows that until these provisions are duly replaced by others, every State interested [including Sweden which was not a party] has the right to insist upon compliance with them. It also follows that any State in possession of the Islands must conform to the obligations binding upon it, arising out of the system of demilitarization established by these provisions."

<sup>21</sup>Ibid., p. 154.

<sup>22</sup>Ibid., 128, pp. 148-150. McNair added: "Nearly every legal system possesses some institution whereby the property (and sometimes the persons) of those who are not sui juris, such as a minor or a lunatic, can be entrusted to some responsible person as a trustee or tuteur or curateur. The Anglo-American trust serves this purpose, and another purpose even more closely akin to the Mandates System, namely, the vesting of property in trustees, and its management by them in order that the public or some class of the public may derive benefit or that some public purpose may be served. The trust has frequently been used to protect the weak and the dependent, in cases where there is 'great might on the one side and unmight on the other', and the English courts have for many centuries pursued a vigorous policy in the administration and enforcement of trusts."

<sup>23</sup>I. Hyde, International Law Chiefly as Interpreted and Applied by the United States (1945), pp. 102-3.

<sup>24</sup>League of Nations, The Mandates System, Origin, Principles, Application (1945), Vol. I, A. 1, pp. 23-24.

<sup>25</sup>Ibid., p. 24.

<sup>26</sup>Ibid., p. 27.

<sup>27</sup>Ibid., p. 30.

<sup>28</sup>Vincent Sheean, Personal History (Boston: Houghton Mifflin Company, 1969), p. 381. Vincent Sheean reported from Palestine in 1929 after a lengthy residence that the Palestinian Arabs "had no political rights of any kind, no parliament or council or legislature, and were governed by ukase. The law was whatever the (British) high commissioner wanted it to be."

## CHAPTER VII

### THE QUESTION OF LEGAL TERRITORIAL SOVEREIGNTY IN THE CONTEXT OF INTERNATIONAL LAW

The weak point of our position of course is that in the case of Palestine we (the British Government) deliberately and rightly decline to accept the principle of self-determination.<sup>1</sup>

--Arthur Balfour

So far as Palestine is concerned the Powers had made no declaration of policy which, at least in the letter, they have not always intended to violate.<sup>2</sup>

--Arthur Balfour

The contradiction between the letter of the Covenant and the policy of the Allies is even more flagrant in the case of the "independent nation" of Palestine than in that of the "independent nation" of Syria. For in Palestine we (the Allies) do not propose even to go through the form of consulting the wishes of the present (Palestinian) inhabitants of the country, though the American Commission has been going through the form of asking what they are.<sup>3</sup>

--Arthur Balfour

Dr Weizmann took the view that...it was desirable that the (Zionist) commission should strive to produce certain definite faits accomplis, such as...the organisation of the Jewish community in Palestine...on an autonomous basis, so that when the time comes for the Peace Conference certain definite steps will have been taken which will give the Zionists some right to be heard at the Peace Conference.<sup>4</sup>

--Ormsby-Gore

The problem which we have to work out now is one of tactics, not strategy, the general strategic idea as I conceive it, being the gradual immigration of Jews into Palestine until that country becomes a predominantly Jewish State....But it is questionable whether we are in a position to tell the Arabs what our policy really means.<sup>5</sup>

--Sir Hubert Young

This chapter can necessarily give only a brief but hopefully concise interpretation of the question of legal sovereignty in the the case of Palestine. President Woodrow Wilson particularly contributed to the juridical concept of self-determination of peoples and to the

ctrine of legal sovereignty<sup>6</sup>:

People are not to be handed about from one sovereignty to another by an international conference or an understanding between rivals and antagonists. National aspirations must be respected; peoples may now be dominated and governed only by their own consent.

"Self-determination" is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril. We cannot have general peace for the asking, or by the mere arrangements of a peace conference. It cannot be pieced together out of individual understandings between powerful states.<sup>7</sup>

The creation of the League of Nations provided the first opportunity for a sustained effort for both the development and codification of international law.<sup>8</sup> Regarding the issue of legal sovereignty, in its Advisory Opinion of July 11, 1950, International Status of South-West Africa, the International Court of Justice made the following observations regarding the legal nature of the Mandates System<sup>9</sup>:

It is now contended on behalf of the Union Government that this Mandate has lapsed, because the League has ceased to exist. This contention is based on a misconception of the legal situation created by Article 22 of the Covenant and by the Mandate itself. The League was not, as alleged by that Government, a "mandator" in the sense in which this term is used in the national law of certain States. It had only assumed an international function of supervision, and control. The "Mandate" had only the name in common with the several notions of mandate in national law. The object of the Mandate regulated by international rules far exceeded that of contractual relations regulated by national law. The Mandate was created, in the interest of the inhabitants of the territory, and of humanity in general, as an international institution with an international object--a sacred trust of civilization. It is therefore not possible to draw any conclusion by analogy from the notions of mandate in national law or from any other legal conception of that law. The international rules regulating the Mandate constituted an international status for the Territory recognized by all the Members of the League of Nations, including the Union of South Africa.<sup>10</sup>

The legal nature of the Mandates System appeared in the separate opinion of Judge Sir Arnold McNair in this same proceeding. He stipulated the legal objective of Article 22 of the Covenant of the League of Nations:

From time to time it happens that a group of great Powers, or a large number of States both great and small, assume a power to create by a multipartite treaty some new international régime or status, which



soon acquires a degree of acceptance and durability extending beyond the limits of the actual contracting parties, and giving it an objective existence. This power is used when some public interest is involved,....<sup>11</sup>

McNair referred to the creation of "true objective law"<sup>12</sup> and "special legal status" instituted by Article 22 of the Covenant:

"...Article 22 proclaimed the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in the Covenant". A large part of the civilized world concurred in opening a new chapter in the life of between fifteen and twenty millions of peoples, and this article was the instrument adopted to give effect to their desire. In my opinion, the new régime established in pursuance of this "principle" has more than a purely contractual basis, and the territories subjected to it are impressed with a special legal status, designed to last until modified in the manner indicated by Article 22. The dissolution of the League has produced certain difficulties, but, as I shall explain, they are mechanical difficulties, and the policy and principles of the new institution have survived the impact of the events of 1939 to 1946, and have indeed been reincarnated by the Charter under the name of the "International Trusteeship System", with a new lease of life.<sup>13</sup>

On July 24, 1922, the Palestine Mandate was approved by the Council of the League of Nations; it was to become effective officially on December 22, 1923. It is interesting to observe the attempt by the Vatican to stop its approval because Cardinal Gasparri, the Papal Secretary of State, submitted a critical memorandum dated May 15, 1922, attacking the Mandate provision pertaining to the inclusion of the Balfour Declaration; Cardinal Gasparri declared, inter alia, that this proposed article was incompatible with the Covenant of the League. It is extremely interesting to note how the British Government answered this attack because Britain was compelled to explicitly define its mandatory policy in Palestine, though it as yet was to receive the Mandate for Palestine. Britain issued a special Command Paper answering Gasparri's severe criticisms:

His Majesty's Government fully share the opinion expressed by Cardinal Gasparri that article 22 of the Covenant of the League of Nations would be incompatible with a mandate that proved to be an instrument for the subjection of the native populations for the benefit of another

nationality. H.M.G. contemplate that the status of all citizens of Palestine in the eyes of the law shall be Palestinian, and that it has never been intended that they or any sect of them should possess any other juridical status. Regarding Cardinal Gasparri's allusion to article 11 of the draft mandate in support of his contention that "the Jews are to be given a privileged and preponderating position as against other nationalities and creeds", this was answered by the assertion that "the Jewish people...are ready and willing to contribute by their resources and efforts to develop the country for the good of all its inhabitants"....<sup>14</sup>

In the final League of Nations study on the Mandates System there appears the following account of the main legal characteristics established by the provisions of Article 22 of the Covenant:

Without going into controversial questions regarding the legal nature of the mandates, it may be said that the following main principles emerge from these provisions:....

.....  
Again, the phrase "peoples not yet able to stand by themselves" is used. It follows from this and from the very conception of tutelage that this mission is not, in principle, intended to be prolonged indefinitely, but only until the peoples under tutelage are capable of managing their own affairs.<sup>15</sup>

This same study of the Mandates System declares:

In a first group--"A" Mandates (Syria and Lebanon, Palestine and Transjordan, and Iraq)--the nation is provisionally recognized as independent, but receives the advice and assistance of a Mandatory in its administration until such time as it is able to stand alone.<sup>16</sup>

.....  
The "A" Mandates differ appreciably from those of the other two categories. In the countries to which they apply, the inhabitants had reached a more advanced stage of development and their independence could, in principle, be recognized by the Covenant itself, subject to the conditions which have been mentioned above. The mission of the Mandatories in these countries has therefore consisted mainly in developing their capacity to govern themselves, and in establishing their economic systems and social and other institutions on a more secure footing in order to fit them to take their position as independent nations.<sup>17</sup>

Article 22 of the Covenant, the legal charter of the Mandates System, clearly enumerates that Palestine was to become an independent state. As regards the termination of the Mandate, Article 28<sup>18</sup> stipulated that this could only come about by the establishment in Palestine of an independent government. The terms of the mandates did not involve any

cession of territory or transfer of sovereignty to the mandatory. The International Court of Justice has confirmed this principle with regard to the mandate for South-West Africa:

The terms of this Mandate, as well as the provisions of Article 22 of the Covenant and the principles embodied therein, show that the creation of this new international institution [i.e., the mandate] did not involve any cession of territory or transfer of sovereignty to the Union of South Africa. The Union Government was to exercise an international function of administration on behalf of the League, with the object of promoting the well-being and development of the inhabitants.<sup>19</sup>

Chapters XII and XIII of the Charter<sup>20</sup> of the United Nations legally incorporates the trusteeship system, the direct successor of the League's mandates system.<sup>21</sup> The legal emphasis of the trusteeship is also clear in that the promotion of

the political, economic, social and educational advancement of the inhabitants of the Trust Territories and their progressive development toward self-government or independence as may be appropriate to the particular circumstances of each Territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each Trusteeship Agreement.<sup>22</sup>

Cattan observes that

In all the instances where the sovereignty of a nation was revived or restored on its territory, notwithstanding its conquest and annexation, the conqueror's annexation was fully effective, and despite its effectiveness the legitimate title was restored.<sup>23</sup>

...under international practice, the relationship between sovereignty and property has served to determine the legitimacy of title of a State to the territory that it occupies. Although in its political aspect sovereignty means the supreme power of a State over a certain territory and its people regardless of the legitimacy of its origin, in its legal aspect sovereignty involves a broader and more fundamental concept: the legal and inalienable title of a king or a nation to a territory.<sup>24</sup>

The same broad concept of legitimacy of title also explains the survival of Austria's sovereignty during the period of its forced union with Germany in 1938 until its formal re-establishment in 1945, the restoration of Czechoslovakia's personality and territory after its occupation and dismemberment by Germany in 1938, and the restoration of Albania's sovereignty after its invasion and annexation by Italy in 1939. All these States were restored despite their complete annexation and even extinction as political entities.<sup>15</sup>



These various cases of restoration of States and their territories can be considered as constituting applications of the modern principle that conquest is not a source of title. In the past the fait accompli, such as conquest or annexation, if successfully maintained, constituted a source of title to territory under international law. This situation has now changed.<sup>25</sup>

Van Kleffens, Fauchile, Hall,<sup>26</sup> Donati<sup>27</sup> and Grotius<sup>28</sup> affirm Cattan, that in legal theory and in actual international practice the relationship between sovereignty and property (territory) has been juridically applied:

Under the influence of Roman law sovereignty with regard to territory was long regarded and interpreted in terms of property...In modern times it still has had its votaries in various countries.<sup>29</sup>

Le territoire d'une nation est sa propriété exclusive. Seule, cette nation a le droit d'en user.<sup>30</sup>

Brierly declares that "territorial sovereignty refers not to a relation of persons to persons,\* nor to the independence of the State itself, 'but to the nature of rights over territory...Territorial sovereignty bears an obvious resemblance to ownership in private law'<sup>31</sup>."<sup>32</sup>

Lauterpacht confirms Brierly:

There is, in fact, no ground for assuming that the science of international law will discard the analogy between territorial sovereignty and property in private law, even if it does not go the length of identifying the two conceptions.<sup>33</sup>

As regards Zionism-Israel pretension to legal sovereignty over the Arab country of Palestine, the principle of no acquisition of territory by war, states Quincy Wright:

is implicit in the international law of the 19th century which held that military occupation of the territory of a recognized state gave no title to the occupied territory. It was affirmed in the Pan-

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\*This is the Zionist ideological prescription to "rights" in Palestine. It is based upon the fallacious "the Jewish people" concept, a Zionist political doctrine not accepted as international law.

American Conference of 1890 and in the Bogota Charter of the Organization of American States in 1948 as a principle of American international law, that territory could not be acquired by conquest; in the League of Nations Covenant which guaranteed the territorial integrity and political independence of its Members against external aggression; and in the Kellogg-Briand Peace Pact of 1928 by which the parties renounced war as an instrument of national policy applied in the Manchurian situation by the Stimson Doctrine of 1932. The Atlantic Charter opposing territorial acquisitions in World War II, the Nuremberg Charter and Trial punishing the crime against peace on the bases of the Kellogg-Briand Pact, also affirmed this principle.<sup>34</sup>

Another question regarding violation of international law trusteeship obligations is: Can the League or United Nations partition a trust territory under any circumstances? Professor of international law, M. Cherif Bassiouri<sup>35</sup>, maintains:

The...answer is "no," unless the "people" (of the territory) so choose, which again demonstrates that we invariably revert to the right of self-determination. What then of the...population unable to coexist with the remaining (population)...? The answer to this is that it is purely an internal question subject only to the secure guarantees of the human rights of the minority under the principles of the Universal Declaration of Human Rights, the various covenants. In no event can the situation give rise to an internationally cognizable right of cessation and the imposed establishment of a new state populated with nationals from a multitude of other states to the exclusion of the original nationals of the existing state.<sup>36</sup>

Lauterpacht states that "title by conquest has been abolished."<sup>37</sup>

Cattan writes:

In several resolutions concerning the Arab-Israeli conflict and Israel's annexation of Jerusalem after the war of 5 June 1967, both the Security Council and the General Assembly have proclaimed "the inadmissibility of the acquisition of territory by war" or "by military conquest". In other words, conquest cannot give title and this regardless of whether a conquest is or is not by itself an aggression.<sup>38</sup>

Referring to the principle of "the inadmissibility of the acquisition of territory by war" laid down in Security Council resolution 242 of November 22, 1967, Quincy Wright states:

The principle goes beyond the principle "no fruits of aggression". It says there shall be no territorial fruits from war, using the latter term in the material sense of a considerable use of armed force. Its application, therefore, does not depend on determining who was the

"aggressor" in the 1967 hostilities, a difficult question to answer. There can be no doubt that, whether or not Israel was the aggressor, its occupations of territory were achieved by the use of armed force.<sup>39</sup>

Says Lauterpacht, "International law"

will not recognize acquisition of territory accomplished in disregard of the accepted forms. Not every acquisition is a lawful one. The dictum "Besitzstand gleicht Rechtszustand" (possession is law) has no validity in international law. Mere force unaccompanied by a legally recognized form of acquisition does not confer a legal title.<sup>40</sup>

Cattan again observes:

The general principle of law is that a right cannot arise from a wrong. Hence, all the cases of revived or survival of State sovereignty despite conquest and annexation can also be explained by the maxim ex injuria jus non oritur. A claim to a territorial title which originates in an illegal act is invalid.<sup>41</sup>

The Covenant of the League of Nations, approved by the Paris Peace Conference on 28 April 1919, and incorporated into the Treaty of Versailles on 28 June 1919, also discarded any idea of annexation of the territories seized from Turkey during the First World War. Article 22 of the Covenant envisaged a new status under international law for the Arab communities detached from the Turkish Empire and, it is important to note, declared that "their existence as independent nations can be provisionally recognized."<sup>42</sup>

The legal effect under international law of the detachment of Palestine from the Turkish Empire and of the recognition of its people as an independent nation was to make of this country a separate and independent State in which was vested legal sovereignty over the territory of Palestine.<sup>43</sup>

Erlich declares that the legal meaning of the words "provisionally recognized" in Article 22 of the Covenant is as follows:

Obviously, this does not mean that the existence as a nation, or relative independence which is expressly recognized, will be conditional; on the contrary, the inferior situation of a mandated territory constitutes a transitory phase in the development of peoples under tutelage towards real independence. This appears clearly from the last words of the sentence: "until such time as they are able to stand alone".<sup>44</sup>

Regarding Article 22 Duncan Hall points out:

Underlying Article 22 was the assumption of independent national sovereignty for mandates. The drafters of the Covenant took as their starting-point the general notions of "no annexation" and "self-determination".<sup>45</sup>



In the case concerning the International Status of South-West Africa in 1950 the International Court held that Article 22 postulated

...two principles were considered to be of paramount importance; the principle of non-annexation and the principle that the well-being and development of such peoples form a sacred trust of civilization.<sup>46</sup>

Consequently, the indigenous inhabitants of the mandated territories were the beneficiaries of this trust.<sup>47</sup> Van Rees, Vice-President of the Permanent Mandates Commission, held the view that sovereignty over a mandated territory resided in its original indigenous people:

Enfin, un dernier groupe d'auteurs--divisé en deux fractions--le seul groupe qui a tenu compte du principe de non-annexion adopté par la Conférence de la Paix, soutient que les auteurs du Pacte ont voulu tenir en suspens ou bien la souveraineté elle-même sur les territoires sous mandat pour une période équivalente à la durée des mandats respectifs (Lee D. Campbell, The Mandate for Mesopotamia and the principle of trusteeship in English law, p. 19; A. Mendelssohn Bartholdi, Les mandats africains (traduction), Archiv für Politik und Geschichte, Hamburg, 1925) ou bien l'exercice des pouvoirs souverains dont furent provisoirement chargées certaines nations en qualité de tuteurs. D'après ce dernier point de vue la souveraineté elle-même serait détenue, depuis la renonciation des anciens Empires, par les communautés et les populations autochtones des différents territoires. En d'autres termes, les anciens Empires ayant renoncé à leurs droits et titres sur les territoires en question sans qu'il y ait eu transfert de ces droits et titres à d'autres Puissances, la souveraineté, qui appartient à ces divers peuples et communautés jusqu'au moment de leur soumission à l'Allemagne et à la Turquie, renaît automatiquement du fait de la renonciation susdite. (Paul Pic, Le régime des mandats d'après le Traité de Versailles, RGDIP, Paris, 1923, p. 14; Albert Millot, Les Mandats internationaux, Paris, 1924, pp. 114-118; J. Stoyanovski, La théorie générale des mandats internationaux, Paris, pp. 83 and 86.)<sup>48</sup>

Van Rees also pointed out that the legal postulate which held that legal sovereignty resides in the indigenous people (not colonizing aliens) of the mandated territory

...is the only one which at least takes into account the principle of non-annexation unanimously adopted by the Peace Conference.<sup>49</sup>

In its resolution adopted in 1931 the Institute of International Law described the mandated territories as subjects of international law.<sup>50</sup>

In the case of Palestine Quincy Wright observed:

Mandates were classified into three types: "A", "B" and "C". This classification was made in a "descending order of political individuality" according to their international status and the degree of authority given to the Mandatory. The "A" mandates applied to Iraq, Palestine, Syria and Lebanon....It is to be remarked that only in the case of "A" mandates were the communities concerned recognized by Article 22 of the Covenant as independent nations.<sup>51</sup>

