

**JERUSALEM**

**By**

**Dr. Jamal Jamil Ahmed Nasir CVO, TQA**

**LLB (Int), BA (Hons), PhD, D.I.L.**

**Barrister at Law, Advocate and Consultant**

**Member of the Jordanian Bar & other Foreign Law Associations**

**Former Minister of Justice, Acting Foreign Minister and Senator**

## **JERUSALEM OUR GREAT CITY OF PEACE AND HAPPINESS**

Never before in modern history has a city that occupies the holiest place in the World has suffered more than this Holy City of Jerusalem.

Israel claims to own all the City of Jerusalem. This is absolutely ridiculous and untrue. I have written a detailed analysis of the ownership of properties in Jerusalem as I shall show briefly in this lecture and which may not be known to many. Israel occupies only 4% and the rest is Arab properties occupied and expropriated by Israel.

Allow me first to give a brief outline of the basic issues in the way of a short introduction and then proceed to analysis exclusively various aspects of the great City of Peace and happiness.

Jerusalem is the first "Qible" (direction in prayer) and the third of the sacred cities for all Muslims, second only in holiness to Mecca and Medina. The significant event in the evolution of the Islamic holiness of Jerusalem was the ascension of the Prophet, Muhammad, into heaven from this Holy City. This is enshrined in the famous Qur'anic verse "Glory to (God), who did take His Servant for a journey by night from the Sacred Mosque to the Farthest Mosque, whose precincts We did bless, - in order that We might show him some of Our Signs: for He is the One

Who heareth and seeth (all things)." It should be emphasized that it has been, and still is, the object of every Muslim to make a subsidiary pilgrimage to Jerusalem before or after the main pilgrimage to Mecca. Jerusalem is called in Arabic, "Al-Quds", "Beit al-Maqdis" or "Al-Beit al-Muqaddas" – all of which derive from the Arabic word "Quds", which means "holy". Al-Haram, where stand Al-Aqsa and the Dome of the Rock (which was built in the year 72 of Hijra (A.D, 691), is called "Al-Haram al-Sharif" – "The Noble Sanctuary". In many different parts of Jerusalem, both inside and outside the walled city, are found Muslim Mosques such as those of Sheikh Jarrah, Sheikh Okashah, Sheikh Lulu, Sheikh Saad Wa Said, Nabi Daoud and the Omari Mosque. All these are administered by the Muslim Supreme Council, and each is used for prayers by Muslims in its vicinity.

For Christians the City of Jerusalem will always be a special place of pilgrimage because of its unique role in the life of Jesus. The Holy Sepulchre and other Holy Shrines, as well as many Churches, Convents and Monasteries, are located both inside and outside the walled city.

The Palestine Problem was created during the First World War when the British Government, supported by America, made representations to all its Allies in the sense that a declaration of sympathy for Zionist aims by

the British Government would, by securing the whole-hearted support of American Jewry for the Allied cause, be of great help to the common war effort. Accordingly, on November 2, 1917, the British Foreign Minister, Arthur James Balfour, addressed a letter to Lord Rothschild in which he declared that the British Government viewed with favour the establishment in Palestine of a National Home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of "existing non-Jewish communities."

At that time Palestine was an Arab country. Of its population of about 650,000 more than 600,000, or about 91 per cent, were Arabs and owned 98 per cent of the land. Great Britain and her Allies had no right to give Palestine away over the heads of its inhabitants, especially as-at the time of the Balfour Declaration-it was not in their hands.

In the words of the prominent British author Joseph M. Jeffries (whose book Palestine: The Reality remains the standard work on Palestine.

Mr. Jeffries described the Balfour Declaration as follows:- "unlawful in issue, arbitrary in purpose, and deceitful in wording, the Balfour

Declaration is the most discreditable document to which a British government has set its hand within memory".

The United Kingdom Government as from July 1, 1920 replaced the military with a civil administration headed by High Commissioner, Herbert Samuel – one of the Jewish framers of the Balfour Declaration. The first officials to arrive in the country included a number of British Zionist who occupied key post, such as Norman Bentuich, Attorney General and Chief Legislative of Palestine, Albert Hyanison, Director of Immigration and Max Nurock, Principal Assistant Secretary to the Palestine Government.

At that time the United Kingdom submitted a report-U.N. document A/AC. 14/32 of November 11, 1947. The report refers to the Jerusalem district, then Hebron, then Jerusalem, and the Arab and Jewish ownership in the district of Jerusalem. Here are some of the figures as given in that report:-

Arab ownership: 1,326,571 dunums of land (1 dunum equals 1,000 Square metres).

