

# The Tragedy of Arab Jerusalem

## A Historical Perspective



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The calamity that has been inflicted on the holy city of Jerusalem since the early nineteenth century is deeply rooted in the colonial scheme implemented by the British in collaboration with the Zionist

movement. During the four hundred years of Ottoman rule in Palestine, the city of Jerusalem had retained its integrity and holiness, as Jerusalem's Muslim and Christian Arabs lived in harmony and mutual respect for each other and for the local Yemeni and Sephardic Jewish minorities.

But as the First World War brought the end of Ottoman rule over Palestine, the country, including the city of Jerusalem, came under British occupation. In 1922, the League of Nations designated the British Mandate on Palestine, and Article 2 of the Mandate's charter, in conformity with the Balfour Declaration of 1917, committed itself to securing "in Palestine the establishment of a national home for the Jewish people."<sup>1</sup>

Since the beginning of the British Mandate, the native and historical Palestinian owners of the country were opposed to the imposition of this rule and to Article 2 in particular. For years, Palestinians resisted in various ways the Mandate administration's facilitation and promotion of Jewish immigration from Europe and the building of Jewish colonies. The British Royal Commission of 1937 issued full reports on the main Palestinian resistance events that took place in 1920, 1921, 1925, and 1936.<sup>2</sup>

Jerusalem city was particularly affected by the influx of Jewish immigrants from Europe, who came to Palestine with the rise of Zionist national ideology and the plan to build a Jewish state at the expense of the native Palestinians. This Zionist scheme altered and shattered the previous harmony among the Jerusalemite Arabs and Jews. The ensuing conflicts were triggered by the

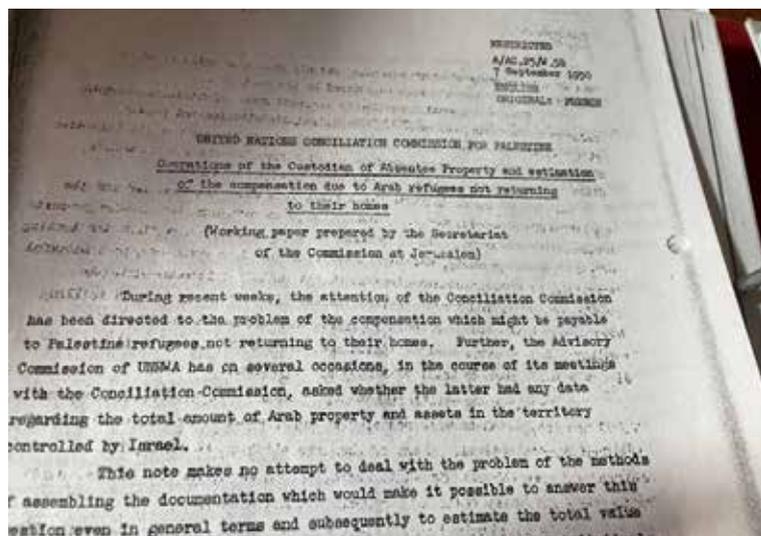
attempts of the Jewish newcomers to expand their control over the city and to change the Status Quo arrangements and the custody of holy places in particular. A significant, bloody move by the new Zionist residents of Jerusalem was the forced attempt in August 1929 to change the traditional and agreed-upon arrangements that Jews pray in the corridor facing the Western Wall (Al-Boraq Wall); it resulted in the death of 133 Jews and 116 Muslims.<sup>3</sup>

Following these and other such events, an international commission was appointed by the Mandate authorities in 1929, with the approval of the League of Nations, and tasked with following up and determining the rights and claims of the two sides. However, when the security situation continued to escalate all

over Palestine, the commission concluded that the Mandate was unworkable and recommended that this rule should be terminated.<sup>4</sup> This recommendation also presented the principle of the partition plan of 1937 to "separate the areas in which the Jews have acquired land and settled from those which are wholly or mainly occupied by Arabs."<sup>5</sup> Regarding Jerusalem and the holy places, the commission recommended, "The Partition of Palestine is subject to the overriding necessity of keeping the sanctity of Jerusalem and Bethlehem inviolate and ensuring free and safe access to them for all the world."<sup>6</sup> It furthermore suggested: "A new Mandate [for Jerusalem] should be framed" and "an enclave should be demarcated extending from a point north of Jerusalem to a point south