Pélichet has observed that the international personality of mandated territories, recognized by the Covenant Article 22 was accepted as a "principle of international law."<sup>52</sup> The Earl of Birkenhead, in referring to Palestine in particular, declared:

The position of Palestine and Syria is that they were integral portions of the Turkish Empire (which has renounced all right or title to them: Article 16 of the Treaty of Lausanne, 1923), they have become, administratively, partially dependent now upon an appointed mandatory State, but they are acknowledged--in the terms of Article 22 of the Covenant--to be entitled to provisional recognition of independence...The status of Palestine and Syria resembles very closely that of States under suzerainty.<sup>53</sup>

The principle that sovereignty lies in the people of the mandated territory itself was recently applied to territories held under trusteeship in accordance with the Charter of the United Nations. Mandates and trusteeships possess the same legal affiliation. In the case of Società A.B.C. v. Fontana and Della Rocca, the Italian Court of Cassation held that

sovereignty over the territory of Somaliland is vested in its population, although, under Article 2 of the Trusteeship Agreement (of the United Nations), the administration of the territory, for the period specified in the Agreement, has been entrusted to Italy.<sup>54</sup>

Oppenheim expressed the same legal view as the Earl of Birkenhead:

In considering the question of sovereignty over trust territories...the distinction must be borne in mind between sovereignty as such (or what may be described as residuary sovereignty) and the exercise of sovereignty. The latter is clearly vested with the trustee powers subject to supervision by and accountability to the United Nations.<sup>55</sup>

Cattan has declared that in regard to Palestine in particular and mandated territories in general:

...the grant by the Council of the League of Nations of a mandate to the British Government to administer Palestine did not deprive its people of their sovereignty, nor the State of Palestine of its own entity. The legal status of Palestine under international law during the British mandate and upon its termination on 15 May 1948 can, therefore, be summarized as follows: during the currency of the mandate the people of Palestine enjoyed an independent international status and possessed sovereignty over their land; Palestine possessed its own statehood as well as its own identity, which were distinct from those of the mandatory Power; its administration was theoretically its own though, in fact, it was exercised by the Mandatory;.... however, the full exercise of sovereignty by the people of Palestine was restricted by the powers of administration entrusted to the mandatory Power; upon the termination of the mandate the Mandatory's powers of administration came to an end and, as a result, the restrictions upon exercise of full sovereignty by the people of Palestine ceased, so that by virtue of this right, as well as by virtue of their right of self-determination, they became entitled to rule themselves and to determine their future in accordance with normal democratic principles and procedures. The first and fundamental rule in any democracy is the rule of the majority. This rule, however, was not respected by the General Assembly of the United Nations, which disregarded the will of the majority and recommended in 1947, in circumstances and under political pressures already mentioned, the partition of the country between Arab and Jewish States. The events which followed and the emergence of Israel have prevented the Palestinian people from exercising their right of sovereignty over their own land.<sup>56</sup>

Notwithstanding the prolific history of both League, United Nations,<sup>57</sup> and International Court of Justice advisory opinions<sup>58</sup> that uphold and implement the principle of self-determination, international law specialist L. Sohn agrees with Cattan:

With regard to the principle of self-determination, although international recognition was extended to this principle at the end of the First World War and it was adhered to with regard to the other Arab territories, at the time of the creation of the "A" Mandates, it was not applied to Palestine, obviously because of the intention to make possible the creation of the Jewish National Home there. Actually, it may well be said that the Jewish National Home and the sui generis Mandate for Palestine run counter to that principle.<sup>59</sup>

Firsthand support of Cattan's theme that political decisions have been substituted for legal ones concerning Palestine comes from, among many sources, Ambassador Loy W. Henderson, who in 1947 as director of the Office of Near Eastern and African Affairs in the United States Department of State, wrote a then top-secret memorandum to the American Secretary of



State dated September 22, 1947. Henderson wrote:

These proposals [of the majority of the United Nations Special Committee on Palestine],..., ignore such principles as self-determination and majority rule.<sup>60</sup>

Stoyanovsky agreed that the people of a mandated area are not deprived of the right of sovereignty but are deprived only temporarily of its exercise. The right of sovereignty belongs to the inhabitants of the mandated territory "by virtue of the principles of nationality and self-determination which are the foundation of modern international law."<sup>61</sup> Recently released Vatican documents dating back to 1943 and relating to the Palestine-Zionist issue succinctly commented on the Zionist Jewish State scheme in Palestine; in one document, a leading advisor-aide to the Pope, Cardinal Luigi Maglione, critically added:

What criterion could be adopted for bringing a people back to a territory where they lived 19 centuries ago?<sup>62</sup>

The King-Crane Commission report underscored the Zionist violation of the principle of self-determination:

To subject a (Palestinian) people...to unlimited Jewish immigration, and to steady financial and social pressure to surrender the land, would be a gross violation of the principle just quoted, and of the peoples' rights, though it kept within the forms of law.<sup>63</sup>

The Commission also recognized the legal inconsistencies between the Zionist territorial objectives in Palestine and both the Balfour Declaration and the Covenant of the League:

No British officer, consulted by the Commissioners, believed that the Zionist program could be carried out except by force of arms. The officers generally thought that force of not less than fifty thousand soldiers would be required even to initiate the program. That of itself is evidence of a strong sense of the injustice of the Zionist program, on the part of the non-Jewish (Arab) populations of Palestine and Syria. Decisions, requiring armies to carry out, are sometimes necessary, but they are surely not gratuitously to be taken in the interests of a serious injustice. For the initial claim, often submitted by Zionist representatives, that they have a "right" to Palestine based on an occupation of two thousand years ago, can hardly be seriously considered.<sup>64</sup>

Professor Berriedale Keith averred:

Moreover, it is impossible not to recognise the gravity of the difficulty created for the mandatory by the fact that the adoption of the principle of a Jewish national home (in Palestine) runs directly counter to the doctrine of the right of each people to self-determination.<sup>65</sup>

There is authority concerning the legal interpretation of an agreement in which a beneficiary, like the Palestinians in the Balfour Declaration, has no negotiating or decisional role. In the famous Cayuga Indians Case (Great Britain v. United States)<sup>66</sup> the legal situation involved an agreement in which the covenantees, the Indian claimants, had no participant role. The court of justice, sitting as a tribunal, referred to "universally admitted principles of justice and right dealing"<sup>67</sup> as being the applicable criteria in interpreting the agreement in favor of the Indians. Significantly, the opinion emphasized the unaccepted method of "the harsh operation of the legal terminology of a covenant (or agreement) which the covenantees (the Cayuga Indians) had no part in framing."<sup>68</sup> International law professors Oppenheim and Lauterpacht, while acknowledging that "many treaties stipulating immoral obligations have been concluded and executed," declared that "this does not alter the fact that such treaties were legally not binding upon the contracting parties."<sup>69</sup> These international law scholars enunciated the legal doctrine applying to "immoral obligations" in the following very clear terms:

It is a customarily recognized rule of the Law of Nations that immoral obligations cannot be the object of an international treaty.<sup>70</sup>

The most succinct and telling legal objection to Zionism's fait accompli in Palestine is implicit in the words of Secretary-General U Thant in his Annual Report to the 22nd Session of the United Nations:

People everywhere, and this certainly applies to the Palestinian refugees, have a natural right to be in their homeland and to have a future.<sup>71</sup>

The faits accomplis of Zionism have always been illegal from the beginning. In this context American author Alfred Lilienthal wrote:

The United Nations dealt a severe blow to the prestige of international law and organization by its hasty, frivolous, and arrogant treatment of the Palestine question. The General Assembly turned down the only reasonable suggestions--a referendum in Palestine and submission of the legal problems to the International Court of Justice.<sup>72</sup>

Article 22 embodied the legal acquisition of independent national sovereignty for those areas coming under the jurisdiction of the mandates system. The drafters of the Covenant applied the principle of "no annexation" and "self-determination." The indigenous people of the mandated territories were the beneficiaries of these two legal principles. The legal criterion under international law of the Palestine Mandate, regardless of the Allied-Zionist political deception, was to make the country a separate and independent State in which was vested legal sovereignty over the territory of Palestine. According to the principle of self-determination, or legal sovereignty, which are accepted principles of international law, the affairs of a country must be governed by the wishes of the majority of indigenous inhabitants, not by immigrant nor by illegal strangers to the land. Any attempt to suppress the wishes of an indigenous majority is illegal.

In the context of international law Israel could not and did not acquire legal sovereignty over the territory of Palestine. The forceful emergence of Israel and its alien Jewish demographic occupation in 1948 and 1949 of various areas of the territory of Arab Palestine did not deprive the Palestinians of their legal sovereignty. Consequently, the illegitimacy of Israel's claim to the timeless Arab country is without question. Zionism's violent acquisition of the country of Palestine<sup>73</sup>



is violative of the norms of modern international law and the juristic doctrine of the mandates system, which was superceded by the same legal doctrine applicable to areas under the United Nations international trusteeship system, which encompassed Palestine. The juristic principle that legal sovereignty lies in the people of the mandated territory itself was transformed even more explicitly to territories held under trusteeship in accordance with the Charter of the United Nations. As regards Zionist usurpation of Arab Palestine through force and illegal immigration, Cattán iterates Oppenheim and succinctly clarifies the Jewish violations:

Neither can Israel derive any title by occupation. In accordance with accepted principles of international law, occupation as a means of acquiring territory can only be conducted or conceived in the case of a res nullius. Palestine was at no time terra nullius, so that it was not open for occupation nor capable of acquisition by any State or any group of alien settlers.<sup>74</sup>

Moreover, any indigenous majority or minority inhabitants forcefully dispossessed out of a country does not derogate, in international law, from their full rights to their homeland and property;<sup>75</sup> and most certainly does it not confer on an external invader, usurper, or aggressor any juridical rights seized by force of arms.<sup>76</sup> Both the League and United Nations prescribe to the international law principle that the acquisition of territory by force of arms is inadmissible; and this principle, though not always subscribed to, has been confirmed inviolable.

Israel has invoked the 1947 partition resolution to justify its occupation of Palestine territory. Israel's occupation of Palestine territory under the Armistice Agreements is not and cannot, in international law, be a legal source of title to the land of Palestinian people.<sup>77</sup> In fact, the Armistice Agreements specifically provided that

...the armistice lines are not to be construed as political or territorial boundaries and are delineated without prejudice to the ultimate settlement of the Palestine Question.<sup>78</sup>

Cattan analyzed the international law problem between Zionism and Palestine as follows:

In conclusion it can be said that Israel did not and could not gain title to the territories which it seized in 1948 and 1949 whether within or in excess of the boundaries of the partition resolution. Neither did Israel acquire title to the territories which it seized in 1967. Its legal status in both cases is identical: it is the status of a belligerent occupier. And it is immaterial whether Israel is considered a belligerent occupier or a conqueror. In neither case can it acquire sovereignty.<sup>79</sup>

"Israel," says Hedley V. Cooke,

alone among all the countries of the world, possesses not a single square inch of territory which she could assuredly proclaim to be her own in perpetuity.<sup>80</sup>

Kissinger supports Cattan and Cooke. The Zionist State of Israel, besides being an anomaly in the Middle East area, is there without any legitimacy which has not been claimed by force. At a news conference on January 19, Secretary of State Henry Kissinger--for the first time publicly--raised the question of Israel's need for "legitimacy" as the only alternative to escalating armaments and military confrontations. Kissinger answered a newsman's question with the following:

The problem in the Middle East is to balance physical security against legitimacy. There is no question that Israel's physical security is best guaranteed by the widest extension of its frontier and at no other point are they as physically secure as at the maximum point of their extension. On the other hand, politically and in the long term they may be militarily even less secure if they don't achieve legitimacy.<sup>81</sup> (Emphasis mine)

What Kissinger did not say, of course, is that in this equation of "legitimacy" versus on-going warfare, it is the Arab League states<sup>82</sup> (or "the Arabs") who are the principal judges of "legitimacy" precisely because it has been Zionist usurpation of Arab rights (Egypt's legal sovereignty over the Sinai Peninsula, Syria's legal sovereignty over the Golan Heights, the Palestinians' legal sovereignty over Palestine) which

constitutes the essence of the history of Zionist/Israel's illegitimacy. And the Zionist State--for all its professions of peace--persists in expanding, occupying and colonizing Arab territory acquired by offensive war and in denying the rights of the Palestinians to self-determination.

The legal title of the Palestinians to their natural homeland remains unaltered. One of the strangest features of the Palestine Question is that it should be necessary to demonstrate that the Palestinian Arab people have both a moral and legal case against Zionism in Palestine. The actions of Britain after World War I in forcing or inflicting upon the overwhelming but powerless Arab majority in Palestine a political situation they were vehemently opposed to;<sup>83</sup> of the United States government after World War II in assisting the World Zionist movement to achieve its aggressive "Jewish State" goals in Palestine;<sup>84</sup> of the League of Nations (and United Nations) in denying the Arab majority its right to a plebiscite or in refusing to refer the matter to the court of International Justice for an expression of legal opinion before the League arbitrarily assumed the mandate administration (or for that matter, recommending partition in 1947; and of the Zionist Movement obtruding itself against the wishes of the Arab people of Palestine, and forcefully evicting the Arab majority in 1948),<sup>85</sup> all these acts constitute grave violations of international law concepts.

What should become starkly evident is that the present situation in Palestine is the result of an extraordinary accumulation of injustices, illegalities and violations--violations of international law and violations of ordinary human rights and freedoms. The number of wrongs is appalling: the Balfour Declaration; a mass Jewish immigration forced upon the original Arab inhabitants; the inequity of illegal partition; the usurpation of four-



fifths of the territory of Palestine by an alien minority; the forcible displacement of its indigenous population and the plunder and colonization of their lands and homes.

The crowning indignity was the creation of an illegal state. Cattani, for example, demonstrates first of all that Israel's "historical claim" to Palestine is based on both "legal and historical nonsense," and then deals with the validity and legality of the other claims of Israel's statehood--the Balfour Declaration in the Mandate agreement, the 1947 United Nations resolution on Palestine, diplomatic recognition of Israel by other states, military occupation of territories beyond those designated in the Partition Plan, and the alleged "sovereignty vacuum" in Palestine. In each case, the Zionist State of Israel claims are invalid and illegal, both within and without the boundaries of the 1947 Partition Plan. Thus, the existence of the State of Israel has simply no basis in international law; instead, it is based on the strange principle that "wrong compounded constitutes right."<sup>86</sup>

## Chapter Seven

<sup>1</sup>Doreen Ingrams, Palestine Papers 1917-1922: Seeds of Conflict (New York: Braziller, 1973), p. 61. The extract is from Balfour's private letter to Prime Minister Lloyd George dated February 19, 1919.

<sup>2</sup>Great Britain, Public Records Office, Foreign Office, 371/4185.

<sup>3</sup>Woodward and Butler, ed., First Series of Documents on British Foreign Policy, IV (HMSO, 1952), p. 340. This extract is taken from a private letter to Prime Minister Lloyd George dated August 11, 1919.

<sup>4</sup>Public Records Office, Foreign Office, 406/40. Anti-Zionist indigenous Arab Jews of Palestine, the Sephardim group, abhorred Zionism as much as the Palestinian Arab population. But Zionism also formulated the pretense of speaking for them. At this time (1918) Ormsby-Gore, a pro-Zionist, was British Liaison to the Zionist delegation at the Paris Peace Conference. The date of this extract is August 1918.

<sup>5</sup>Ingrams, op. cit., p. 140. This extract from Sir Hubert Young, a senior official in the British Colonial Office, summarizes the British deception in a private memorandum on negotiations with the Arab Delegation which came to London in the summer of 1921.

<sup>6</sup>The distinction between legal and political sovereignty is of direct bearing on the territorial and political changes brought about by force by the Jews in Palestine since 1948. It provides the gauge for appraising the legal character of such changes. "Sovereignty combines political and legal connotations relating to right and power," Cattan observes in Palestine and International Law (1973), p. 59. Brierly declares in The Law of Nations (1963), p. 13, that "One result of identifying sovereignty with might instead of legal right was to remove it from the sphere of jurisprudence, where it had its origin and where it properly belongs, and to import it into political science, where it has ever since been a source of confusion." For the difference between legal sovereignty (de jure sovereignty) and political sovereignty, see Ian Brownlie, International Law, (Oxford: Clarendon Press, 1966), pp. 100, 102. Professor Schwarzenberger expressed the distinction between legal and political sovereignty as, "The last word is still not with law, but power. On such a level, the counterpart to legal sovereignty is political sovereignty." See G. Schwarzenberger, "The Fundamental Principles of International Law," Hague Recueil, (1955), p. 215. Professor Gaston Jèze, Etude Théorique et Pratique sur l'Occupation, (Paris, 1896), pp. 44-46, points out that a belligerent occupier does not acquire sovereignty in law: "Cette prise de possession, qui repose exclusivement sur la force, n'entraîne pas au profit du vainqueur l'acquisition du territoire occupé... Supposons d'abord que l'Etat dont le territoire est envahi se refuse à traiter, et que le vainqueur maintienne son occupation. La domination de l'Etat victorieux sera une souveraineté de fait et non de droit... Tant que des protestations se feront entendre, il y aura bien une domination de fait, mais non un état de droit."

See also Ian Brownlie, Principles of Public International Law, (Oxford, 1966), who refers to the continued existence of legal personality under international law despite the fact that the process of government in an area falls into the hands of another State, pp. 100-102.

<sup>7</sup>U.S. Department of State, Papers Relating to the Foreign Relations of the United States, 1918, I (Washington, D.C.: U.S. Government Printing Office, 1933), Supplement 1, p. 110.

<sup>8</sup>For a synopsized view of the contributions of the League of Nations to the development of international law, see Leo Gross, "The Development of International law Prior to the United Nations," James Barros, ed., The United Nations: Past, Present, and Future (New York: The Free Press, 1972), pp. 172-176. The modern opposition to territorial conquests and annexations and to the use abroad of colored colonial troops, together with the modern practice of condominium, the ideal of self-determination, and the policy of the open door in colonial territory, as embodied in the Roosevelt-Root mandate plan for Morocco under the Act of Algeciras of 1906, converged, through the writings of the Round Table group in England in 1915-1917 (especially Hobson), in the mind of General Smuts in 1917-1918, were then and there reenforced by the Wilson principles for the peace settlement, cast into the terminology of the mandate and formulated in the Smuts "Suggestions" on December 16, 1918. From here they were taken up by President Wilson, and, by decisions of the Supreme Council, the Commission on the League of Nations, and the Peace Conference itself, were written into Article XXII of the Covenant of the League and the Treaty of Versailles. See, for example, Pitnam B. Potter, "Origin of the System of Mandates Under the League of Nations," The American Political Science Review, XVI (November, 1922), pp. 563-583.

<sup>9</sup>On July 20, 1922 the League approved the Mandate for Palestine, which was an international legal instrument defining the degree of authority, control and administration to be exercised by the Mandatory Power, in accordance with Article 22, paragraph 8, of the Covenant.

<sup>10</sup>International Court of Justice Reports (1950), 128, p. 132, herein-after cited as ICJ Reports.

<sup>11</sup>Ibid., p. 153.

<sup>12</sup>Ibid., p. 154.

<sup>13</sup>Ibid., p. 155.

<sup>14</sup>Command Paper 1708, British Parliamentary Papers, 1922, pp. 3-5.