Jewish ownership: 33,401 dunums.

For the whole District of Jerusalem the figures were as follows:-

Arab ownership: 3,993,000 dunums;

Jewish ownership: 39,679 dunums;

According to this United Nations document, therefore, Arab ownership was exactly 82 per cent in both the City of Jerusalem and the District of Jerusalem.

On November 29, 1947 the General Assembly adopted the Partition Resolution on Palestine.

The Partition Resolution was no doubt brought about mainly as a result of the American pressure used to secure the adoption of the said Resolution. In "American Zionism and Foreign Policy (1942-1947)", on page 138, Mr. Truman is quoted as saying: "I am sorry, gentlemen, but I have to answer to hundreds of thousands who are anxious for the success of Zionism. I do not have hundreds of thousands of Arabs amongst my constituents."

The Partition Plan envisaged the division of Palestine into three parts: and Arab State, a Jewish State, and a "corpus separatum" for the city of

Jerusalem, which would come under a special international regime to be administered by the United Nations.

The boundaries of the International Area of Jerusalem included the City of Jerusalem, Bethlehem, and several surrounding Arab villages: these were as follows:-

Lifta, Shu'fat, Kalonia, Deir Yassin, Ain Karem, Issawis,  
Silwan, El-Tour, El-Eizariya, Abu Deis, Sur Baher, Shara-fat,  
Beit Safafa, Beit Jala, Beit Suhar, Umm-Taba.

The percentage of Arab-owned properties in this Area at that time amounted to 84.70, Jewish ownership was only 7.01 per cent, others 4.85 per cent, and State Domain 3.44 per cent. As to population, the Arab inhabitants were to constitute 75 per cent.

**I must now deal exclusively with Jerusalem.**

Under the Turks, Jerusalem and its surrounding area enjoyed an autonomous status and, instead of being dependent upon the governor of the Province, was linked to the capital of the Turkish Empire. On the British Occupation, Jerusalem was an Arab City with a small Jewish minority; and there were a number of institutions set up by various religious bodies of other Faiths, such as Convents, Monasteries,

Missionary Schools and Hospitals, in addition to small foreign communities such as those living in the Greek, German and Russian Quarters. The interests of the religious institutions were settled on the basis of the status quo.

The Arabs owned over 90 per cent of all the land and houses in both the City of Jerusalem and the District of Jerusalem : Jewish land-ownership was only four per cent, and the remaining six per cent was owned by the various religious and foreign communities. This small Jewish ownership of property comprised isolated Quarters which were originally founded by wealthy Jewish donators such as Montefiori, Rand and Rothschild. Other such donations came from Jewish institutions outside the country. The main purpose of establishing these small Jewish Quarters was to lodge in them members of the Jewish community who devoted their time exclusively to the practice and teaching of the Orthodox Jewish Faith.

The Jewish minority in Jerusalem at that time was composed of two communities. The first, the Orthodox Jews (known as Ashkenazim), came originally from Eastern Europe, and a large proportion devoted their time mainly to religious performances: they were financed by institutions outside the country, principally in their areas of origin. They lived in the Quarters which are known as Measharim, Rand Houses,

Hungarian Houses, Maskeret and Mishgenot; and the language of this group is "Yiddish", which very much resembles German. The second community was the Sephardim, who came originally from Spain; and their mother tongue was Spanish. This community was not financed from outside the country, but earned their living in Palestine and either lived in Quarters founded by wealthy Jewish donators, such as Montefiori, or found their own living-quarters; and many of them rented Arab houses. In the Old City of Jerusalem, in a small area within the City walls – the so-called Jewish Quarter – some families from both the Ashkenazim and Sephardim communities used to live. Most of the houses in this small area were the property of Arabs, belonging either to a "Waqf" or to individuals.

It has been recognized that traditionally the Mayor of Jerusalem should be a Muslim Arab; and this arrangement continued until the termination of the Mandate, with an Arab majority of votes in the Municipal Council. It should be remembered that the boundaries of the Town Planning area of Jerusalem included several of the surrounding Arab villages, with most of their lands. In other words, most of these village lands were within the municipal area and liable to payment of the municipal rates and taxes, and carrying the right of a vote at the municipal elections. Those villages were: Lifta, Deir Yassin, Shu'fat, Silwan, Abu-Deis, Sur Baher,

Beit Safafa, Ain Karem, Azariah, Essawiah, al-Tour and Kalonia. These Arab lands which became part of the Jerusalem urban area constituted over 85 per cent of the total lands of the City of Jerusalem. This important fact should be well noted, because it has been very much neglected by various writers who have dealt with this subject.