Aerial view of the new city, showing the King David Hotel and the YMCA. Eric and Edith Matson Photograph Collection; Library of Congress, Prints & Photographs Division, LC-DIG-matpc-14307.





of Bethlehem, and access to the sea should be provided by a corridor extending to the north of the main road and to the south of the railway, including the towns Lydda and Ramle, and terminating at Jaffa.”<sup>vii</sup>

This first plan for the partition of Palestine with special status for Jerusalem was superseded by the political and military events of the Second World War. In its aftermath, the United Kingdom declared that it was unable to resolve the conflict in Palestine and brought the problem to the United Nations. Here, a special committee was appointed to take up and discuss the fate of Palestine, including Jerusalem. At the outset of this committee’s work, the call for the partition of Palestine was dominant and led by the United States, the United Kingdom, and the Soviet Union, with a minority opposition led by Egypt, Iraq, Syria, and Muslim governments. For long months, two options were proposed and debated: the partition of Palestine, led by the dominant majority members, and a united,

independent state of Palestine for Palestinians and Jewish immigrants, proposed by the opposing minority group.

In 1947, the General Assembly adopted Resolution 181(II) of November 29, which contained a Plan of Partition with Economic Union in which the greater part of Palestine would be divided into Arab and Jewish provinces. Under this plan, Jerusalem was to be ruled by a special international regime administered by the United Nations. The city’s boundaries were defined as including “the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem; the most western, Ein Karim (including also the built-up area of Motsa); and the most northern Shu’fat.”<sup>viii</sup>

This international regime over what constituted the city determined that Jerusalem should be considered a “corpus separatum” under the

Area in the West Bank (E. Jerusalem)	2,220 dunums (11.48%)
Area occupied by Israel (W. Jerusalem)	16,261 dunums 984.12%
1- Arab-owned	5,478 dunums (33.69%)
2- Jewish-owned	4,885 dunums (30.04%)
3- Christian Missions	2,473 dunums (15.21%)
4- Municipal land	402 dunums (2.47%)
5- Roads and Railways	3,023 dunums (18.59%)
No-Man's land	850 dunums (4.4%)
Total	19,331 Dunums (100%)

Slightly different figures were given by Mustafa, who based his numbers on Jerusalem Map. He indicated that by the end of 1947, the total area of Jerusalem city was 20,202 dunums of which 16,261 dunums (80.5 %) fell in 1948 under Israeli control; 3,091 dunums under Jordanian control; and 850 dunums under the United Nations control. He also indicated that of the total area under Israeli control, 33.7 per cent of the land owned by Arabs; 30 per cent by Jews; 15.2 per cent by European institutions; and the remaining areas belonged to the government and to the municipality of Jerusalem.<sup>20</sup>

administration of the United Nations and that the Trusteeship Council should discharge the responsibilities of the United Nations in this respect. This administration of Jerusalem was recommended to “come into existence two months after the evacuation of the armed forces of the Mandatory Power has been completed but in any case not later than 1 October 1948.”<sup>ix</sup>

During the late 1940s, the fate of Jerusalem was determined, however, not by international agreement but by military force. The fight between Arab/Palestinian and Jewish paramilitary groups had intensified several months before the United Kingdom relinquished its Mandate for Palestine on May 14, 1948. By the time a United Nations–negotiated truce came into effect

These numbers are taken from the work of UNCCP. They are part of the data gathered by the author from the original UNCCP data which was not published but summarized in UNCCP Document A (AC.25), W.84, referred to in the endnotes as data collected by the author.