<sup>15</sup>League of Nations, The Mandates System, Origin, Principles, Application (VI.A.1, 1945), p. 24.



<sup>16</sup>Ibid., p. 24.

<sup>17</sup>Ibid., p. 27.

<sup>18</sup>The text of the Mandate for Palestine is included in the Appendix.

<sup>19</sup>Advisory Opinion of the International Court of Justice regarding the Status of South-West Africa, ICJ Reports (1950), p. 132.

<sup>20</sup>United Nations Charter, Article 77 (1).

<sup>21</sup>Ibid., Article 76. For a full exposition of the trusteeship system of the United Nations, see Edwards Toussiant, The Trusteeship System of the United Nations (New York: Praeger, 1956). The legal principle of the right of self-determination was secured also by the U.N. Charter (Para. 2, Art. 1). In its advisory opinion of July 11, 1950, the ICJ observed that the Mandates System created by Article 22 of the Covenant of the League of Nations was a "new international institution." As pointed out by Judge Sir Hersch Lauterpacht, the basic idea of the League Mandates System was the same as that of the International Trusteeship System of the United Nations. See Lauterpacht, Oppenheim's International Law, I (1955), paragraph 94c; Brierly, The Law of Nations (1955), pp. 161-67; Kelsen, The Law of the United Nations (1951), p. 566.

<sup>22</sup>Ibid.; ICJ Reports (1950), p. 155.

<sup>23</sup>Cattan, op. cit., p. 63. This fact can be quickly observed in the case of all countries occupied by Germany during World War II and the restoration of pre-Napoleonic sovereigns to power in Europe. Thus was legal sovereignty restored to states occupied and annexed by Italy previous to World War II.

<sup>24</sup>Ibid., p. 60.

<sup>25</sup>Ibid., p. 61.

<sup>26</sup>Duncan Hall, A Treatise on International Law. Hall also calls territorial sovereignty "property" (p. 125).

<sup>27</sup>Donato Donati, Stato e Territorio (1924), pp. 59-117. Donati is the strongest legal supporter of the relationship between sovereignty and property (territory).

<sup>28</sup>Grotius, II, C.3, S. 42.

<sup>29</sup>E. N. Van Kleffens, "Sovereignty in International Law," Hague Recueil, Vol. 82 (1953), p. 94.

<sup>30</sup>Fauchille, Traité de Droit International Public (Paris: Rousseau, 1925), p. 450.

<sup>31</sup>Brierly, op. cit., p. 162.

<sup>32</sup>Cattán, op. cit., p. 60.

<sup>33</sup>Hersch Lauterpacht, Private Law Sources and Analogies of International Law (New York: Archon Books, 1970), p. 95.

<sup>34</sup>Quincy Wright, "The Middle East Crisis," American Journal of International Law, Vol. 64, No. 4, 1970, p. 74.

<sup>35</sup>DePaul University, College of Law. 1970 Fulbright-Hays Professor of International Criminal Law and Visiting Professor of Law, the University of Freiburg, Germany.

<sup>36</sup>M. Cherif Bassiouni, "The 'Middle East': The Misunderstood Conflict," The University of Kansas Law Review, Vol. 19, No. 3, Spring 1971, p. 387.

<sup>37</sup>Hersch Lauterpacht, Private Law Sources and Analogies of International Law (London: Longman, 1970), p. 107; Oppenheim, International Law, I (London: Longman, 1955), p. 574.

<sup>38</sup>Cattán, op. cit., p. 62.

<sup>39</sup>Quincy Wright, "The Middle East Problem," American Journal of International Law (1970), p. 270.

<sup>40</sup>Lauterpacht, op. cit., p. 100.

<sup>41</sup>Cattán, op. cit., p. 62; also see Oppenheim, op. cit., I, pp. 141-42, 574.

<sup>42</sup>Cattán, ibid., p. 65.

<sup>43</sup>Ibid. Note that the Palestinians are the descendants of the Philistines and the Canaanites and have lived continuously in Palestine since the dawn of history, long before the ancient Hebrews set foot in the country.

<sup>44</sup>Translated from R. Erlich, "La Naissance et la Reconnaissance des Etats," Hague Recueil, (1926), p. 450.

<sup>45</sup>H. Duncan Hall, Mandates, Dependencies and Trusteeship (Washington, D.C.: Carnegie Endowment for International Peace, 1948), p. 80.

<sup>46</sup>ICJ Reports, (1950), p. 131.

<sup>47</sup>Ibid., p. 132. Significantly, Article 5 of the Palestine Mandate forbade the Mandatory from alienating or leasing any part of the territory of Palestine, which, of course, was violated under the various partition schemes and by the Zionists in 1947-1948.

<sup>48</sup>D. F. W. Van Rees, Les Mandates internationaux (Paris: Rousseau, 1927), p. 20.

<sup>49</sup>D. F. W. Van Rees, Certains Aspects du Régime de Mandates Internationaux, (1931), p. 21.

<sup>50</sup>American Journal of International Law, (1932), p. 91, hereinafter cited as AJIL.

<sup>51</sup>"Sovereignty of the Mandates," AJIL, XVII (1923), p. 696.

<sup>52</sup>E. Pélichet, La Personnalité Internationale Distincte des Collectivités sous Mandat (Paris: Rousseau, 1932), p. 183.

<sup>53</sup>International Law, p. 99. Also cited in Cattán, op. cit., p. 70.

<sup>54</sup>Decision dated August 10, 1954, International Law Reports, XXII (1955), p. 77.

<sup>55</sup>Lassa Oppenheim, International Law, I (London: Longman, 1955), p. 236.

<sup>56</sup>Cattán, op. cit., p. 72.

<sup>57</sup>See, in this paper, Chapter VI, footnote 16. The subsequent history of the U.N. corroborates the proposition that self-determination is more than a recognized legal concept and, in fact, became a general principle of international law. As applicable to the Palestinians, the right of self-determination was expressed by the U.N. General Assembly of December 1970. See U.N. GAOR 2672 (XXV) (A/8013), p. 4 ("Recognizes that the people of Palestine are entitled to equal rights and self-determination, in accordance with the Charter of the United Nations;"). For a lucid exposition of the demographic context of the right of self-determination in Palestine both in international law and the partition resolution of 1947, see M. Cherif Bassiouni, "The 'Middle East': The Misunderstood Conflict," The University of Kansas Law Review, XIX (Spring, 1971), pp. 373-402, 380. Bassiouni significantly debunks the Zionist idea of self-determination by inversely applying their own formula: "Suppose the absurd hypothesis of ten million Arabs, unarmed and without belligerent intentions (contrarily, the Zionist group in Palestine intendedly invoked belligerent means to create a Jewish State) walking across the present boundaries of the State



of Israel, sitting down, and asking for a head count; would that satisfy the requirements of the General Assembly's view of the right of self-determination and suffice to transform Israel back into an Arab state?" (p. 385). Words added in parentheses of the quote are mine.

<sup>58</sup>See, in this paper, Chapter VI, "The Mandates System."

<sup>59</sup>L. Sohn, Cases and Materials on the United Nations Law (1967), p. 429.

<sup>60</sup>Foreign Relations of the United States 1947, V (Washington, D.C.: U.S. Government Printing Office, 1971), p. 1157. Ambassador Henderson also noted in a confidential memorandum to American Under Secretary of State Lovett on November 24, 1947, inter alia, that "By our Palestine policy, we are not only forfeiting the friendship of the Arab world, but we are incurring long-term Arab hostility towards us. What is important is that the Arabs are losing confidence in the integrity of the United States and the sincerity of our many pronouncements that our foreign policies are based on the principles of the Charter of the United Nations" (ibid., p. 1281-1282).

<sup>61</sup>Stoyanovsky, La Théorie Générale des Mandats Internationaux, p. 83.

<sup>62</sup>The Arab Report, February 1, 1976, p. 2.

<sup>63</sup>U.S. Department of State, Papers Relating to the Foreign Relations of the United States 1918, I (Washington, D.C.: U.S. Government Printing Office, 1933), p. 793. The King-Crane Commission foresaw the Zionist goal of making Palestine a Jewish State and acknowledged that "'a national home for the Jewish people' is not equivalent to making Palestine into a Jewish State"--this passage from the report refers to the Balfour Declaration favor clause.

<sup>64</sup>Ibid., p. 794. In 1948 the Zionist conquest of Palestine was accomplished by military force including the use of terror and forceful dispossession.

<sup>65</sup>"Mandates," Journal of Comparative Legislation and International Law, IV (1922), p. 78.

<sup>66</sup>Fred K. Nielsen, Report of the Case Decided Under the Special Agreement Between the United States and Great Britain of August 18, 1910 (Washington, D.C., 1926), pp. 203, 307.

<sup>67</sup>Ibid., p. 320.

<sup>68</sup>Ibid., p. 320. In applying these juridical criteria, it should be recognized that the purpose of the Balfour Declaration including the first safeguard was "protective" rather than "harsh," i.e., the British Government invoked the principle "it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of the (Palestinian people)." It follows, a fortiori, i.e., with even greater reason, that the entire Balfour letter "must be effectuated according to the 'universally admitted principles' of elementary justice." If the Zionist interpretation were accepted, the Balfour Declaration would then be one of "harsh operation." For an appraisal of this legal doctrine in international law, see W. T. Mallison, Jr., "The Balfour Declaration: An Appraisal in International Law," Ibrahim Abu-Lughod, ed., The Transformation of Palestine (Evanston: Northwestern University Press, 1971), p. 91.

<sup>69</sup>Lassa Oppenheim, International Law, editor Hersch Lauterpacht, Peace, I (New York, 1955), p. 896. There is no longer any reason for us to picture the highest British authorities as blinded by Zionist deceptions. It is obvious that the principal feature of the Balfour Declaration as interpreted by the Jewish Zionists and British Gentile Zionists is its immoral character in violating, inter alia, the rights of the Palestinian Arab people which were protected by the first safeguard. See, for example, Weizmann, Trial and Error, p. 302; Abraham Tulin, ed., Book of Documents Submitted to the General Assembly of the United Nations (New York, 1947), pp. 1, 5; Desmond Stewart, The Middle East: Temple of Janus (New York, 1971), p. 284; Richard Meinertzhagen, The Middle East Diary: 1917-1956 (London, 1959); Walid Khalidi, ed., From Haven to Conquest (Beirut, 1971), pp. 195-200; Christopher Sykes, Cross Roads to Israel; Palestine from Balfour to Bevin (London, 1965), p. 78; W. T. Mallison, Jr., "The Balfour Declaration," in Ibrahim Abu-Lughod, op. cit., pp. 93, 94, 95. Zionist sources reveal that the principal feature of the declaration as interpreted by the Zionists is its immoral character in intentionally violating, inter alia, the natural indigenous rights and privileges of the Palestinian people in their own homeland.

<sup>70</sup>Ibid. The "plain-meaning" interpretation could be elucidated with preponderant international law sources in order to sustain completeness in analysis of the Balfour Declaration. But this is not necessary because the availability of the negotiating evidence provides a rare historical account of accuracy in lucidly interpreting the declaration. It is sufficient, for the purpose of this thesis, to note that the Zionist interpretation of the declaration is completely inconsistent and departs from the negotiating history of the declaration. For the Mallison legal exposition of the words in the Balfour letter, see "The Balfour Declaration," in Ibrahim Abu-Lughod, op. cit., p. 95.

<sup>71</sup>22 U.N. GAOR, Supp. 1A, at p. 7, U.N. Doc. A/6701/Add. 1 (1967).

<sup>72</sup>Alfred M. Lilienthal, What Price Israel?, (Chicago: Henry Regnery, 1953), pp. 73-74. See the Draft Resolution Referring Certain Legal Questions to the International Court of Justice by Sub-Committee 2 of the United Nations Ad Hoc Committee on Palestine, 1947.

<sup>73</sup>See, for example, Menachem Beigin (Begin), The Revolt; Avner, Memoirs of an Assassin; Mardor, Haganah; Peretz, Israel and the Palestine Arabs; Jiryis, The Arabs in Israel; Erskine B. Childers, The Other Exodus; Jacques de Reynier, Deir Yasin. The literature on the subject of Zionist discrimination and oppression in Palestine-Israel is profuse but must be sought out. Concerning the Zionist alleged "historic right" to Palestine it is significant that an Israeli legal writer, Yehuda Blum, does not even mention the Balfour Declaration in a book dealing with historic legal titles: Historic Titles in International Law (The Hague, 1965). This omission is significant because the declaration is employed in the Declaration of the Establishment of the State of Israel to be one of the legal bases of that State, that is, the Zionist territorial claim to Arab Palestine.

<sup>74</sup>Cattan, op. cit., p. 77; Oppenheim, op. cit., p. 555; G. Schwarzenberger, op. cit., p. 302.

<sup>75</sup>W. T. Mallison, Jr., and S. V. Mallison, The Role of International Law in Achieving Justice and Peace in Palestine-Israel (New York: AMEU, 1977, part II, A and B).

<sup>76</sup>Ibid.

<sup>77</sup>Cattan, op. cit., p. 62. Note the invalidity of the maxim ex facto jus oritur (the principle of effectiveness in the exercise of power). Consult Cattan, ibid., p. 63 for reasons invalidating the maxim. Effectiveness does not confer a valid title to an illicit act. Effectiveness produces legal results if, after a reasonable time, the illicit act is not effectively contested. It should be obvious to anyone that the dispossessed Palestinians (and the United Nations) have contested the violent creation of Israel on Palestine territory.

<sup>78</sup>See the various armistice agreements of 1949 between Israel and Egypt, Lebanon, Jordan and Syria. Note that these are not agreements with the Palestinian people.

<sup>79</sup>Cattan, op. cit., p. 82.

<sup>80</sup>Hedley V. Cooke, Israel, A Blessing and A Curse (London: Stevens and Sons, 1960), p. 186.



<sup>81</sup>The New York Times, January 20, 1977, p. 16.

<sup>82</sup>There is because of Zionist forceful usurpation of the Palestine territory (and a League mandated state) still a state of war between Israel and the member states of the Arab League, of which Egypt, Jordan and Syria are members.

<sup>83</sup>In July 1919 a General Syrian Congress held at Damascus and attended by Palestinian delegates passed a resolution electing Amir Faisal, son of Husain ibn Ali (King of the Hejaz), King of a united Syria (which included Palestine) and rejecting the Balfour Declaration. King Faisal was, however, forcefully deposed by the French in July 1920. In the meantime President Woodrow Wilson, who had endorsed the declaration before its pronouncement, and though failing to secure Anglo-French-Italian agreement to the formation of an inter-Allied Commission of Inquiry, dispatched the United States "King-Crane Commission" to the former Arab provinces of the Ottoman lands to "ascertain the wishes" of their inhabitants regarding the post-war settlement of their territories. The King-Crane Commission reported that 1,350 petitions, comprising 72 per cent of the total received from the whole of Syria, were anti-Zionist and that Zionist spokesmen contemplated the dispossession of the Arabs. They recommended a serious modification of the "extreme Zionist program." Also generally consult Ingrams, op. cit.; and Robert John and Sami Hadawi, The Palestine Diary 1914-1945: Britain's Involvement, Vol. I of The Palestine Diary (New York: New World Press, 1970).

<sup>84</sup>Richard Stevens, American Zionism and U.S. Foreign Policy 1942-1947 (Beirut: The Institute for Palestine Studies, 1970).

<sup>85</sup>See, for example, Menachem Beigin, The Revolt: Story of the Irgun (New York: Henry Schuman, 1951); Jon Kimche, The Seven Fallen Pillars (New York: F. A. Praeger, 1953); Dov Joseph, The Faithful City: The Siege of Jerusalem 1948 (New York: Simon and Schuster, 1960); Edgar O'Ballance, The Arab-Israeli War 1948 (New York: F. A. Praeger, 1957); Sir John Bagot Glubb, A Soldier with the Arabs (New York: Harper & Bros., 1957); Felicia Langer, "Israeli Violations of Human Rights in the Occupied Arab Territories," Americans for Middle East Understanding (AMEU), Palaces of Injustices (New York: AMEU, 1976), pp. 22-26; Ersine B. Childers, "The Other Exodus," The Spectator, May 12, 1961, pp. 672-675; Jacques de Reynier, "Deir Yasin," Khalidi, ed., op. cit., pp. 761-766. de Reynier was head of the delegation in Palestine of the International Red Cross throughout the period of hostilities, 1948. See also Great Britain, The Anglo-American Committee of Enquiry regarding the Problems of European Jewry and Palestine, Lausanne, 20th April 1946, Report 1946, Command 6808 (London: HMSO, 1946), pp. 39-42; Jirjis, op. cit.

<sup>86</sup>It should be noted that the United States Department of State in 1948 acknowledged the de facto usurpatious acquisitions of Palestine territory: "...we must consider the role of the remaining Principal Allied and Associated Powers. It was these Powers which allocated the Palestine mandate to Great Britain after World War I." See the Legal Adviser (Gross) to the Under-Secretary of State (Lovett), memorandum, "Recognition of Successor States in Palestine," May 13, 1948, MS. Department of State, file FW 867N.01/5-1048.

American Jewish writer Thomas Kiernan (The Arabs, pp. 253-4) writes: "The Jews had no legal claim. The Zionists were European. There was absolutely no biological and anthropological connection between the progenitors of European Jewry-the Khazars-and the ancient Hebrew tribes... The UN's establishment of a Zionist Jewish nation on Arab soil and in the midst of an overwhelming majority of Arab people...was a clear violation of the UN's principles on the self-determination of peoples indigenous to specific lands." Incidentally, it should be known that the UN withdrew its contemplation of Palestine's partition. This idea was dropped.

## CHAPTER VIII

### CONCLUSION: THE INVALIDITY OF THE BALFOUR DECLARATION

Is the Balfour Declaration valid in public international law? Is it consistent with the preeminent international law principle of the self-determination of peoples? Where did England, the military occupier of Palestine,<sup>1</sup> derive the legal authority to open up the Palestinian country to permanent settlement by another foreign people, a group that Balfour knew methodically sought political sovereignty in that land?<sup>2</sup> Did Weizmann<sup>3</sup> really believe the Zionists had a legal claim to Palestine? Because, he did write to a friend in 1914:

Don't you think that the chance for the Jewish people is now within the limits of discussion at last? I realise, of course, that we cannot "claim" anything, we are much too atomized for it; but we can reasonably say that should Palestine fall within the British sphere of influence, and should Britain encourage a Jewish settlement there, as a British dependency, we could have in twenty to thirty years a million Jews out there, perhaps more; they would develop the country, bring back civilization to it and form a very effective guard for the Suez Canal.<sup>4</sup>

Amos Elon writes that in 1923, Arthur Ruppin<sup>5</sup> turned against what Ruppin called the "imperialist approach" of "political Zionism":

At first, like most of his (Arthur Ruppin) colleagues, he overlooked the national aspirations of the Arabs. He assumed that they could be appeased through economic benefits. But earlier than most he realised the shortsightedness of this approach. By 1921 he was already bitterly reproaching his fellow (Zionist) settlers for wrongly aiming at the establishment of a nation-state ("another Montenegro") while at the same time ignoring the existence of an Arab problem. The Balfour Declaration, he felt, was a paper privilege.<sup>6</sup>

In its own proclamation of statehood of May 14, 1948, Israel invoked three provisions to justify its legitimacy: The Balfour Declaration,<sup>7</sup> the Mandate of the League of Nations,<sup>8</sup> and the 1947 Partition

Recommendation of the General Assembly of the United Nations. None of these provisions abided by the international law concept of the self-determination of an indigenous people; on the contrary, all three violated the doctrine of self-determination which gained recognition as a principle of international law after World War I.<sup>9</sup> Ironically, the mandate system was supposedly justified as a means of aiding the establishment of self-governing institutions in the mandate countries.