In Jerusalem, Mosques and other Muslim religious institutions own property known as "Waqf" (plural "Ewqaf"), the Arabic term which means "to keep, to tie, to fix a thing, so that it shall not move". There is rich immovable property dedicated to the Mosque of Omar, to the Tomb of Nabi Daoud, and to other large Mosques. This property consists of lands which were dedicated by the Sultans or other Rulers, or by wealthy individuals, or of lands dedicated by Will for the purpose of establishing, with the income derived from them, holy place or educational and charitable institutions.

The development of Jerusalem during the Mandate necessitated the extension of the urban area. Most of the new and modern Quarters were Arab, such as Katamon, Bakaa, Deir Abu Tour, Talpiah, Musrara, Wadi al-Jous, Sheikh baker, Sheikh Jarrah, Bethlehem Road, The Street of the Prophets, Karm al-Ruhban, Mamillah, and Julian's Way. There were a few other areas which might be regarded as Jewish Quarters, but a large

proportion of the modern buildings were in fact the property of the Arabs. For example, Ben Yahuda Road, Mikor Baroukh, Bezalel, Romema and Sanhadria. Only four Jewish Quarters were constructed in Jerusalem during the Mandate: these were Rahavia, Karem Abraham, Talpioth and Beit Hakarem, but they were surrounded by areas owned and inhabited exclusively by Arabs. For example, Ben Yahuda Raod, Mikor Baroukh, Bezalel, Romema and Sanhadria. The modern commercial areas of the City – such as Central Jaffa Road, Princess Mary Road and King George Road – were mostly Arab-owned. Hence, despite the policy of putting into effect the Balfour Declaration, and the unbending determination of the Zionists to strengthen their hold on Jerusalem, the City remained an Arab one with its purely Arab character and with an Arab majority in population and ownership of land.

The waves of Jewish immigration has a serious and damaging effect on Jerusalem, which led to the Arab General Strike of 1936 – a complete interruption of all business for six months. The Zionist policy from the very beginning was to bring in new young Zionist immigrants, and to influence the local Jews in Palestine by injecting them with the Zionist spirit. The Jewish Agency also took over all Jewish schools and supervised all matters of education, thereby bringing up a new Jewish generation bent on Zionism. It supported underground organizations and

sponsored a systematic policy of acquiring arms and ammunition – by theft and corruption – from British stocks in the Middle East and smuggling from different countries in Europe. For example, according to a document entitled "A Survey of Palestine, 1945-1946" (p. 33), a large quantity of arms and ammunition was smuggled in, in a consignment of cement from Belgium, and was discovered in Jaffa port; and this was followed by many similar cases.

The Palestine Government had in 1946 appointed a Committee under the Chairmanship of the then Chief Justice, Sir William FitzGerals, to make recommendations for the division of the Holy City into Arab and Jewish municipal areas. The Committee proposed a demarcation line between the two zones; the resultant Arab zone was twice as large as the Jewish one.

The Jewish, however, did not show any respect for the recommendations of this Committee – nor, indeed, for the boundaries fixed by the Partition Resolution – either before or after May 15, 1948. They occupied a substantial portion of the City of Jerusalem, and its Arab population was displaced.

In June, 1967, Israel occupied the remaining part of Palestine, as well as parts of the neighbouring Arab countries of Syria and Lebanon.

The old City of Jerusalem – which has always been the City of Peace, and not prepared for any military conflict – was occupied by Israeli Forces and annexed to Israel. The Israeli Government officially declared that "the process of integration is irreversible and not negotiable". Indeed, Israeli official policy – as stated by its Foreign Minister in the Knesset of June 1, 1971 – is that "no power on earth could change the 'new' status of Jerusalem as the capital of Israel in the municipal boundaries which it enjoys today." This policy lies behind the obstinate and utter disregard of all the United Nations Resolutions and principles that "there shall be no territorial gains by military conquest." The big powers remained idle unable to do anything while active in other parts but not as far as Israel is concerned.

The implementation of this Israeli policy in so far as Jerusalem is concerned was manifested in the Law Administration Ordinance (Amendment No. 11) Law of June 27, 1967, which was adopted by the Israeli authorities, to the effect that "the law, jurisdiction and administration of the State should apply in any area of the State of Israel designated by Government order." Under this provision the Government

issued an Order, dated June 28, 1967, which declared that a territory defined in an Annex was an area in which the law, jurisdiction and administration of the State of Israel were in force. The area described in detail in the Annex included the Old City, Sur Baher, Sheikh Jarrah, the Kalandia Airport, Mount Scopus and vicinity, and Shu'fat. These areas formed part of East Jerusalem which was occupied by Israel in the June war of 1967. Similarly, under the Municipal Corporation Ordinance (Amendment No. 7) of June 27, 1967, the Minister of the Interior was empowered at his discretion to enlarge, by proclamation, the area of a particular municipal corporation by the inclusion of an area designated under the Law Administration Ordinance, as just amended.