Category of ownership	of	Area of land (m <sup>2</sup> ) - in alphanumeric database	Area of land (m <sup>2</sup> ) - in geographic database*	Percentage of total geographic area	Area of buildings (m <sup>2</sup> )
Arab		6,434,382	5,890,157.2	35.7	905,551
Christian institutions		1,424,899	1,208,097.8	7.3	182,659
Jewish		Incomplete	5,183,323	31.4	875,583**
Foreign entity		127,990	90,315.9	0.55	41,221
Moslem Waqf		153,325	140,533	0.85	7,732
Non-Arab		148,870	245,214.9	1.50	53,282
Public institutions		536,093	732,169.7	4.45	63,467**
Road		Incomplete	1,426,172.5	8.65	00
Other		115,070	1,575,800	9.6	10,063**
Total		Incomplete	16,486,421	100.00	Incomplete

\* Calculated from the geographic database with adjustment to the figures of the not linked parcels  
\*\* Incomplete

on November 16, 1948, Israel's territorial control had expanded deep into the territories allotted to the Palestinian state and into the western sector of the Jerusalem enclave destined for internationalization under the partition resolution.

Realizing this new forced reality, the General Assembly adopted its Resolution 194(III) of December 1948, calling for the right of the Palestinian refugees to return to their homes in Palestine. It also stipulated that compensation should be paid for the damage caused to properties and for the loss of property for those choosing not to return. Following is the text of Paragraph 11 of this resolution, where sub-paragraph 1 provides as follows:

*The General Assembly*

*RESOLVES that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to the property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.<sup>x</sup>*

But the facts created by Israeli forces on the ground superseded the attempts by the Trusteeship to implement the internationalization of Jerusalem. Whereas the de facto division of the city between two countries at war – with sealed borders – was formalized in the Israel-Jordan Armistice Agreement of April 3, 1949, this agreement was considered internationally as having no legal effect on the continued

validity of the provisions of the partition resolution that called for the internationalization of Jerusalem. Accordingly, no country established an embassy in Jerusalem until 1967. On December 13, 1949, Israel's Prime Minister Ben Gurion delivered the following statement in the Knesset (parliament), presenting the objection of his government to the General Assembly resolution concerning the internationalization of the city:

*[T]he General Assembly of the United Nations has, in the meantime, by a large majority decided to place Jerusalem under an international regime as a separate entity. ... It is to be hoped that the General Assembly will in the course of time amend the error ... and will make no attempt to impose a regime on the Holy City against the will of its people. ...*

*In the stress of war, when Jerusalem was under siege, we were compelled to establish the seat of Government in Ha'Kiryat Aviv. But for the State of Israel there has always been and always will be one capital only – Jerusalem the Eternal. So it was three thousand years ago – and so it will be, we believe, until the end of time.<sup>xi</sup>*

When the Armistice Agreement between Jordan and Israel was signed, and the UN had failed to impose its plan of a special international regime for Jerusalem, the entire Palestinian community (estimated at 60,000 people) was expelled from the territory occupied by the new Jewish state, leaving behind 1,105 dwellings, including residential houses, business stores, cultural premises, and more.<sup>xii</sup>

In 1951, attempting to provide figures and values of refugee property, the Refugee Office of the United Nations Conciliation Commission for Palestine (UNCCP) estimated the total number of Arab properties in West Jerusalem at 3,660 parcels, comprising 5,736 dunums of land.<sup>xiii</sup> In contrast, the PLO – relying on the “Village Statistics 1945” prepared by the Government Office of Statistics and the Department of Lands of the British Mandate Government for the Anglo-American Committee of Inquiry on Palestine – estimated the total area of the city of Jerusalem, prior to 1948, at 20,790 metric dunums, of which close to 2,000 dunums fell within the 1949 armistice line of East Jerusalem.<sup>xiv</sup>

This left the area that in 1948 became West Jerusalem at 16,261 dunums, of which 4,885 dunums were Jewish owned, 2,473 dunums comprised Christian missions, 402 dunums were municipal lands, and 850 dunums were roads and railways; 850 dunums were designated no man's land.<sup>xv</sup>