As pertains to the Balfour Declaration Sol Linowitz has written:

The most significant and incontrovertible fact is, however, that by itself the (Balfour) Declaration was legally impotent. For Great Britain had no sovereign rights over Palestine; it had no proprietary interest; it had no authority to dispose of the land. The Declaration was merely a statement of British intentions and no more.<sup>10</sup>

.....  
Generally overlooked in the refined search for intentions, however, is the paramount and all-important fact that at the time in question England had absolutely no right of disposition and no legal or proprietary interest in Palestine, which was then a Turkish province. Regardless, of what commitment England might have made, she was neither sovereign over Palestine herself nor was her action ratified either by Turkey (the then legal sovereign) or the League of Nations (the later sovereign).<sup>11</sup>

Significantly, Linowitz declared that in "an objective and informed decision with respect to legal rights involved in the creation of Israel by the United Nations," the "point of departure for a legal analysis" of the Palestine-Zionist conflict "is the Balfour Declaration."<sup>12</sup> The mandatory scheme may have been proposed with a high ideal and an altruistic end in view, but it was adopted, however, only after the statesmen against whom Woodrow Wilson was pitted had agreed that they would not have to observe either the spirit or the letter of the Mandatory clauses in the Covenant.<sup>13</sup> Moreover, Zionist consent to the inclusions of the Balfour Declaration was requested--and received--before the Mandate was confirmed. And the meaning of the declaration was authoritatively explained in the British White Paper in 1922, which stated:



Unauthorized statements have been made to the effect that the purpose in view is to create a wholly Jewish Palestine. Phrases have been used such as that Palestine is to become "as Jewish as England is English". His Majesty's Government...have no such aim in view. Nor have they at any time contemplated...the disappearance or the subordination of the Arabic population, language or culture in Palestine.<sup>14</sup>

For all the distorted and mythologized political rhetoric the Zionists have accredited to the declaration as a "legal title" to Arab Palestine, very few have perceived that Zionist agreement to this official interpretation was requested--and received--before the mandate was confirmed. Said another way, before the British would incorporate the declaration in the mandate for Palestine, Britain wanted the Zionist Organization to be very clear about the meaning of the declaration in that it did not mean that Palestine would become a Jewish State as the Zionists desired. The Zionist Organization clearly understood this meaning because Weizmann, their president, accepted the White Paper:

It was made clear to us that confirmation of the Mandate would be conditioned on our acceptance of the policy as interpreted in the White Paper, and my colleagues and I therefore had to accept it, which we did, though not without some qualms.<sup>15</sup>

From a juridical standpoint the Zionists themselves have mooted the declaration's invalidity as legal title to Palestine by historically acknowledging in 1922 the clear meaning of the declaration before the British would enter its provisions in the mandate text for Palestine. Consequently, how could Zionism and "Israel" invoke in its own proclamation of May 14, 1948, the League's mandate as a legal instrument for justification of their Judenstaat scheme in Palestine? In 1922, Churchill, the Colonial Secretary, declared in the House of Commons, with reference to the Balfour Declaration:

At the same time that this pledge was made to the Zionists, an equally important promise was made to the Arab inhabitants in Palestine--that their civil and religious rights would be effective--

ly safeguarded, and that they should not be turned out to make room for the newcomers (Jewish settlers).<sup>16</sup>

Herbert Samuel, himself a leading Zionist and the first to tackle the British War Cabinet in favor of the Zionist scheme in Palestine, similarly declared the Balfour Declaration as not involving the creation of a Jewish State in the Arab country. For he stated in 1947:

The Jewish State has been the aspiration of the Jewish people for centuries. It is an aspiration which at the present day cannot be realized. It is not contained in the Balfour Declaration... There was no promise of a Jewish State. What was promised was that the British Government would favour the creation of a Jewish National Home--the term was most carefully chosen--in Palestine. The Declaration did not say that Palestine should be the Jewish National Home, but that it favoured a Jewish National Home in Palestine, without prejudice to the civil and religious rights of the Arab population.<sup>17</sup>

All of the official public declarations of the British Government declare that Palestine was never to come under the sovereignty of Jews in that land, that the declaration conveyed no territorial rights to the Jews. Additional confirmation of this fact emanates from the British Government's Statement of Policy issued in October of 1930 which deals at length with the meaning it attributed to the "Jewish national home":

But this statement (British Command Paper of 1922) has not removed (Zionists) doubts, and His Majesty's Government therefore now declare unequivocally that it is not part of their policy that Palestine should become a Jewish State. They would indeed regard it as contrary to their obligations to the Arabs under the Mandate, as well as to the assurances which have been given to the Arab people in the past, that the Arab population of Palestine should be made the subjects of a Jewish State against their will.<sup>18</sup>

Even though the Balfour Declaration can be viewed as having envisioned something less than a Jewish State, its greatest significance lies in its political support for Jewish Zionist aspirations in Arab Palestine which was an illegal interference with, and an atrocious extraterritorial trespass upon, the natural rights of the Palestinian Arabs in their own homeland. Even the committee set up to analyze the

McMahon-Hussein Correspondence (1915-1916), the Anglo-Arab Conference of London in 1939, concluded that Britain had violated the natural self-determination rights of the people of Palestine:

His Majesty's Government were not free to dispose of Palestine without regard for the wishes and interests of the inhabitants of Palestine.<sup>19</sup>

Even the United States Government, for as much as it has shielded and supported Zionism, has privately admitted its own illegal actions. In a then top-secret memorandum to the Secretary of State of September 22, 1947, Ambassador Loy W. Henderson, then serving as the director of the Office of Near Eastern and African Affairs in the Department of State, stated:

These proposals [of the majority of the United Nations Special Committee on Palestine], for instance, ignore such principles as self-determination and majority rule. They recognize the principles of a theocratic racial state and even go so far in several instances as to discriminate on grounds of religion and race against persons outside of Palestine.<sup>20</sup>

Jules Basdevant, formerly President of the International Court of Justice, has juridically postulated:

No state has the right to extend at will its own competence at the expense of other States and other peoples. International law does not recognize the British State as having competence other than over its own territories and over its own subjects and nationals.<sup>21</sup>

Professor Alan R. Taylor of the School of International Service at the American University in Washington, D.C., whose publications on various aspects of the Palestine conflict have established his reputation as a scholar, declares:

The Declaration was actually only an ambiguously worded expression of sympathy for Zionist aspirations addressed indirectly to the Zionist Organization and without substance in international law.<sup>22</sup>

Significantly, no less a Zionist leader than Nahum Goldman himself has pointed out that:

The Zionist movement should never have lost sight of the fact that it represented an exception to the universally valid rule that a territory belongs to the majority of the population that lives there.<sup>23</sup>

In 1939, the British Government was much more explicit: it totally rejected and repudiated the Zionist contention that Palestine was to become the Jewish State. While iterating its official public mandate policy previously clarified for the Zionists in the Command Paper of 1922, Britain officially declared that the "terms of the (Balfour) Declaration... do not contemplate that Palestine...should be converted into a Jewish National Home" ("...but that such a Home should be founded in Palestine."), that "His Majesty's Government now declare unequivocally that it is not part of their policy that Palestine should become a Jewish State," and that Britain "desires to see established...an independent Palestine State."<sup>24</sup> If this was not clear to the Zionists the British mandatory also declared:

It has been the hope...ever since the Balfour Declaration was issued that in time the Arab population...would become reconciled to the further growth of the Jewish National Home. This hope has not been fulfilled. The alternatives...are either (i) to seek to expand the Jewish National Home indefinitely by immigration, against the strongly expressed will of the Arab people of the country; or (ii) to permit further expansion...only if the Arabs are prepared to acquiesce in it. The former policy means rule by force...contrary to the whole spirit of...the League of Nations, as well as to the...Mandate. Therefore His Majesty's Government...have decided that the time has come to adopt in principle the second of the alternatives referred to above....<sup>25</sup>

That the British never legally acquired sovereignty over Palestine is revealed in the ruling of the International Court of Justice in the case of the legal status of South-West Africa (Namibia). The Court adverted to the legal nature of the mandate system under the League of Nations:

...The provisions of Article 22 of the Covenant...and the principles embodied therein, showed that the creation of this new international institution did not involve any cession of territory or transfer of sovereignty....<sup>26</sup>

Additionally, the Court ruled that the change in a mandated ter-



ritory could not be effectuated "without proper consultation...of all the peoples of the Territory itself"<sup>27</sup> and that the

Mandate was created, in the interest of the inhabitants of the territory, and of humanity in general, as an international institution with an international object--a sacred trust of civilization.<sup>28</sup>

Juridically, the Court ruled that

The Mandatory is not free to deal with the territory or people assigned to it as though either were its own...A territory or entity under mandate is...to be distinguished from a colonial possession....<sup>29</sup>

In an earlier case of Re Ezra Goralshvih (1925) the Palestine Supreme Court applied the decision of the League of Nations Council that inhabitants of mandated territories were not be be regarded as nationals<sup>30</sup> of the mandatory power. But, significantly, this Court of British composition ruled:

...to hold that the petitioners are British subjects would involve holding that the crown, having accepted the responsibility of governing Palestine as a mandatory, has thereby acquired sovereignty, a view for which no authority has been cited....<sup>31</sup>

In short, the Court agreed that the British had no legal sovereign jurisdiction over Palestine and its indigenous population.

Strangely, it is well known that the Balfour Declaration is void even by reason of its conflict with assurances and pledges given by the British Government to the Arabs and the Palestinians. But its nullity depends much more importantly upon reasons arising from the secret entrenchment with a political movement (Zionism) having no legal privileges and rights in Palestine and from the illegal extraterritorial capacity of Britain or the War Cabinet to make it. It is absurd to think that Britain could, in the nature of international law, determine or dictate policy over another nation's territory, a territory over which it had no sovereign rights.<sup>32</sup> The absurdity of this proposition is best perceived by suggesting

that Britain in 1917 could dictate or determine policies in the territory of Arizona or Oklahoma, areas of the United States in which Britain would have no juridical rights. In other words, the declaration is void and invalid, per se, without the need of extraneous considerations. Regardless of its real meaning, regardless of its safeguard which is stipulated in favor of the Arab inhabitants of Palestine--a safeguard which, in any event, was openly and callously disregarded by the mandatory and Zionists--and regardless also of its incompatibility with pledges made to the Arabs, the declaration is legally null and void for the following reasons.

Firstly, the British, as author of the declaration, possessed no dominion or sovereignty in Palestine or the Turkish Empire enabling it to make promises of any rights, whatever their nature and extent and however extraterritorially imposed, in favor of Zionist Jewry of the world. It is immaterial whether these "rights" were meant to be territorial, political or cultural. The declaration was, per se, void on the basis of the international legal principle that a donor cannot give away what does not legally belong to him. Norman Bentwich, a Zionist Jew who held for several years the office of Attorney General of Palestine under the mandate, declared himself, that the concept of "the Jewish national home" did not mean or imply the grant of rights of political sovereignty to Jews over Arab Palestine.<sup>33</sup>

Secondly, but related to the first reason, the declaration is also void on the legal ground that it violated the natural and legitimate rights of the people of Palestine (more importantly, of Greater Syria) who desired independence. It was immaterial whether the declaration sought to impose the creation of Zionist Judenstaat or simply of a "national home" for emigrating Jews offered Palestinian citizenship; it was in either case

invalid and could not, in any way, impair the rights of the Palestinian people to determine their own course of statehood. The legal right of a foreign state to dispose of other people's territory in violation of their right of self-determination is not an accepted principle of international law. It should be ludicrous to even discuss this rather obvious principle of legal conduct. Nonetheless, Balfour had already written in an official government memorandum dated August 11, 1919, four months after the concept of the Palestine Mandate was accepted and its basic self-governing objectives (independence and statehood) laid down in Article 22 of the Covenant of the League of Nations which was adopted April 25, 1919:

In Palestine we do not propose even to go through the form of consulting the wishes of the present (Arab) inhabitants of the country...The four great Powers are committed to Zionism. And Zionism is...of far profounder import than the desires...of the 700,000 Arabs who now inhabit that ancient land.<sup>34</sup>

Considering that the concept of international mandates was predicated upon the principle of self-determination of peoples,<sup>35</sup> Balfour's memorandum, after the international mandate system was adopted by the League, is seen perfidiously as a calculated and extreme violation of the accepted international legal principle embodied in Article 22 which provided that

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone.

In the light of Balfour's official statement how is one to see the actions and designs of the British Government calling for an official violation of the mandate trust as other than blatant perfidy, a calculated and premeditated violation of an international legal trust?

Thirdly, the declaration is not the result of an agreement between

states. It is no more than a letter addressed to Lord Rothschild, a private British citizen, who had no legal title in international law to enter into an official contractual obligation (there is no legal contractual obligation in the declaration), since its recipient, a Zionist British subject, did not even represent "the Jewish community" or the Zionist Organization which, in any event, were not subjects of international law. The Balfour Declaration concerned a territory with which Britain had no legal relation; consequently, neither Britain or the Zionist Organization could acquire the area of Palestine in regard to any territorial interests they may have separately or entre nous had in mind.

Fourthly, some Zionists argue that even though the declaration lacked initial juridical value,<sup>36</sup> it was validated by its inclusion in the Palestine Mandate. The argument of an ex post facto validation of the declaration by the Palestine Mandate has no legal basis. Because, if, as should be clear, Britain possessed no legal sovereignty over Palestine and, consequently, no legal authority to make the declaration, the inclusion of the declaration in the mandate did not and could not cure its invalidity. Actually, the inclusion of the declaration in the mandate system, instead of making it legal, had the effect of invalidating the mandate itself and violating Article 22 of the League Covenant. For an illegal agreement cannot make valid and legal what is already inherently invalid and illegal.<sup>37</sup>

Fifthly, the opposition of the Palestine Arab Jews to the establishment of a Jewish national home in Palestine reveals that the Zionist scheme was a foreign idea, extrinsic to Palestine. Such an alien scheme could not be construed as a recognition of a right of self-determination in favor of the Jewish community then living in Palestine, which in any case represented about three percent of the Palestine population.<sup>38</sup> (Nor could this alien scheme be considered even today (1948) as a national liberation movement.)



The Balfour Declaration, espoused as a legal title by Zionism-Israel to establish a Jewish State in Arab Palestine, is a historical fraud. The declaration, historically and juridically analyzed, does not create a valid grant to Zionist Jewry of any legal rights in Palestine.\*

As Henry Cattán, a jurist of international repute, said, the

Declaration was nothing but an illegal and mischievous promise which has brought the most disastrous consequences to Palestine and the Middle East.<sup>39</sup>

Contrary to the Zionists' protestations, the declaration does not provide international authority for the Zionist state in Palestine.<sup>40</sup>

It does not legally recognize "the right of 'the Jewish people' to national rebirth" in Palestine, neither in a historical analysis nor international law.

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\*This writer's opinion of the "Declaration" is that it is actually only an ambiguously worded expression of sympathy for Zionist political aspirations addressed to Lord Rothschild (another English citizen) and without substance in international law. It can in substance be equated even less with the Gulf of Tonkin resolution which had absolutely no substance in international law. Even Leonard Stein, as lawyer and Zionist, after providing his own historical and juridical analysis, makes the judgment statement: "The Declaration was a political and not a legal document...." See Stein, op. cit., p. 553. This writer agrees with Lasswell that the declaration can be regarded "as the cleverest thing done by the Allies in the nature of war propaganda." The minutes of the War Cabinet meeting held on October 31, 1917, reveal James Balfour's own attitude on the political need for a war-time statement: "The Secretary of State for Foreign Affairs stated that.... If we could make a declaration favourable to such an ideal (i.e., the Zionist program), we should be able to carry on extremely useful propaganda both in Russia and America." See PRO CAB22/4. The declaration did provide a highly effective platform from which the Zionists would incrementally advance nationalist Jewish state goals in Palestine with the aid of powerful and officiously placed governmental pro-Zionists. See, for example, the Zionist lobbyist techniques in Michael Adams and Christopher Mayhew, Publish it not... The Middle East Cover-Up (London: Longman Group LTD, 1975), Chapter Three "Political Pressures." Weizmann himself confirms the success of Zionist political techniques, for example, in early 1930s: see Weizmann, Trial and Error (New York: Harper Brothers, 1949), p. 335. Also see for intimacy of Zionist lobby's contacts with British Cabinet Blanche Dugdale, Diaries of Blanche Dugdale (London: Valentine Mitchell, 1973). Zionist contributions to political leaders, and the consequent influence of the Jewish lobby, for example, in the United States, are discussed with frankness in an article by Dan Margalit in the Israeli newspaper Haaretz, September 20, 1974, reprinted in Israeli Mirror, Middle East International Publications, No. 34, October 1974. But it should be noted that had the Balfour Declaration

actually never existed, Zionist nationalists would still have implemented programs and activities seeking eventually an exclusivist Jewish State in Palestine but their tasks would have been more difficult. Because it should be recognized that the primary tactic Zionism utilized to succeed at its nationalist goal has been to organize and lead Jewish public political expression in countries that had the international power to assist them in their political-national goals. Through organized domestic Jewish public opinion exacting collective political pressures upon elected government representatives the international Zionist Organization (in the United States its satellite the Zionist Organization of America) felt it could have compelled political support from elected officials.

## Chapter Eight

<sup>1</sup>The British Government, as author of the Balfour Declaration, had never possessed any legal sovereignty or dominion in Palestine.

<sup>2</sup>Walid Khalidi, ed., From Haven to Conquest (Beirut: The Institute For Palestine Studies, 1971), pp. 195-200. Dr. Khalidi reproduced an interview among Balfour, then British Foreign Secretary, Felix Frankfurter, President Wilson's consultant at the Paris Peace Conference in 1919, Lord Eustance Percy, British diplomat and later Conservative Member of Parliament, and United States Supreme Court Justice Brandeis, in Mr. Balfour's apartment, 23 Rue Nitot, Paris, on June 24, 1919. This information is derived from personal notations collected by Felix Frankfurter during this private conference and later reproduced in E. L. Woodward and Rohan Butler, eds., Documents on British Foreign Policy, 1919-1939, Vol. IV, 1st Series (London: Her Majesty's Stationary Office, 1952), pp. 1276-78. This document is reproduced for the Appendix.

<sup>3</sup>Richard P. Stevens, "Smuts and Weizmann: A Study in South African-Zionist Cooperation," Ibrahim Abu-Lughod and Paha Abu-Laban, eds., Settler Regimes in Africa and the Arab World: The Illusion of Endurance (Wilmette, Illinois: The Medina University Press International, 1974), p. 184. Stevens, noted historian of Zionism, asserts that "...Weizmann's relatively quiet academic years were suddenly changed by events precipitated by the outbreak of war in August, 1914. The entry of the Ottoman Empire into the conflict against Britain opened new possibilities for Zionist diplomacy. A British advance into the Middle East to safeguard oil supplies and communications, possibly paving the way for Jewish settlement in Palestine under British auspices, had long been expected. Now, with British forces in motion in the area, Weizmann saw the postwar possibilities." See Stevens, ibid., p. 183.

<sup>4</sup>Ibid., pp. 183-84.