All this Israelisation of Jerusalem and "face-changing" of the Holy city is contrary to international law and to specific United Nations Resolutions. Neither conquest nor occupation can possibly give Israel any legal title to the occupied territories, and private property must not be taken or interfered with. Moreover, occupation does not result in any change of nationality of the local citizens; nor does it import any complete transfer of local allegiance from the former Government. Further, under international law belligerent occupation does not displace or transfer the sovereignty of the territory; nor can occupied territory be annexed. Oppenheim the noted International Law expert points out that where an

act alleged to be creative of a new right is done in violation of an existing rule of international law, it "is tainted with illegality and incapable of producing legal results beneficial to the wrongdoer in the form of a new title or otherwise."

It may be appropriate to quote the words of Dr. Judath L. Magnes (Rector of the Hebrew University of Jerusalem) as a prime example: On the illegal occupation and expropriation of Arab lands. Here what Dr. Magnes – a great scholar and educationalist had to say:- "... We have no right to occupy the house of an Arab if we have not paid for it at its value. The same goes for fields, gardens and workshops. We have no right to build settlement and to realize the ideals of Zionism with other peoples property. To do this is rubbery ...." (cited by Moshe Menuhin in the Decadence of Judaism in our times (Exposition Press, New York 1965, P. 143)).

In 1967, on the annexation of East Jerusalem, the General Assembly of the United Nations resolved, by 99 votes to none, that the annexation was invalid and without effect. The General Assembly, by its Resolution 2254 (ES-V) of July 14, 1967, again declared that it "deplores the failure of Israel to implement General Assembly Resolution 2253 (ES-V); reiterates its call to Israel in that Resolution to rescind all measures

already taken and to desist forthwith from taking any action which would alter the status of Jerusalem.... "

Security Council Resolution 242 (1967) concerning the Middle East conflict as a whole was adopted on November 22, 1967. It was followed by other Security Council Resolutions – Resolutions 250 (1968), 251 (1968), 252 (1968), 267 (1969), 271 (1969), and 298 (1971) – all of which concern the question of Jerusalem, the last few even going so far as to address a strong warning to Israel.

Israel not only disregarded this Resolution, but hastened to expand the scope of the measures so strongly condemned by it. The expropriation of Arab land continued and Israeli building plans were pushed ahead, regardless of the United Nations and outside opinion.

On August 21, 1969, the Muslim world was deeply shocked by the most disturbing news that the Al-Aqsa Mosque in Jerusalem had been so severely damaged by a fire – clearly deliberately caused – that large parts of the structure of this sacred place, together with treasured and historic contents, had been completely destroyed.

## Conclusion

The moment has arrived at which to conclude this bitter but true episode. From end to end, Jerusalem has been running with misery and blood from the time of the First World War. This has led to the present acute distress and suffering of the Arab inhabitants of the occupied territory, driving many of them to become refugees – like those earlier refugees of 1948 – thus denying to them the right to return to their homes and properties, despite repeated United Nations decisions and bearing in mind that Israel owes her very existence to such a decision of the United Nations and the unlimited support by the U.S.A. and other big powers at a line when Israel challenges and refuses to abide by legality.

Let it be clearly understood that without Arab Jerusalem the Arabs, Christian and Muslims, all over the World, shall never agree to any settlement in this troubled important area in the World.

I conclude by a poem I composed on Jerusalem our great city of "Peace & Happiness".

## JERUSALEM

No matter how far we were forced to go  
And how long our return remains blocked  
We promise that you shall always remain in our hearts  
And no forces in this World can rob you from us at all  
We know the bitter way you were treated with insults too  
And the suffering you had to encounter over the years  
Being the great City you held steady with force  
To demonstrate your faith and devotion to the Arab cause  
Remember that truth based on Justice and the Rule of Law shall prevail  
Irrespective of the continuous blind and vicious forces at work  
And those who betrayed Law and Order and humanity as well  
Whose aim is only to benefit from their Masters and enhance their status  
We shall ensure those Arab victims to return to their homes  
So that you are able to welcome back your faithful sons and daughters  
Who await your offer of genuine love and a peaceful life too  
As has been the case in times past  
Meanwhile we bid you farewell  
Till we meet again on the soil of our Fatherland