As a result of the June 1967 Six-Day War, East Jerusalem, the entire West Bank, and the Gaza Strip fell under Israeli control. The numerous measures Israel took to extend its jurisdiction over East Jerusalem and consolidate its physical control have been, and are still, declared invalid by the international community, including through resolutions of the UN Security Council and the General Assembly.<sup>xvi</sup>

According to Israeli sources quoted by Don Peretz, it appears that by May 1948, local Israeli military authorities had frequently failed to restrain mass looting, destruction, and pillaging of Palestinian properties left behind in Israeli

occupied territories.<sup>xvii</sup> Some years later, the Israeli Land Custodian, writing on Palestinian properties in occupied towns including Jerusalem, reported that when official inspectors went to inspect houses in deserted cities and neighborhoods they “found most of the houses broken into, and rarely was any furniture left. Clothes, household effects, jewelry, bedding – other than mattresses – never reached the warehouse of the Custodian Authority. More than 50,000 Arab homes had been abandoned.”<sup>xviii</sup>

The first attempt by Israel to “organize” the looting was on December 2, 1948, when it applied the enactment of the Emergency Regulations on Property of Absentees. It was only in March 1950 that the Israeli Knesset approved the Absentee Property Law. While the task of the Custodian of the Absentee Property was, above all, to administer and preserve the absentee property, the Development Authority, created by the same law, was authorized to take measures to dispose that property. In 1960, the Israel Knesset adopted a Basic Law that transferred all state land, including the absentee land, to the Israel Land Authority, legally transferring the ownership of the absentee land to the Israeli state. In 1997, the Israel Land Authority decided to transfer the ownership of urban property, including the absentee urban property, into privately owned land.<sup>xix</sup>

The fiscal value of the absentee urban property (dwellings and land) is a matter that was dealt with in details when UNCCP worked on the “identification and valuation” of refugee property in Israel's occupied areas in 1951 but has never been updated officially to reflect their



current value. However, information concerning the value of refugees' property in West Jerusalem is frequently mentioned in real estate speculation and the transfer of Arab refugees' houses in the city. In June, *Jerusalem Report* published a long article about real-estate speculation regarding the properties of Arab refugees, mentioning a transaction of a house in Talbiyah, where the ground floor of a house was sold for \$3.7 million whereas the upper floor is on the market for \$7 million.<sup>xx</sup>

Such speculations with and transaction on Palestinian properties located in the western side of occupied Jerusalem, like other absentee properties in Israel, are available for Jews only. Palestinian (refugee) landlords of these properties who live in East Jerusalem – a few hundred meters away from their property

– are prevented from claiming them. Outdated Israeli laws, such as the above-mentioned Absentee Law were reactivated in Jerusalem after the city was occupied in 1967. More than 70 years later, this law remains on the books, unchanged, and most Palestinians who lost property through it are still not likely to get it back.

According to Talia Sasson, a former high-ranking official in Israel's Office of the State Attorney, Israel has never ended the state of emergency that keeps the Absentee Property Law in force. In 1970, Israel issued a property law specific to East Jerusalem.<sup>xxi</sup> This law allowed Jews to reclaim property they owned before 1948, regardless of the Palestinians who moved in afterwards. By evicting Palestinians from Sheikh Jarrah now, Israel does them a double injustice as they had already been displaced from their homes during the *Nakba*. Sasson explains that the people whose East Jerusalem homes are now claimed by Jewish Israelis are the same people who had their property declared "absentee" in 1948. The 1948 law dispossessed these Palestinians of the homes in which they used to live, while the 1970 law enables Jewish Israelis to claim the homes where they currently live – without offering compensation or alternative housing. She concludes that this "abysmal law from 1970 cannot be erased without the Knesset acting – and it is impossible to imagine the current [and future, a.a.] Knesset acting to help Palestinians in East Jerusalem."<sup>xxii</sup>

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<sup>i</sup> The Council of the League of Nations (1922), "The Palestine Mandate," The Avalon Project: Yale Law School, 2008; for a more general overview of Mandate charters, see League of Nations, "The Mandates System, Origin–Principles–Application," United Nations, Geneva April 1945.