<sup>5</sup>Arthur Ruppin, at the time of the Balfour Declaration, was head of the World Zionist Organization's department of colonization in Palestine. A native of Germany, he settled in Palestine in 1907 and directed the first Zionist office in Jaffa. Elon writes that he "headed the main office of colonization--as a kind of 'minister' of agriculture and development in the increasingly autonomous Jewish state within a state" (p. 177).

<sup>6</sup>Amos Elon, The Israelis, p. 177. Significantly, Elon, an Israeli, admits that "Weizmann's original aim in securing the Balfour Declaration had been that Palestine should ultimately be as Jewish as England was English" (p. 176). The insert "another Montenegro" is reported by Elon to have been said by Ruppin.

<sup>7</sup>The precise passage is, "This right [of the Jewish people to national rebirth in its own country] was recognized in the Balfour Declaration of the 2nd November, 1917, and reaffirmed in the Mandate of the League of Nations which, in particular, gave international sanction to the historic connection between the Jewish people and Eretz-Israel and to the right of the Jewish people to rebuild its National Home." This quote is taken from the Declaration of the Establishment of the State of Israel, 1948, which is reproduced in Israel, laws, Statutes, etc., Laws of the State of Israel (authorized translation), I (Tel Aviv, 1948), p. 3. The wording in brackets is from the fourth paragraph.

<sup>8</sup>Ibid.

<sup>9</sup>See M. Cherif Bassiouni and Eugene M. Fisher, "The Arab-Israeli Conflict--Real and Apparent Issues: An Insight Into its Future from the Lessons of the Past," ST. John's Law Review, January, 1970; M. Cherif Bassiouni, "The 'Middle East': The Misunderstood Conflict," The University of Kansas Law Review, Spring, 1971; Henry Cattán, Palestine and International Law: The Legal Aspects of the Arab-Israeli Conflict (London: Longman Group Ltd., 1973); M. Shukri, The Concept of Self-Determination in the United Nations (1965).

<sup>10</sup>Sol M. Linowitz, "Analysis of a Tinderbox: The Legal Basis for the State of Israel," American Bar Association Journal, June, 1957, pp. 522-23.

<sup>11</sup>Ibid., p. 525.

<sup>12</sup>Ibid., p. 522. Significantly, Linowitz wrote from a pro-Zionist-Israel sympathy.

<sup>13</sup>Herbert Adams Gibbons, "Are Mandates a Sacred Trust?" The Century Illustrated Monthly Magazine, Vol. 102, May to October, 1921, pp. 303-10; Herbert Adams Gibbons, "The Future of the Ottoman Races," The Century Illustrated Monthly Magazine, September, 1919, pp. 634-42, 636; Professor Berriedale Keith, "Mandates," Journal of Comparative Legislation and International Law, IV (1922), p. 72; Mark Carter Mills, "The Mandatory System," American Journal of International Law, XVII, (1923), pp. 50-62; Herbert Adams Gibbons, "Defects of the System of Mandates," Annals of the American Academy, July, 1921, pp. 84-90; Robert Lansing, Peace Negotiations.

<sup>14</sup>Command 1700, pp. 12-21.



<sup>15</sup>Chaim Weizmann, Trial and Error, p. 208. The text of Weizmann's letter and the resolution of the Executive of the Zionist Organization accepting the Churchill White Paper's interpretation of the Balfour Declaration appear in British White Paper, Cmd. 1700, pp. 28-29.

<sup>16</sup>Hansard's Reports, House of Commons, July 4, 1922, p. 342. Words in parentheses are added for clarification.

<sup>17</sup>From Viscount Samuel's speech in the Palestine Debate in the House of Lords, April 23, 1947, p. 96.

<sup>18</sup>Cmd. 6019, pp. 3-4. Words in parentheses are added by the writer to provide clarifications.

<sup>19</sup>Report of the Committee, Cmd. 5974, March 16, 1939, p. 11.

<sup>20</sup>Foreign Relations of the United States 1947, Vol. V (Washington, D.C.: US Government Printing Office, 1971), p. 1157.

<sup>21</sup>Advisory opinion of July 11, 1950. See Marjorie M. Whiteman, Digest of International Law, Vol. I (1963), p. 623.

<sup>22</sup>Henry Cattan, Palestine and International Law: The Legal Aspects of the Arab-Israeli Conflict (London: Longman Group Ltd., 1973), p. 21. Alan R. Taylor, The Zionist Mind: The Origins and Development of Zionist Thought (Beirut: The Institute For Palestine Studies, 1974), p. 82.

<sup>23</sup>The Autobiography of Nahum Goldman (New York: Holt, Rinehart and Winston, 1969), p. 285. Goldman, a long-time Zionist from Germany, has held several important Zionist positions: President of the World Zionist Organization, President of the World Jewish Congress, Chairman of COJO (World Conference of Jewish Organizations), Chairman of the World Conference on Jewish Education, President of the Conference on Jewish Material Claims Against Germany, and Chairman of the Jewish Agency Executive.

<sup>24</sup>Raymond Phineas Stearns, Pageant of Europe (New York: Harcourt, Brace and World, Inc., 1961), p. 869.

<sup>25</sup>Ibid., p. 870.

<sup>26</sup>Advisory opinion of July 11, 1950. See Marjorie M. Whiteman, Digest of International Law, Vol. I (1963), p. 620.

<sup>27</sup>Ibid., Vol. II, p. 1110.

<sup>28</sup>Ibid., Vol. I, p. 620.

<sup>29</sup>Ibid., Vol. I, p. 623.

<sup>30</sup>Quincy Wright, "Some Recent Cases on the Status of Mandated Areas," The American Journal of International Law, XX, (1926), pp. 768-772. Italy sought the extradition of certain ex-Ottoman subjects, resident in Palestine, under the Anglo-Italian Treaty of 1873. The subjects petitioned for a writ of habeas corpus on the ground, among other reasons, that they were exempt from extradition under the treaty provision exempting "subjects of the United Kingdom," and that even if they could not come under this designation, the treaty, which by the terms of the Palestine Mandate was extended to Palestine, must be construed to extend the exemption to "Palestinian nationals." The Palestine Supreme Court refused the petition.

<sup>31</sup>Ibid., pp. 768-772. Also see Sir Michael McDonnell, ed., The Law Reports for Palestine (London: Waterlow & Sons Limited, 1934), pp. 215-217, 50-52.

<sup>32</sup>The international law of war of the period did not allow Britain to dispose of the militarily occupied territory of Palestine because of Turkish sovereignty. The Preamble of the Hague Convention Number IV on the Laws of War makes explicit that occupied territories remain under the protection of the rules of international law.

<sup>33</sup>Norman Bentwich, The Mandates System (London: Longman, 1930), p. 24; Norman Bentwich, Palestine (London: E. Benn, 1934), p. 101.

<sup>34</sup>Documents on British Foreign Policy 1919-1939, 1st series, Vol. IV, His Majesty's Stationary Office.

<sup>35</sup>Le Systeme des Mandats, Societe des Nations (Geneva, 1945), p. 14; A. Stott, Official Statements of War Aims and Peace Proposals (Washington, 1921), pp. 188, 265, 309; messages of President Woodrow Wilson of January 8, February 11 and April 6, 1918.

<sup>36</sup>Shabtai Rosenne, Israeli spokesman at the United Nations, said with reference to the Balfour Declaration, "Its precise legal status at the time it was made may be open to discussion but that problem is secondary in view of the fact that the Council of the League of Nations incorporated its text into the Preamble to the Mandate for Palestine." Quote is taken from J.W. Halderman, ed., The Middle East Crisis (Oceana, 1969), p. 48.

<sup>37</sup>Cattan, op. cit., p. 21.

<sup>38</sup>The Palestinians, both Muslims and Christians, and all the Arabs rejected the Balfour Declaration. The indigenous Palestinian Arab Jews also rejected and opposed the concept of the establishment of a Jewish national home in Palestine. Ronald Storrs, the first British Military Governor of Jerusalem, wrote, "The religious Jews of Jerusalem and Hebron and the Sephardim (Arab Jews) were strongly opposed to political

Zionism, holding that God would bring Israel back to Zion in His own good time, and that it was impious to anticipate His decree." See Storrs, Orientations (London: Nicholson and Watson, 1945), p. 340. Additionally, Storrs wrote that, "In the numerous British constituencies enjoying a Jewish vote the Declaration was a valuable platform asset, and there was good reciprocal publicity in the almost apocalyptic enthusiasm telegraphed by politicians of standing to the Zionist Organization." See Storrs, The Memoirs of Sir Ronald Storrs (New York: Arno Press, 1972), p. 363.

<sup>39</sup>Cattan, op. cit., p. 21. Arthur Koestler, an Israeli, has described the Balfour Declaration as a document in which "one nation solemnly promised to a second nation the country of a third." See Koestler, Promise and Fulfilment (New York: Macmillan, 1957), p. 4. In 1926, Koestler, a Zionist member of the Jewish underground army in Palestine, abruptly abandoned his studies at the University of Vienna and joined the Palestine Zionist kibbutz settlement of Hepzbibah. Note in the quote the words "promised to a second nation" which obviously infers that Koestler believed in the fallacious "the Jewish people" racial doctrine.

<sup>40</sup>It is axiomatic to understand that the Zionists during the Balfour Declaration discussions, which were private and informal, sought three specific political objectives: 1) That Palestine be "reconstituted as the National Home of the Jewish people" without regard to the rights of the Palestinian Arab people; 2) That all Jews (the comprehensive Zionist-claimed entity of "the Jewish people") be recognized as a single nationality grouping; 3) That a political connection be recognized between "the National Home" and "the Jewish people." Subsequently, the most significant feature of the final declaration was the refusal of the British Cabinet to assent to any of these three central political objectives sought in the Zionist July draft proposal. Even Stein, a Zionist historian of the Balfour Declaration, agrees with this conclusion (see The Balfour Declaration, p. 552). Considering that the Zionist-Israel sovereignty (chapter one, page 12 of this paper) views the declaration as granting "legal authority" for "the Jewish people" nationality claims, and that the declaration has been used by the State of Israel as "legal authority" for the Zionist-Israel sovereignty, it should be immediately seen that since the three Zionist political objectives were refused, these Zionist claims are sham and sophistic. W. T. Mallison, Jr., whose specialty is international law, arrives at the same conclusion in, "Zionist Nationalism Versus Individual Freedom," John Norton Moore, ed., The Arab-Israeli Conflict, I (Princeton: Princeton University Press, 1974), pp. 121-132.

February 8, 1976

Mr. Paul Flacks, Director  
Public Affairs Department  
Zionist Organization of America  
ZOA House, 4 East 38th Street  
New York, N.Y. 10016

Dear Mr. Flacks:

In my letter of February 5th I overlooked additional specific information which I do need to complete a research project.

As you would know the Jewish National Fund has taken additional land holdings in the post-1967 Middle East war, specifically in the additional Arab occupied lands of the Sinai, West Bank, Gaza and Golan Heights. Since I will presume you understand JNF operations both inside and outside Israel (includes JNF activities and acquisitions in the Arab occupied lands since post-June 5, 1967), and since ZOA is a domestic (United States) extension of the PZC/JA, which is controlled by the Israeli Government, I need statistical information on the following: 1) how many acres of Arab land have been "acquired" from June 5, 1967 through February 8, 1976 in the Arab occupied lands mentioned herein; 2) where the specific acreages are located in the post-June 5, 1967 Arab occupied lands; 3) the numbers of Jewish settlers and Jewish settlements established in these lands between the two dates of June 5th and February 8th herein designated; 4) a statistical comparison between the number of Arab people living in these Arab homelands on June 4, 1967 and the number of Arab people living in these same Arab occupied lands as of this date of February 8, 1976; 5) a FULL complete copy of the 1953 "Keren Kayemeth LeIsrael Law" (approved May 20, 1954) and any amendments thereof; 6) the number and names of "American" Jews serving as JNF officials and attachment thereto both in the United States and in Israel (as well as in the Arab occupied lands); 7) what percentage portion of United Jewish Appeal monies are contributed to the full administrative surview of JNF activities (in both Israel and Arab occupied lands) for the year 1975 (the full 12-month calendar year budgetary system).

I am certain that the Israeli Government, and most certainly the JNF, has all this information in their record keeping affairs. The JNF is a very meticulous organization. I will not forget to reiterate these requests should you somehow decide it is more convenient to simply ignore these requests.

*Sam Morril*

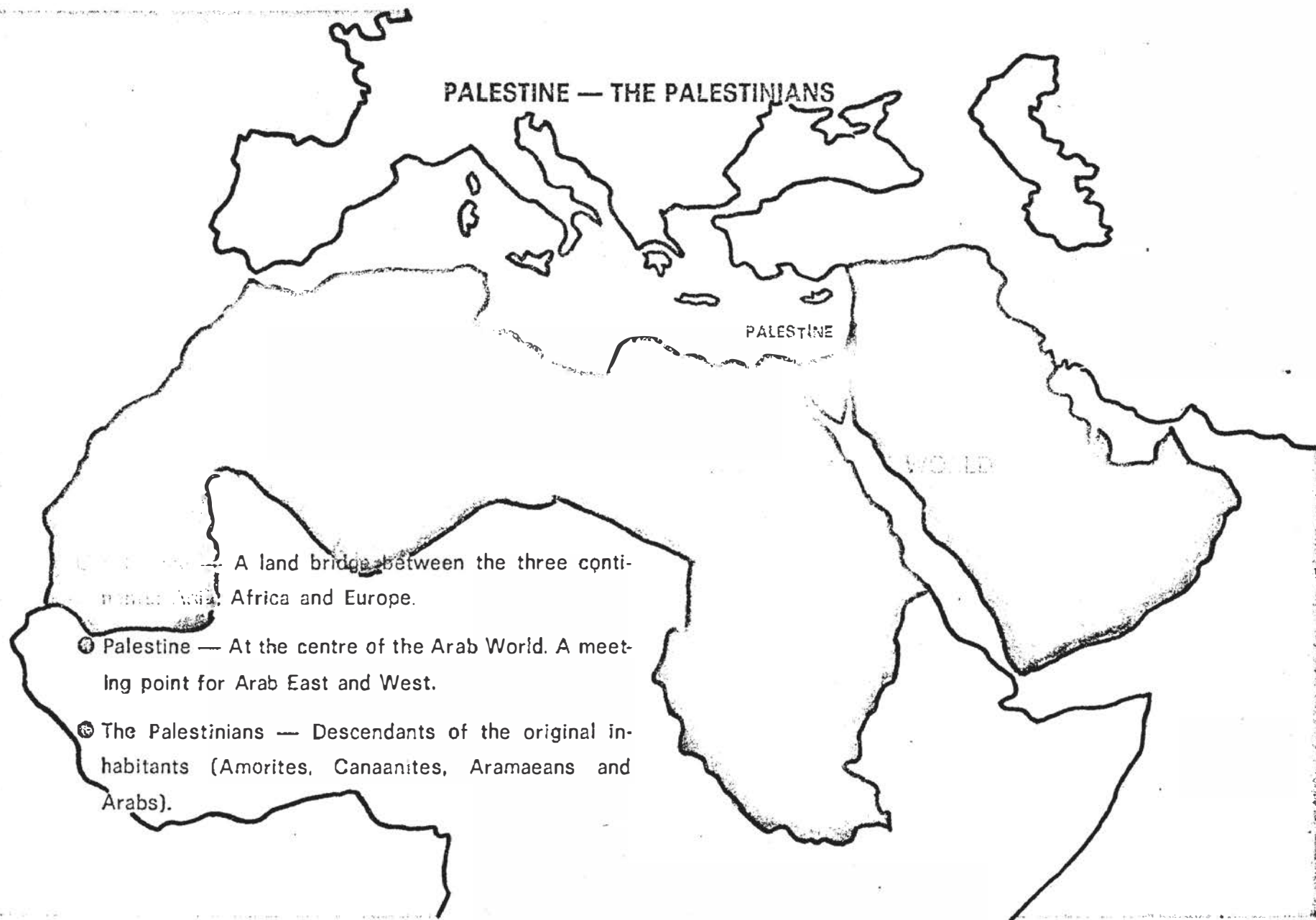


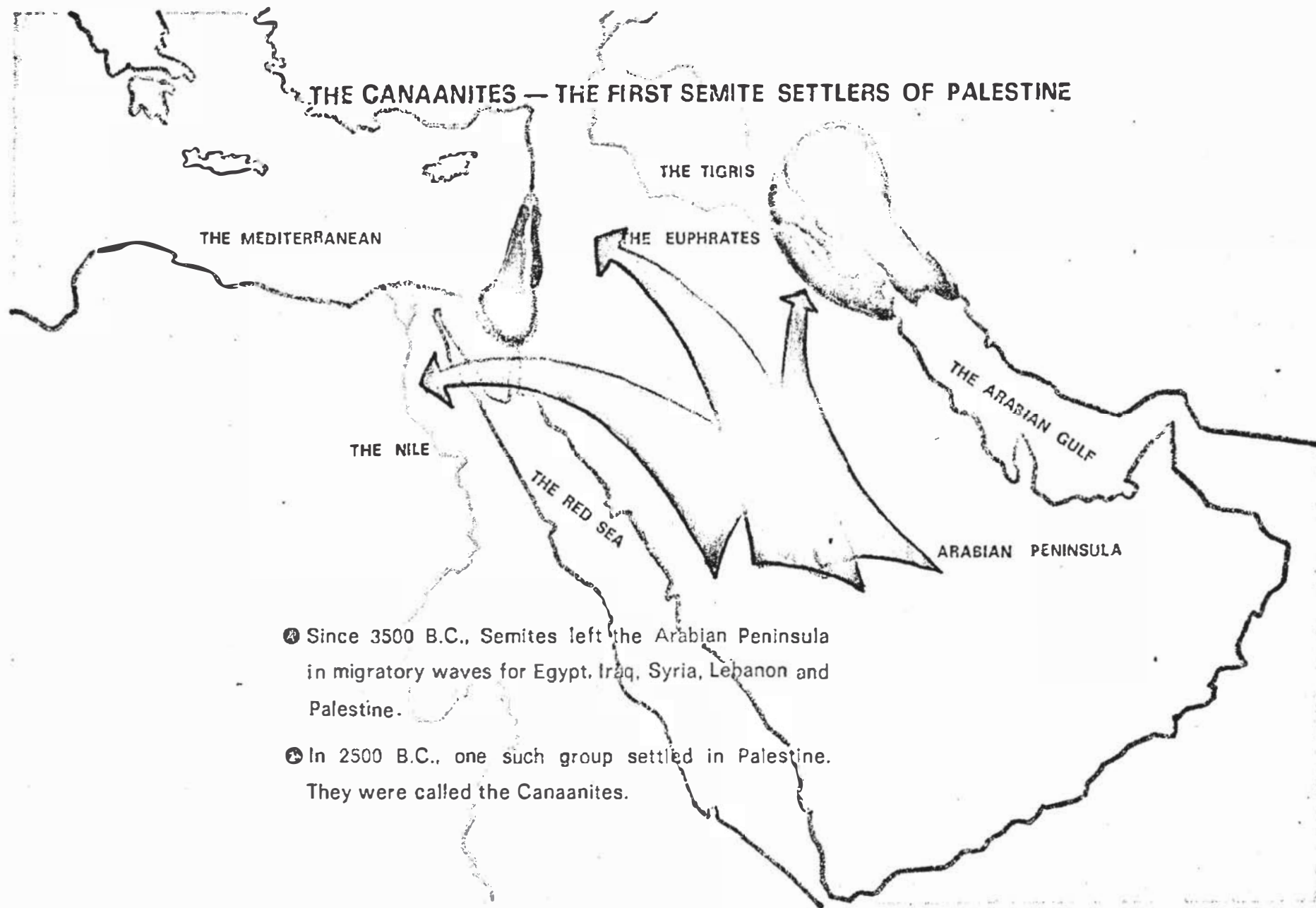


## THE EASTERN ARAB WORLD

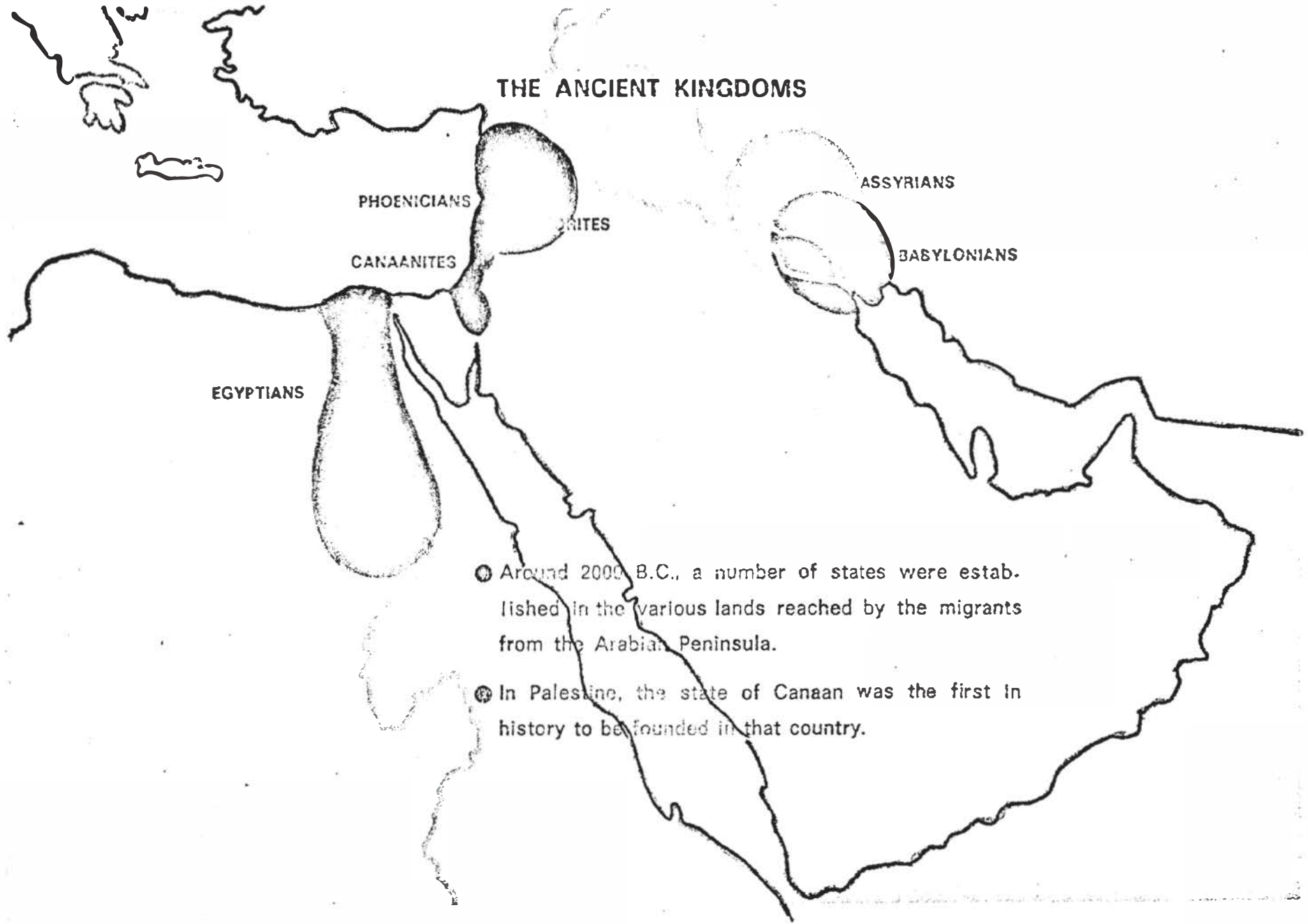
The shaded portion represents the area of Arab independence  
as defined in the Sharif Husain's note of July 14, 1915

## PALESTINE — THE PALESTINIANS



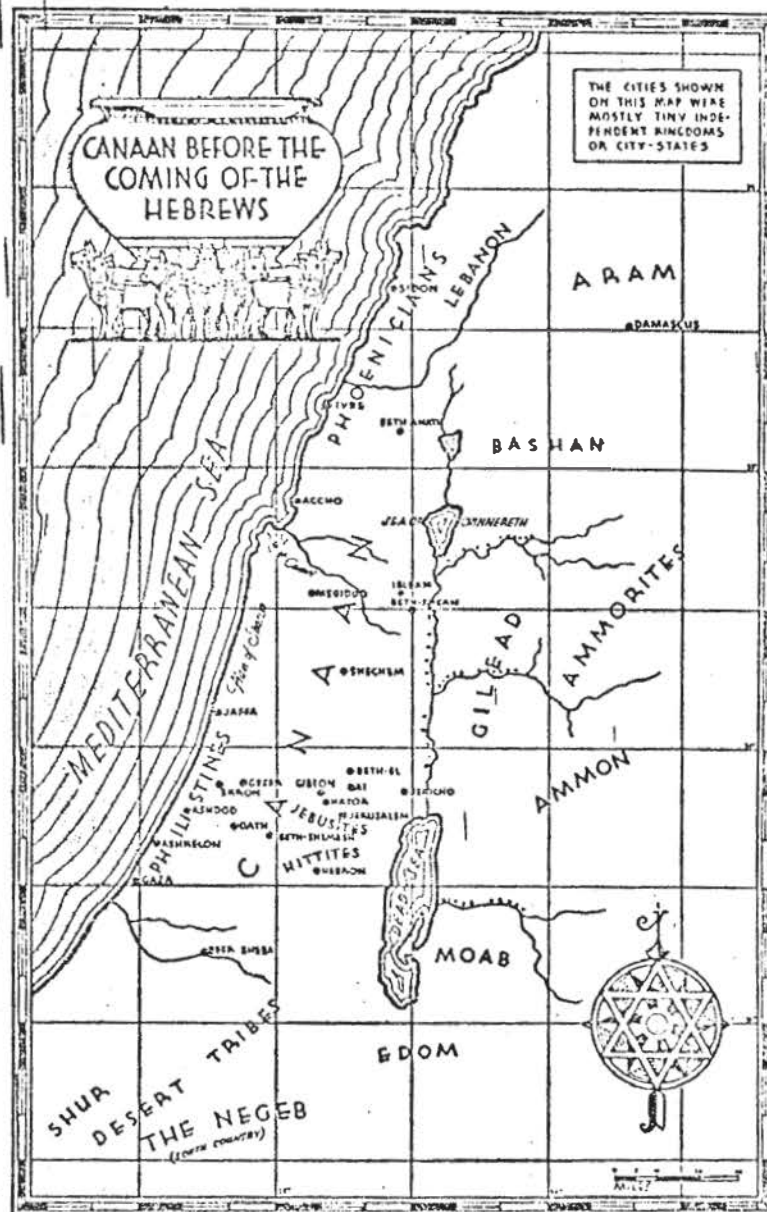


## THE ANCIENT KINGDOMS



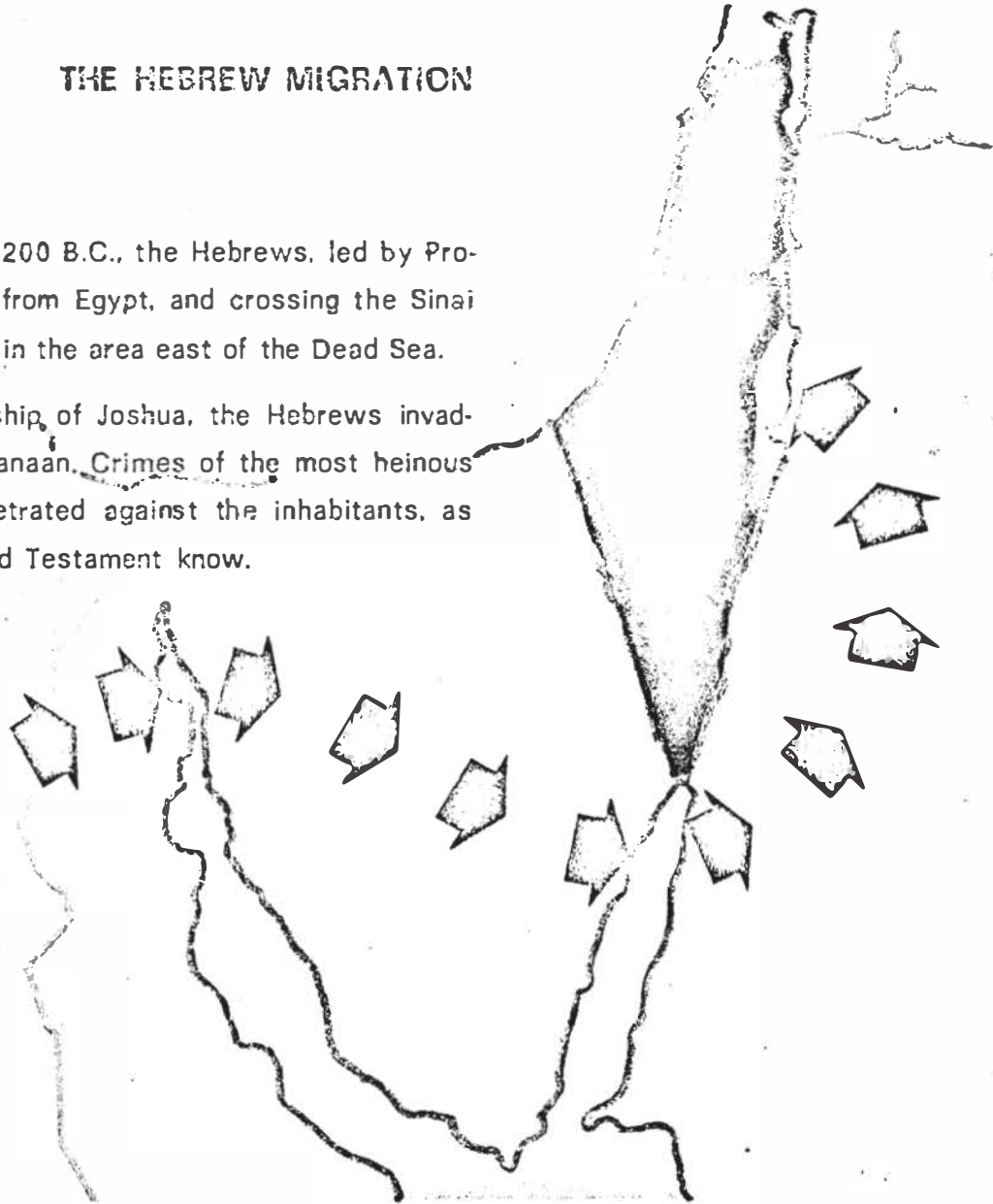


*Canaan at the time of invasion by the Israelites under Joshua. Map shows principal city-states within Canaan and localities inhabited by Semitic peoples east and south of Canaan.*



## THE HEBREW MIGRATION

- ⑦ Around the year 1200 B.C., the Hebrews, led by Prophet Moses, fled from Egypt, and crossing the Sinai Peninsula, settled in the area east of the Dead Sea.
- ⑧ Under the leadership of Joshua, the Hebrews invaded the state of Canaan. Crimes of the most heinous nature were perpetrated against the inhabitants, as readers of the Old Testament know.



## ONE HUNDRED YEARS ONLY

LAKE TIBERIAS~

THE DEAD SEA

- ① The Hebrews were only able to occupy parts of Palestine and of the area east of the Jordan River. Their kingdom was founded in the year 1020 B.C. by King Saul.

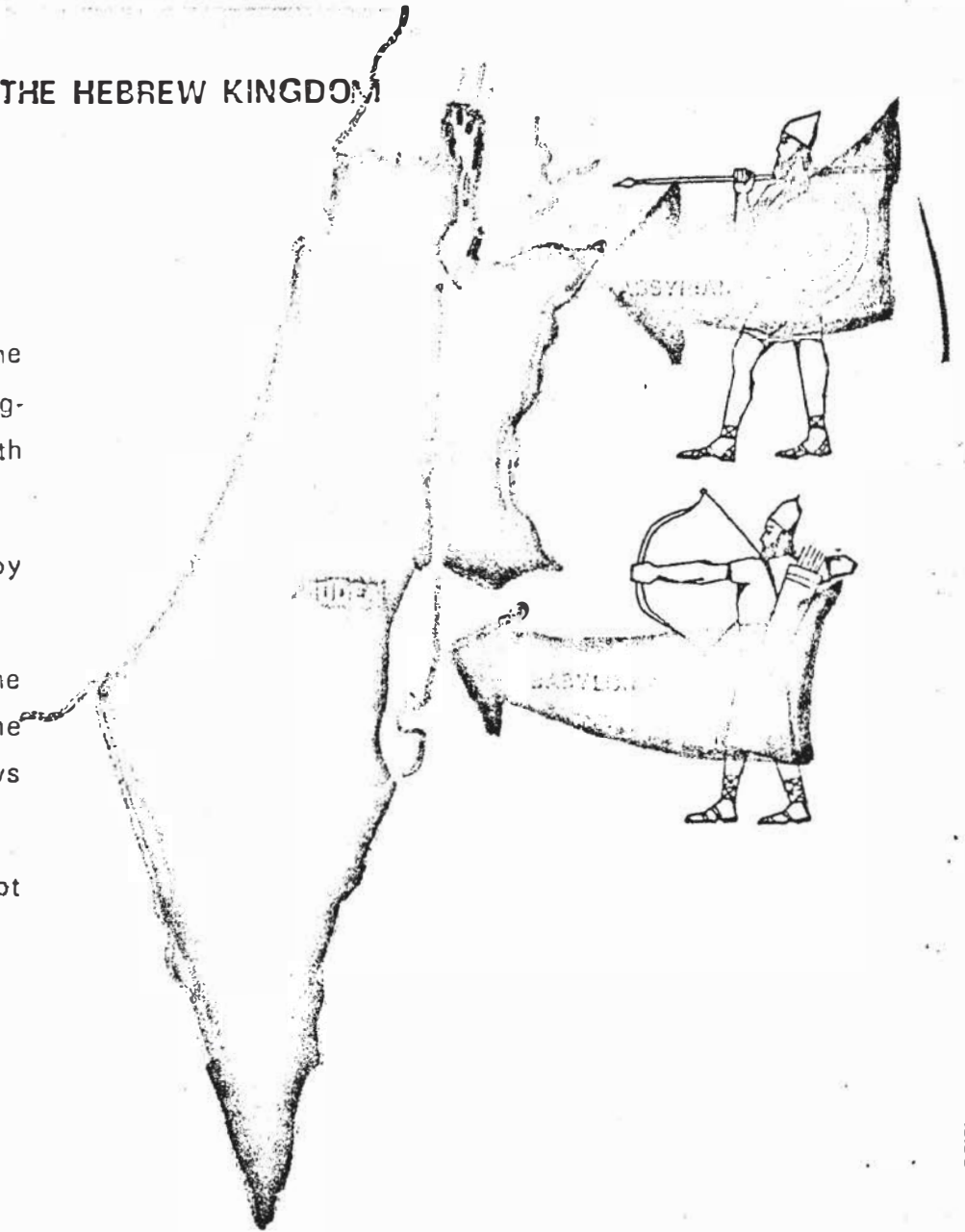
His successors, King David and King Solomon ruled until 923 B.C.

- ② Under the guidance of the original communities of the occupied areas, the invading Jews gained their first experience in agriculture and urbanization.

- ③ Other parts of Palestine remained under the free control of the original inhabitants.

## THE DOWNFALL OF THE HEBREW KINGDOM

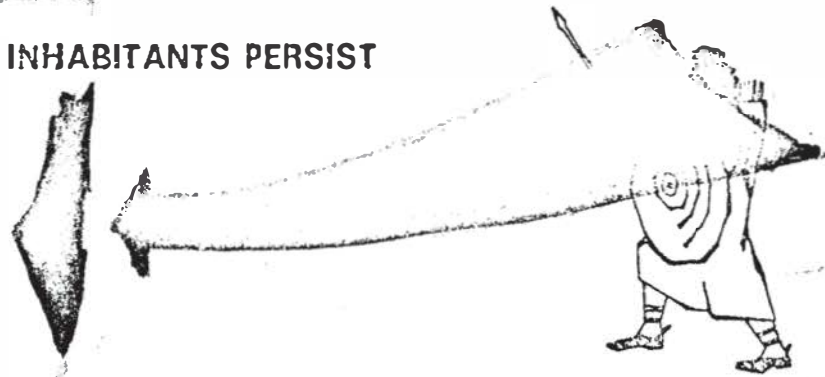
- ➊ In 923 B.C., during the reign of King Solomon, the Hebrew Kingdom suffered a rupturous split. The Kingdom of Israel took the northern part while the south was dominated by the Kingdom of Judea.
- ➋ In 722 B.C., the northern kingdom was swept over by the Assyrians.
- ➌ In 586 B.C., the Babylonians brought to an end the southern kingdom, and the Hebrew reign in Palestine was terminated. A very small number of Hebrews chose to remain in the land as residents.
- ➍ Throughout this period, the original inhabitants kept their continuous residence in Palestine.





## INVASIONS CONTINUE — THE INHABITANTS PERSIST

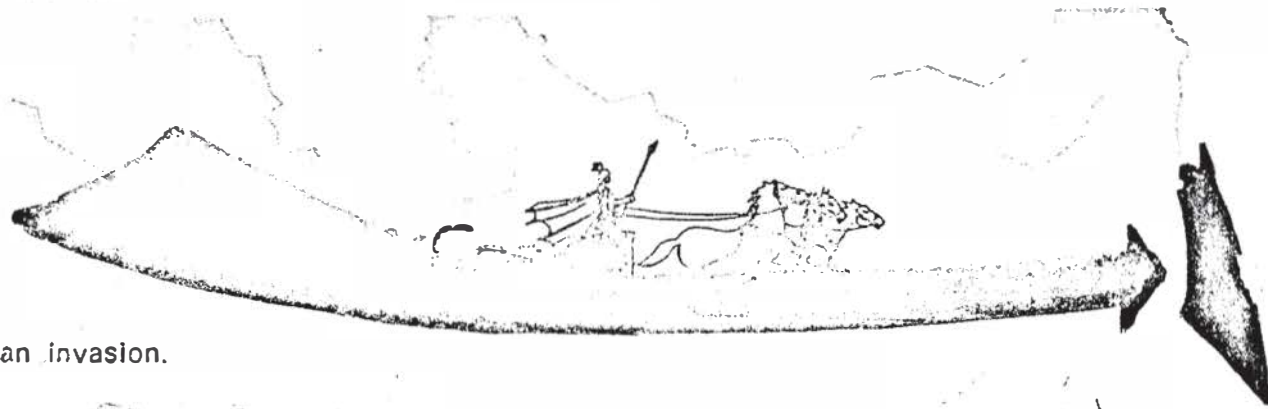
⦿ In 538 B.C. The Persian invasion.