<sup>ii</sup> League of Nations, "Palestine from 1920 to 1936," chapter III in Report of the Palestine Royal Commission: Summary of Report, 1937.

<sup>iii</sup> Alex Winder, "The 'Western Wall' Riots of 1929: Religious Boundaries and Communal Violence," *Journal of Palestine Studies* 42(1), 2012; see also "Report of the Commission appointed by His Majesty's Government in the United Kingdom and of Great Britain... to determine the rights and claims of Moslems and Jews in connection with the Western or Wailing Wall at Jerusalem, December 1930," UN General Assembly, A/7057/Add.1, 1968.

<sup>iv</sup> Secretary of State for the Colonies, Palestine Royal Commission: Report, Cmd. 5479, London, H.M.S.O., 1937.

<sup>v</sup> Ibid.

<sup>vi</sup> Peel Commission, cited in Stacey E. Goddard, *Indivisible Territory and the Politics of Legitimacy: Jerusalem and Northern Ireland*, Cambridge University Press, 2009: 125.

<sup>vii</sup> League of Nations, "A Plan of Partition," chapter XXII, section 2, in Report of the Palestine Royal Commission: Summary of Report, 1937.

<sup>viii</sup> Committee on the Exercise of the Inalienable Rights of the Palestinian People, "International Regime for Jerusalem under the Partition Plan," in Chapter 1 of *The Status of Jerusalem*, United Nations, New York, 1997.

<sup>ix</sup> XVII Resolution Adopted on the Report of the *Ad Hoc* Committee on the Palestinian Question: 181 (III) Future government of Palestine, pg. 133.

<sup>x</sup> Resolution 194, United Nations Works and Relief Agency for Palestinian Refugees in the Near East.

<sup>xi</sup> Statement to the Knesset by Prime Minister Ben Gurion, December 13, 1949.

<sup>xii</sup> Adnan Abdelrazek, *The Arab Architectural Renaissance*, Rimal Books, Cyprus, 2017, pp. 106–107.

<sup>xiii</sup> United Nations Conciliation Committee for Palestine, "Working Paper Prepared by the Commission's Land Expert on the Methods and Techniques of Land Identification and Valuation of Arab Refugee Immovable Property Holdings in Israel," April 28, 1964, cited in Adnan Abdel Razek, *Records of the Palestinian Immovable Property in West Jerusalem*, Arab Studies Society, Jerusalem, 2002.

<sup>xiv</sup> United Nations Conciliation Commission for Palestine, "Working Paper Prepared by the Commission's Land Expert on the Methods and Techniques of Identification and Valuation of Arab Refugee Immovable Property Holdings in Israel, A/AC.25/W/84", 28 April 1964, cited in Adnan Abdel Razek, *Records of the Palestinian Immovable Property in West Jerusalem*: pp.25-26.

<sup>xv</sup> Adnan Abdelrazek, *The Arab Architectural Renaissance*.

<sup>xvi</sup> Report of the Secretary General under General Assembly Resolution 2254 (ES-V) of July 14, 1967, "Measures taken by the State of Israel to change the status of Jerusalem."

<sup>xvii</sup> Don Peretz: "Palestinian Refugee Compensation," Information paper number 3, The Center for Policy Analysis on Palestine, Washington D.C. 1995.

<sup>xviii</sup> Tom Segev, 1949: *The First Israelis*, The Free Press, NY, 1986, Ch.3, Part 1, pp. 68–79.

<sup>xix</sup> United Nations Conciliation Committee for Palestine, "Operation of the Custodian of Absentee Property and estimation of the compensation due to Arab refugees not returning to their homes," UNCCP Document, A/AC.25/W.52, September 7, 1950.

<sup>xx</sup> Netty C. Gross: "High Prices in the Holy City", *The Jerusalem Report*, Jerusalem, June 12, 2006.

<sup>xxi</sup> Norwegian Refugee Council, "Legal Memo: The Absentee Property Law and its Application to East Jerusalem," February 2017.

<sup>xxii</sup> Talia Sasson, "Israel's Supreme Court could stop evictions of Palestinians," *Washington Post*, June 7, 2021.