⦿ In 331 B.C. The Greek invasion  
by Alexander The Great (The Macedonian)



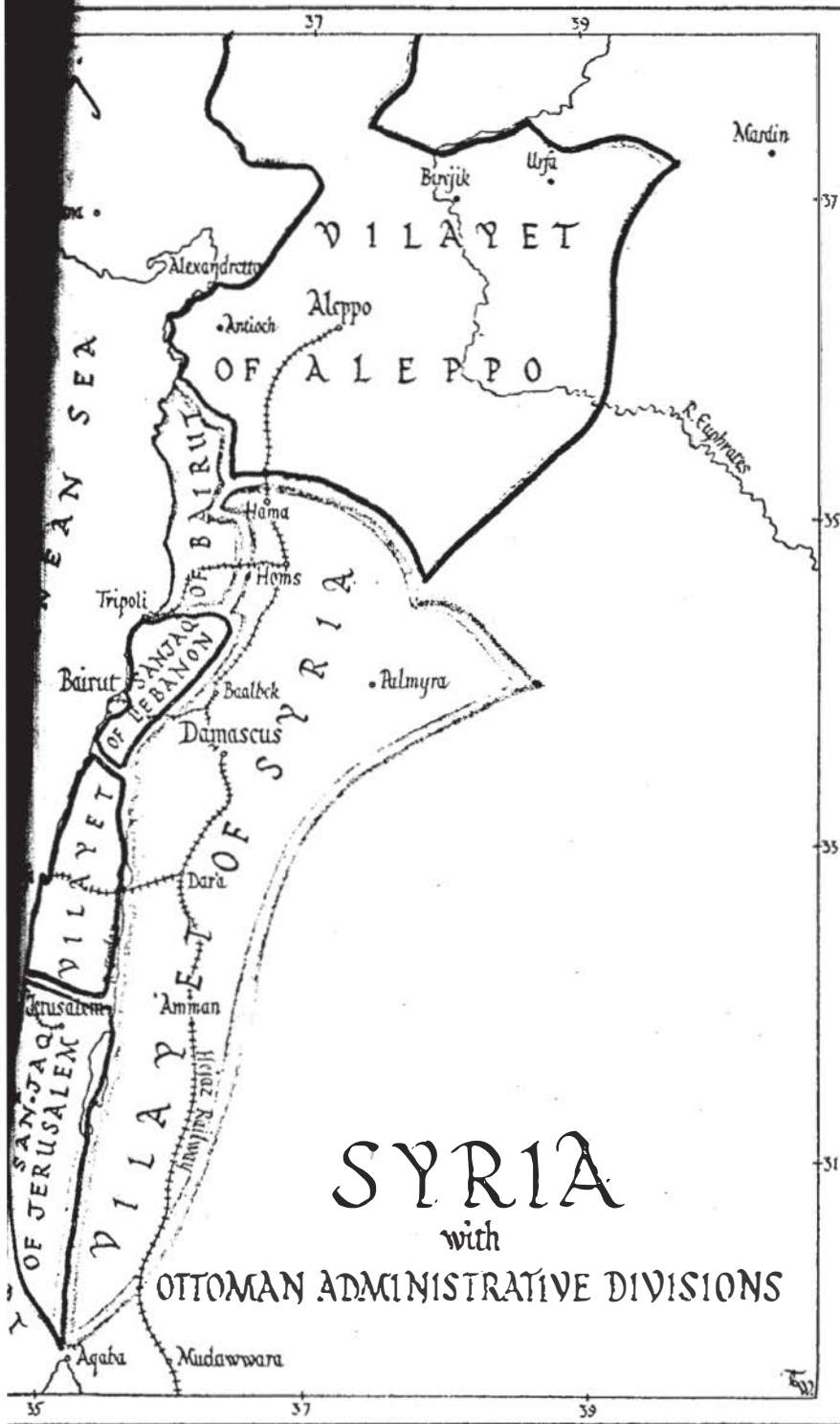
⦿ In 64 B.C. The Roman invasion.

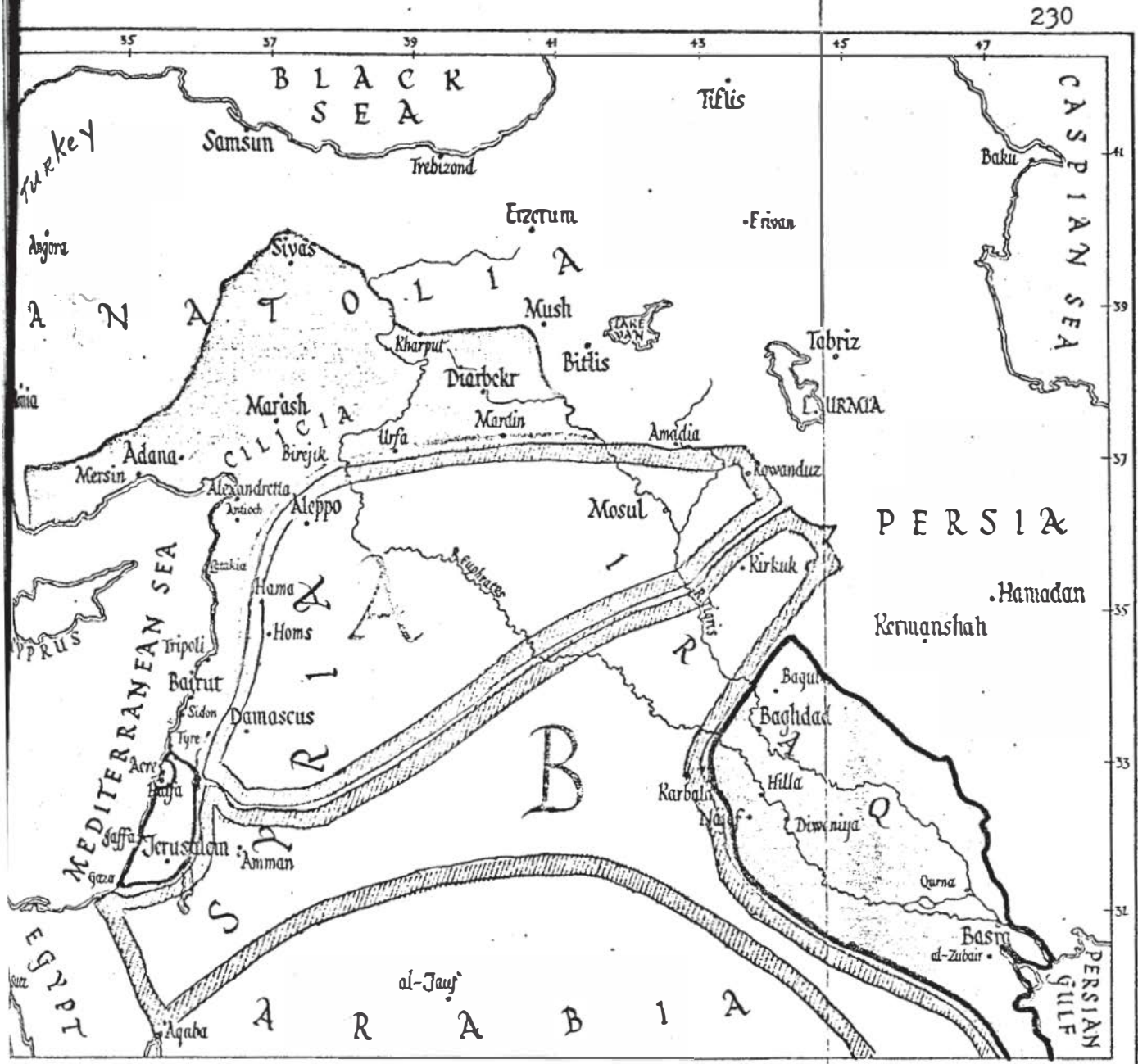




## THE ISLAMIC ERA

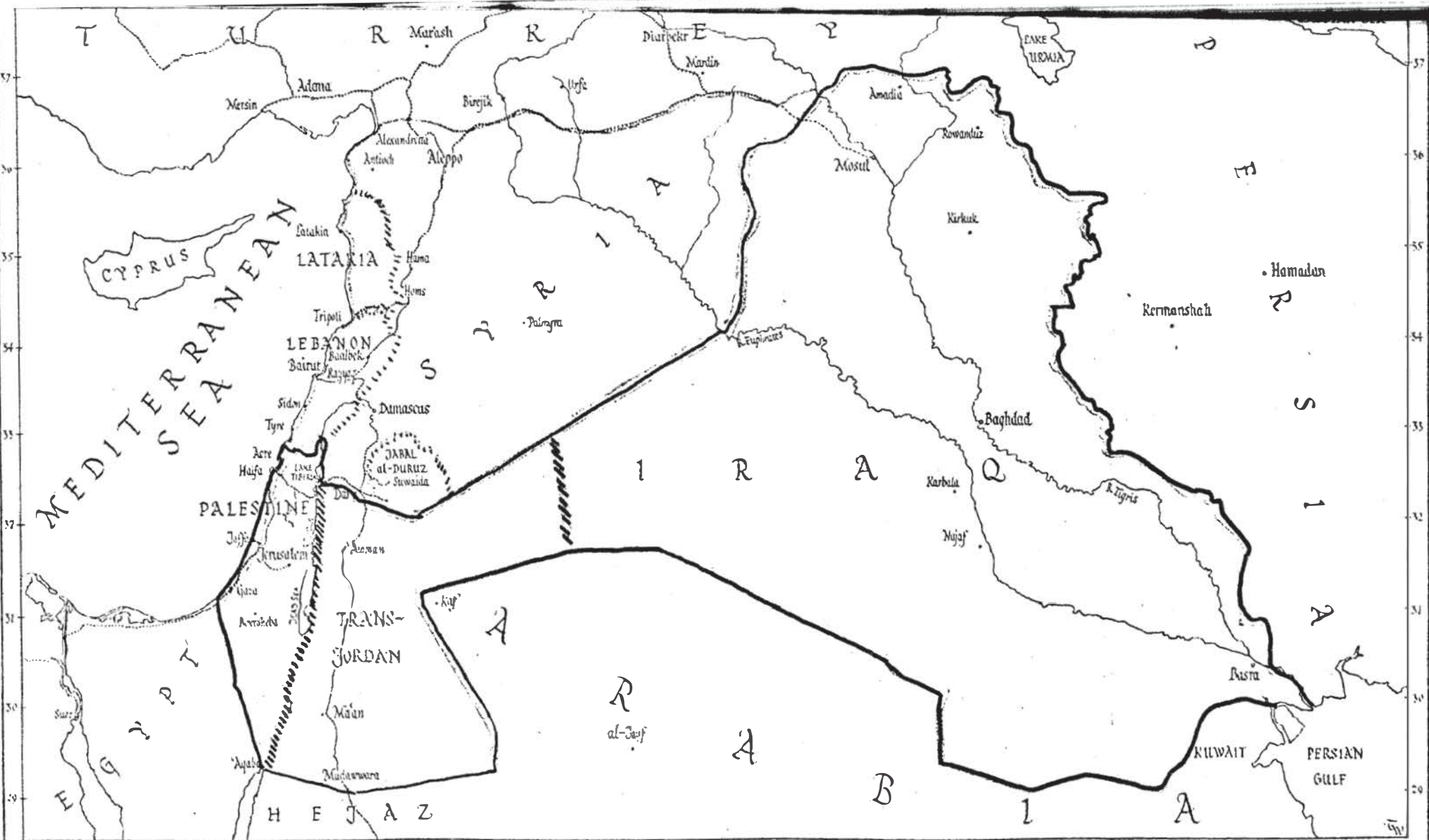
- ④ The year 636 saw the convergence on the area of the great Arab wave from the Arabian Peninsula. From that date on, the Arab identity of Palestine and the surrounding regions has been uncontestedly reaffirmed.





THE PARTITION OF SYRIA AND IRAQ  
AS DEVISED IN THE 1916 ("SYKES-PICOT") AGREEMENT.





THE BRITISH ■ AND FRENCH ■ MANDATES  
IN SYRIA-PALESTINE AND IRAQ



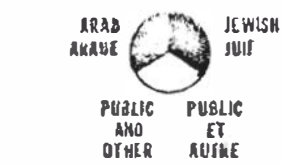
Figure 4. Palestine: Jewish Holdings, 1945.



# PALESTINE

## AND OWNERSHIP BY SUB-DISTRICTS PARTITION DE LA PROPRIETE AGRICOLE PAR SOUS-DISTRICT

Prepared on the instructions of Sub-Committee 2 of the Ad Hoc Committee on the Palestinian Question (Elaboré sur les instructions de la Sous-Commission 2 de la Commission ad hoc chargée de la question palestinienne)



MEDITERRANEAN  
SEA

MER  
MEDITERRANEE

GAZA

BEERSHEBA

SOURCES

VILLAGE STATISTICS, Palestine Government, Jerusalem, 1945 STATISTIQUES VILLAGESES, Gouvernement de la Palestine, 1945

UN DOCUMENT 573 (b)

# PALESTINE

## DISTRIBUTION OF POPULATION BY SUB-DISTRICTS WITH PERCENTAGES OF JEWS AND ARABS (including the smaller minorities) (Estimate, 1946)

REPARTITION DE LA POPULATION  
PAR SOUS-DISTRICT  
AVEC LE POURCENTAGE DES JUIFS ET DES ARABES  
(y compris les minorités de moindre importance)  
(évaluation, 1946)

(Prepared on the instructions of Sub-Committee 2 of the Ad Hoc Committee on the Palestinian Question)  
(Préparé sur les instructions de la Sous-Commission 2 de la Commission ad hoc chargée de la question palestinienne)



MEDITERRANEAN  
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MEDITERRANEE

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SOURCES

Most of the population statistics from SUPPLEMENT TO SURVEY OF PALESTINE, prepared for the United Nations Special Committee on Palestine, Jerusalem, June 1947, pp. 1-13. Data on Jewish Population (estimated at 172,000) compiled by the United Nations, Jerusalem, June 1947, pp. 1-13. Data on Arab Population (estimated at 1,500,000) compiled by the United Nations, Jerusalem, June 1947, pp. 1-13. The above figures are estimates and do not include the population of the Gaza Strip and the West Bank.




Les statistiques de la population sont tirées du SUPPLEMENT TO SURVEY OF PALESTINE, préparé pour la Commission spéciale des Nations Unies pour la Palestine, Jérusalem, juin 1947, pp. 1-13. Les données sur la population juive (estimée à 172 000) ont été compilées par les Nations Unies, Jérusalem, juin 1947, pp. 1-13. Les données sur la population arabe (estimée à 1 500 000) ont été compilées par les Nations Unies, Jérusalem, juin 1947, pp. 1-13. Les chiffres ci-dessus sont des estimations et ne comprennent pas la population de la bande de Gaza et de la rive occidentale.

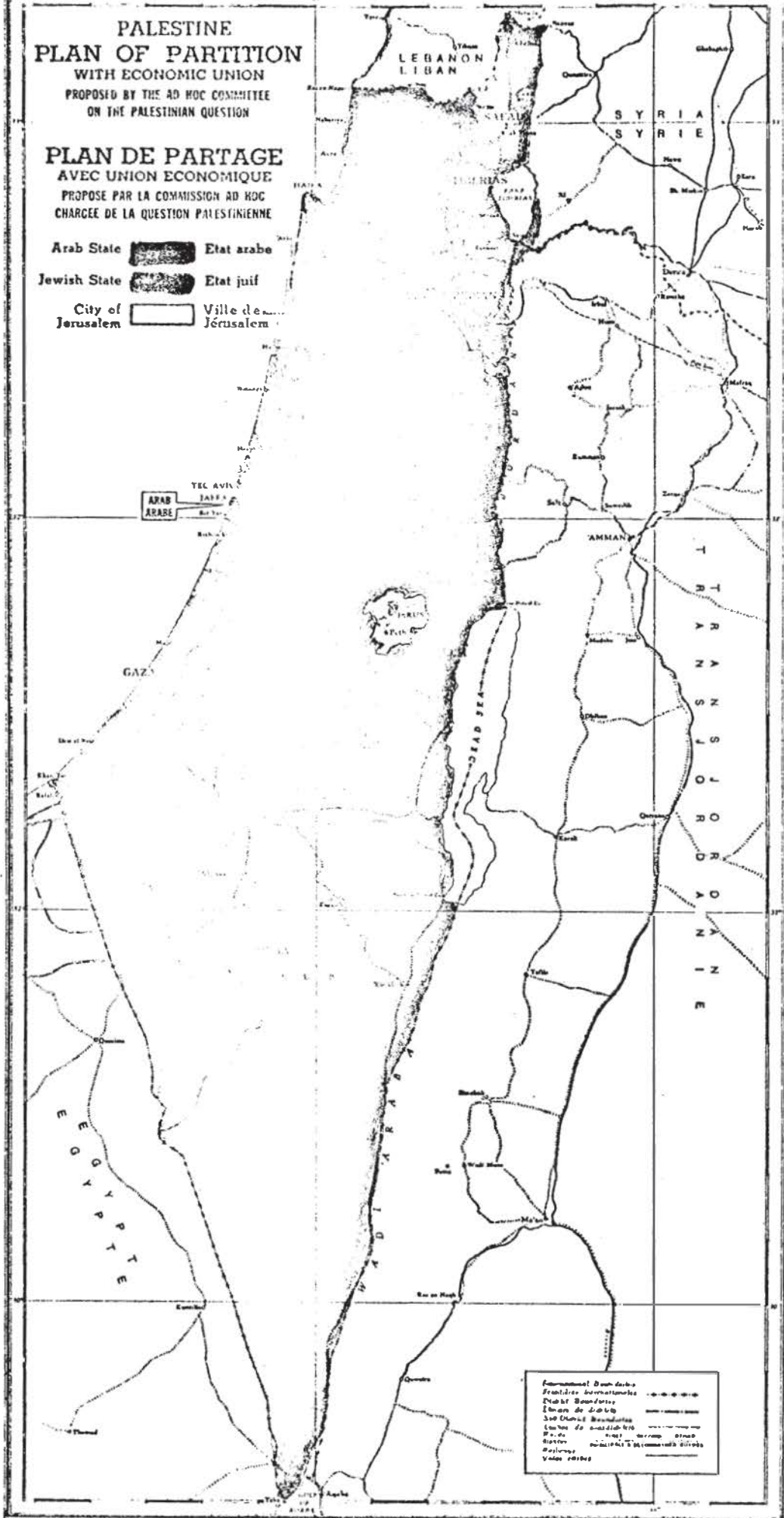
# PALESTINE PLAN OF PARTITION

WITH ECONOMIC UNION  
PROPOSED BY THE AD HOC COMMITTEE  
ON THE PALESTINIAN QUESTION

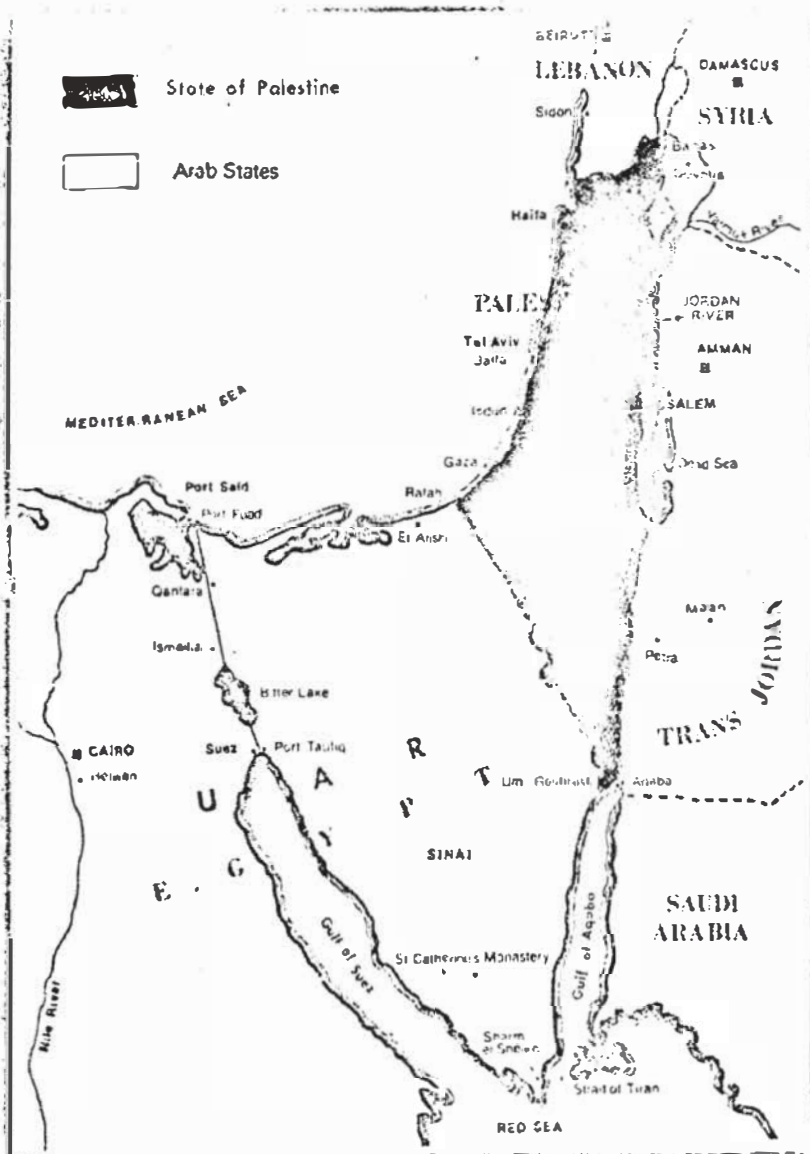
## PLAN DE PARTAGE AVEC UNION ECONOMIQUE

PROPOSE PAR LA COMMISSION AD HOC  
CHARGÉE DE LA QUESTION PALESTINIENNE

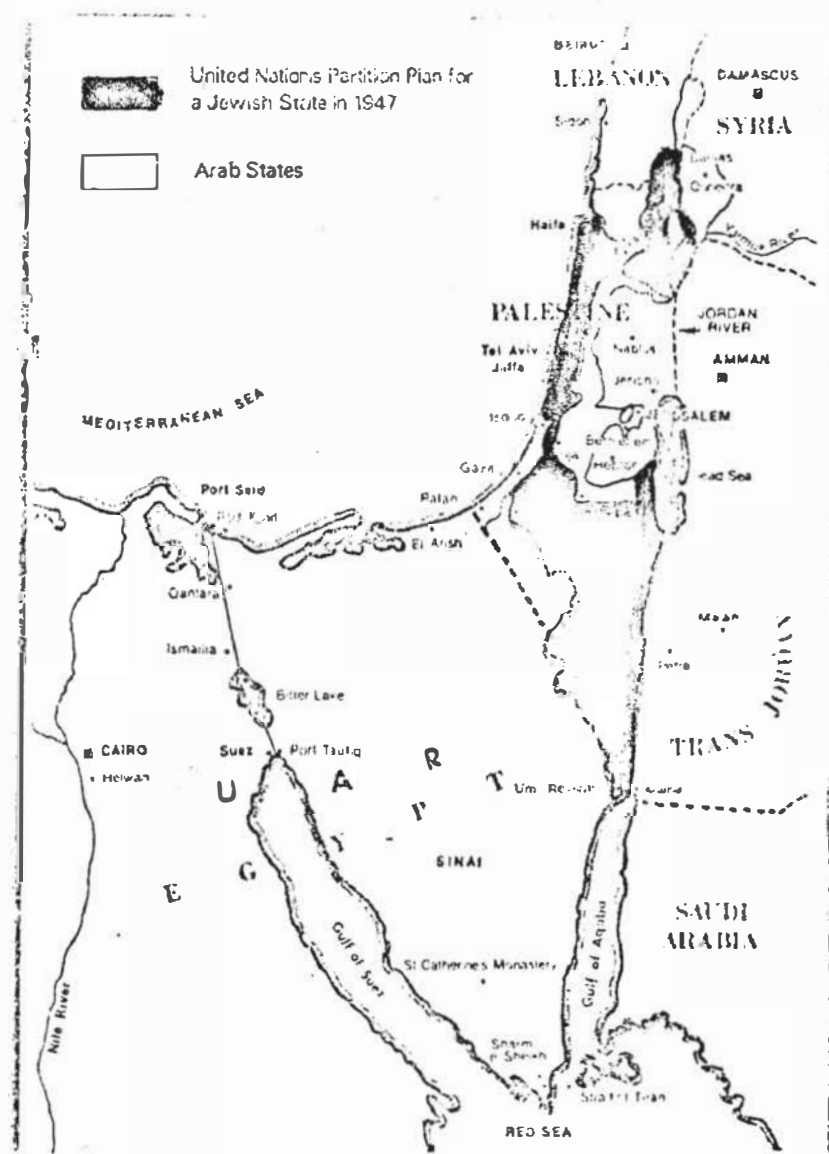
Arab State  Etat arabe  
Jewish State  Etat juif  
City of Jerusalem  Ville de Jérusalem



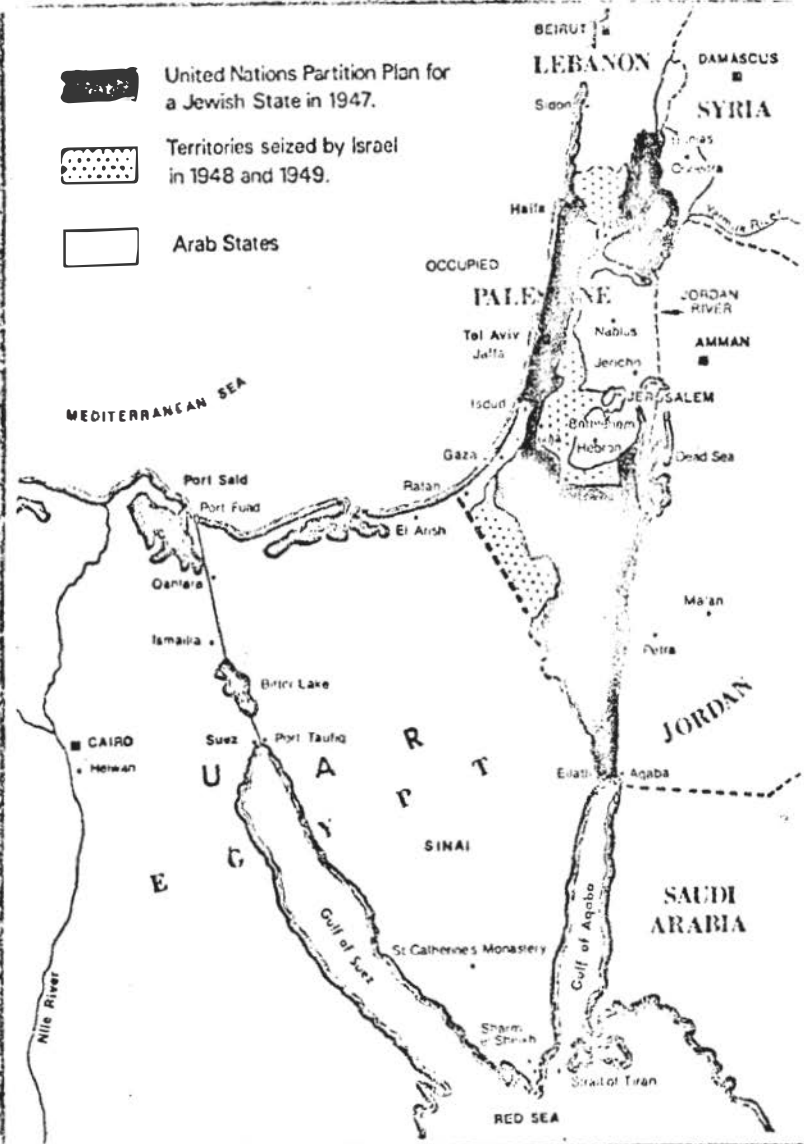




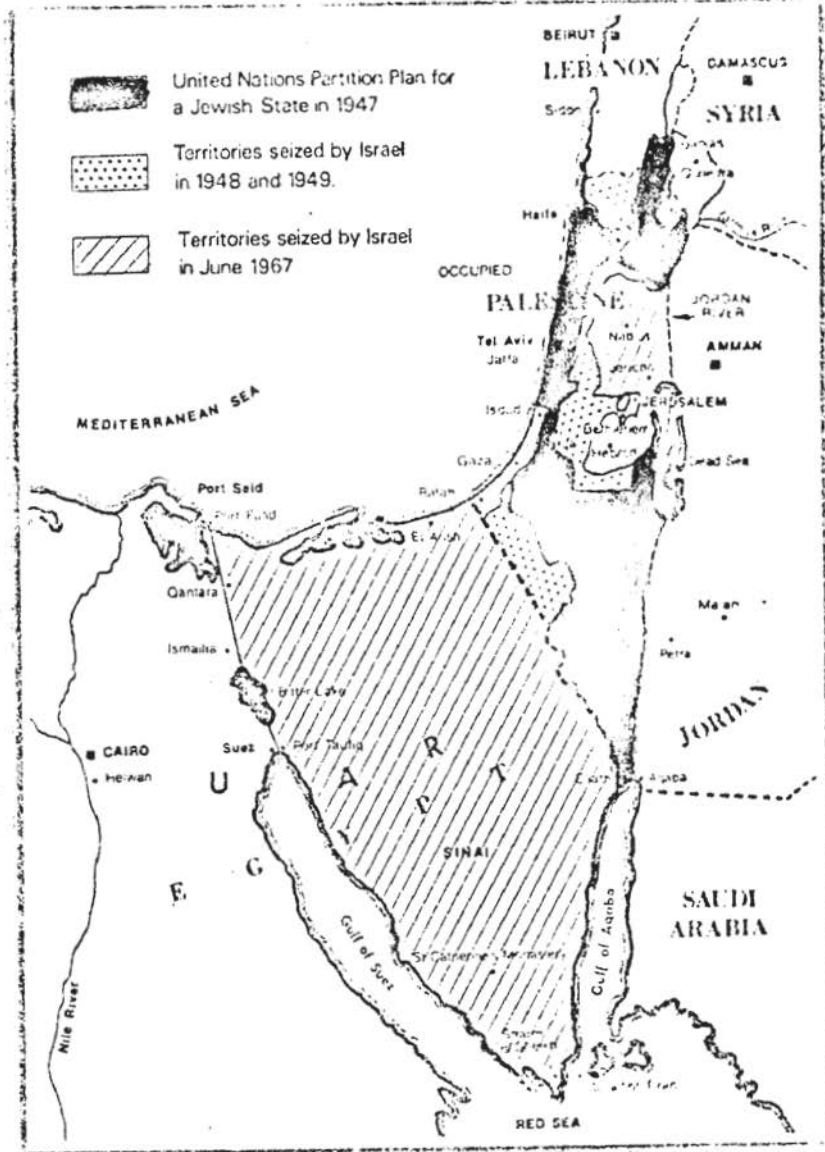
**Palestine**



**1947**



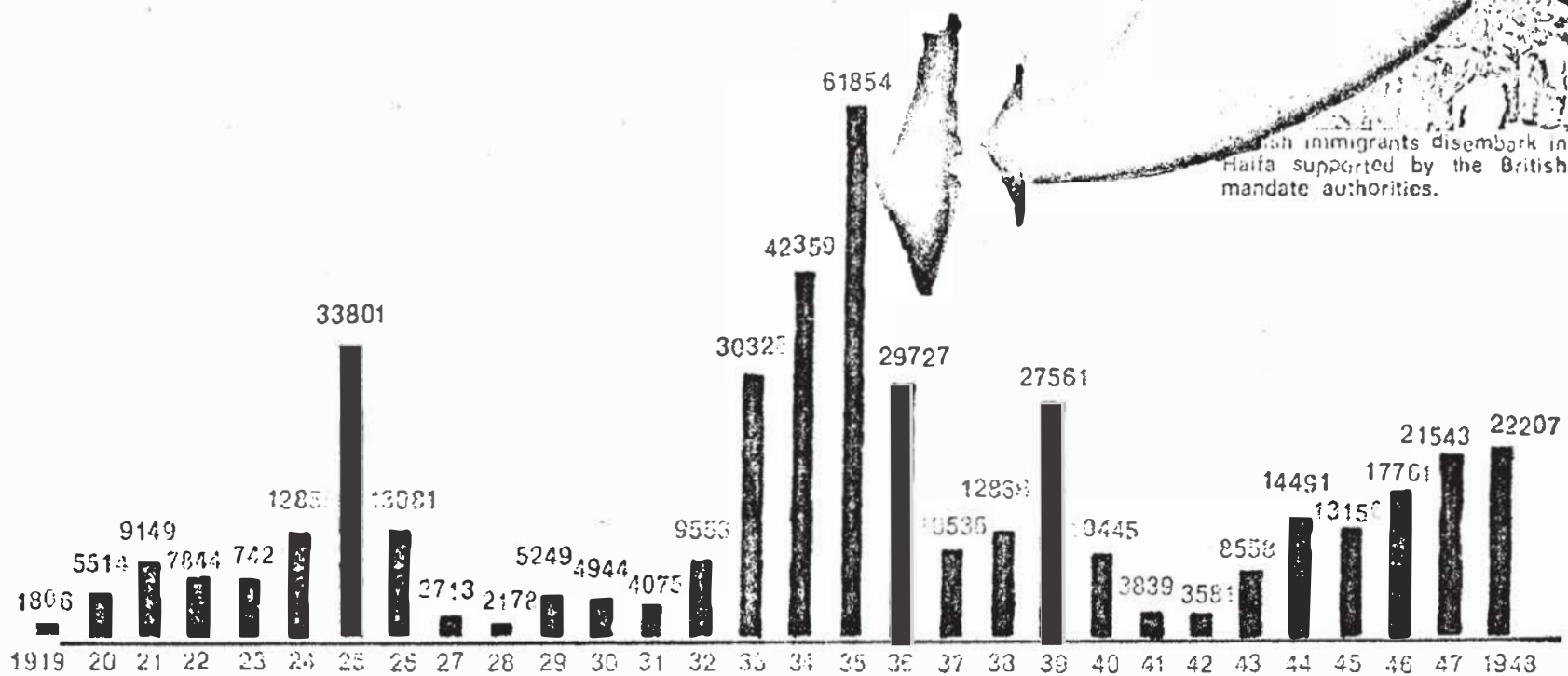
1948

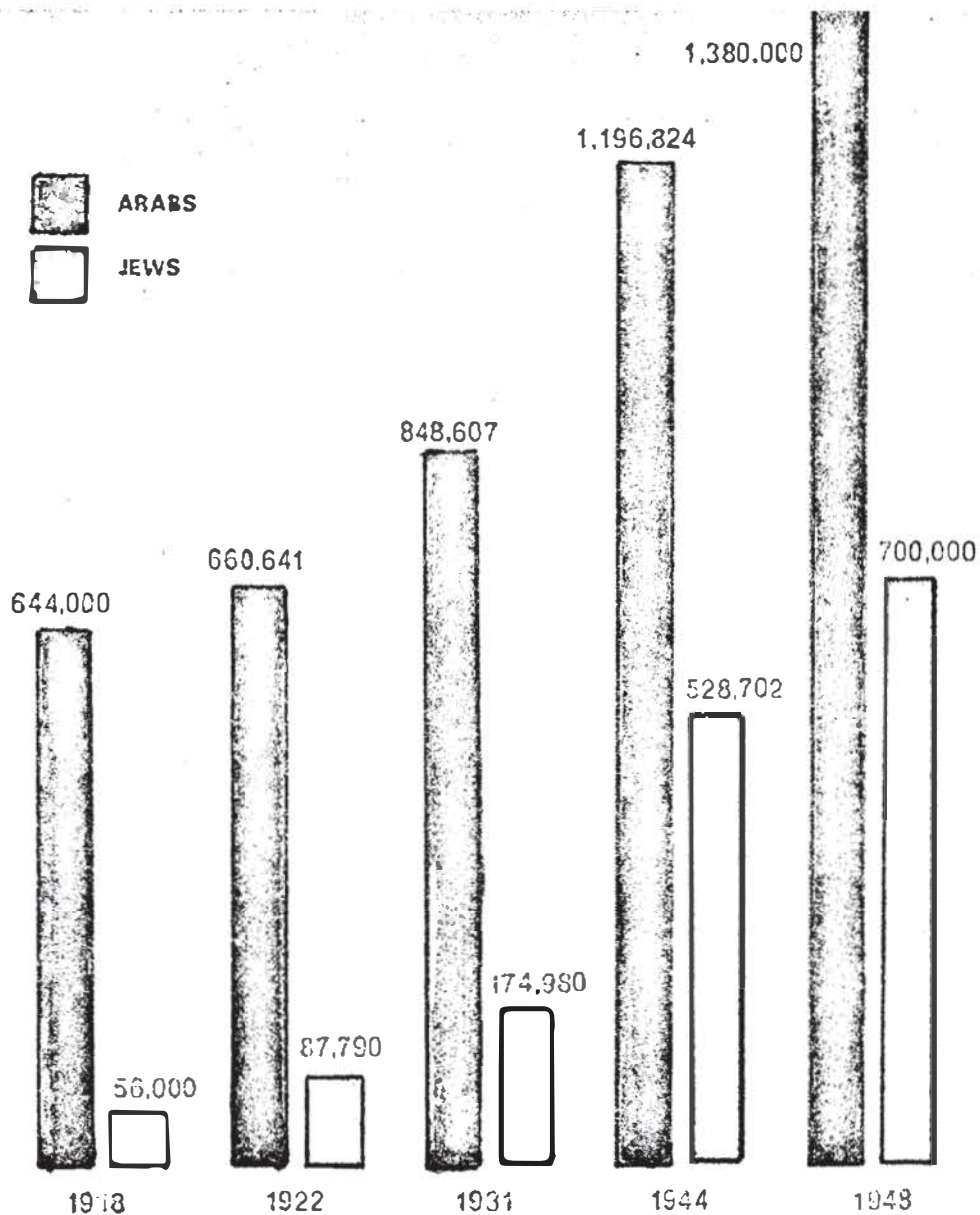


1967

## JEWISH IMMIGRATION DRIVES INTO PALESTINE 1913-1943

Figures of Jewish immigrants as reported in the British Official Records. These figures do not include clandestine immigration.





## THE ARAB POPULATION AND THE JEWISH MINORITY

- In 1918, the Jewish community in Palestine constituted 8% of the total population. They owned 2.5% of the land.
- In 1948, following an extensive Jewish immigration drive, their ratio increased to 33% of the population. Their ownership of land amounted to 5.67% of Palestine.



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