

GENERAL
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UNITED NATIONS PALESTINE COMMISSION

CONSIDERATIONS AFFECTING CERTAIN OF THE PROVISIONS OF THE
GENERAL ASSEMBLY RESOLUTION ON THE "FUTURE GOVERNMENT OF
PALESTINE": THE CITY OF JERUSALEM

(Working Paper Prepared by the Secretariat)

1. International Regime of the City of Jerusalem:

The plan adopted by the Assembly provides for the creation of a special international regime in the City of Jerusalem, constituting it as a "corpus separatum" under the administration of the United Nations, the Trusteeship Council discharging the responsibilities of the United Nations in this respect. The City of Jerusalem shall 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."

The whole of Part III of the Plan is devoted to the City of Jerusalem. Part I also contains many references to the City of Jerusalem.

2. Draft Statute:

A Draft Statute for the City of Jerusalem is now being prepared by a Working Group of the Trusteeship Council. This Draft Statute will be submitted to the Trusteeship Council at its next meeting in the middle of February. The Statute has to be approved within five months from the date of approval of the plan, i.e. 29 April 1948.

The following special objectives shall be pursued (Part III, C.1):

"(a) To protect and to preserve the unique spiritual and religious interests located in the City of the three great monotheistic faiths throughout the world, Christian, Jewish and Moslem; to this end to ensure that order and peace, and especially religious peace, reign in Jerusalem.

"(b) To foster co-operation among all the inhabitants of the City in their own interests as well as in order to encourage and support the peaceful development of the mutual relations between the two Palestinian peoples throughout the Holy Land; to promote the security, well-being and any constructive measures of development of the residents, having regard to the special circumstances and customs of the various peoples and communities."

3. Transitional Period:

As to the transitional period from the termination of the Mandate until the coming into force of the Statute, which has to occur not later than 1 October 1948 (Part III D), only a few provisions are to be found in the Assembly Resolution. The procedure to adopt in respect of the City of Jerusalem will, therefore, largely have to be deduced from the general provisions made in respect of the Arab State and the Jewish State. Besides, the City of Jerusalem is a party to the Economic Union.

4. Duration of the transitional period:

The duration of the transitional period, under which the Commission will be responsible for the City of Jerusalem, depends, apart from its connection with the general situation in Palestine, upon the date on which the Trusteeship Council appoints a Governor. For practical purposes, the Statute cannot come into force as long as this appointment has not been made. The intent of the Trusteeship Council is to appoint a Governor at the February Session.

5. Boundaries:

The boundaries of the City of Jerusalem are described in Part III B. It is to be expected that the Trusteeship Council will make some suggestions as to the detailed delineation of these boundaries.

6. Government and Administration of the City:

No provisions have been made in the plan as to the Government and Administration of the City of Jerusalem until the Statute comes into force. Under the present mandatory regime the City of Jerusalem, as defined by the plan, is not governed as a unity. The proposed area of the City is an arbitrary creation. It includes not only the Municipality of Jerusalem, but also sixteen Arab towns and villages and two Jewish settlements.

The total population of this area is 206,020, of which 45,290 are Christians, mostly Arabs, 100,040 Jewish, 60,560 Moslems, practically all Arabs, and 130 others. The population of the Municipality of Jerusalem is 164,440 as against 41,580 outside of the Municipality.

Due to the particular position of the City, it is suggested that, in case the Statute should not come into force at a sufficiently early date, the Commission might provide for a special body to administer the City under its supervision.

A special budget will have to be foreseen for the City during the transitional period.

At the present time the central administration of Palestine is located in Jerusalem. At the termination of the Mandate, this Administration will disintegrate, its functions being taken over partly by the Jewish State, partly by the Arab State.

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The Governor, once appointed, is supposed to submit to the Trusteeship Council a plan of administration for the City, but the gap between the termination of the Mandate and the coming into force of such a plan has to be filled. The Commission will therefore have to preserve as much as is needed of the present administration to carry out the normal functions of the City. It seems also essential to secure the services of competent personnel of the Administration for the future regime of the City.

It should be noted that the City of Jerusalem will be far from a self-supporting entity. It will largely depend on free communications and free access to the sea for its survival. Under present circumstances the City can be reached in practice only by road from the coast, as there is no landing ground for airplanes in the city area and the railway is not much used. The main water supplies of the City lie in the territory of the Jewish and Arab States. Special precautions will therefore have to be taken to protect the water supply system. Negotiations on this and on similar matters with the respective Provisional Councils of Government will also be required.

7. Municipality of Jerusalem:

Due to the fact that both Jews and Arabs felt unable to accept proposal made by the British High Commissioner in 1945 for the reorganization of the Jerusalem Municipal Council, the Municipality of Jerusalem is for the time being administered by a Commission consisting of six British Government officials. It is to be expected that these officials will resign upon termination of the Mandate and the Commission will, therefore, have to provide for their replacement or for some other arrangements in order to ensure the proper functioning of the Municipality.

8. Control of Immigration:

Whereas in the case of the Arab and Jewish States "the Provisional Councils of Government shall have full authority over matters of immigration in the areas under their control," the Commission will itself be responsible for immigration into the City of Jerusalem until the Statute comes into force. It might exercise its powers in this respect directly, or, if a special body to administer the City is considered, delegate its powers to this body.

9. Control of Land Regulations:

Whereas in the case of the Arab and the Jewish States "the Provisional Councils of Government, acting under the Commission, shall have full authority in the areas under their control, including authority over matters of immigration and land regulations," the Commission will itself be responsible for the land regulations in the City of Jerusalem until the Statute comes into force. It might exercise its powers in this respect directly, or, if a special body to administer the City is considered, delegate its powers to this body.

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According to the British Land Transfer Regulations of 1940, the Jerusalem town planning area and all municipal areas belong to the so-called "free zone," where land transfers are allowed. The rest of the City of Jerusalem falls into Zone A. In this zone transfers to persons other than Palestinian Arabs are prohibited, save in exceptional circumstances for which provision is made under the Regulations.

10. Security Measures:

According to the plan, "The City of Jerusalem shall be demilitarized, its neutrality shall be declared and preserved, and no para-military formations, exercises or activities shall be permitted within its borders....To assist in the maintenance of internal law and order and especially for the protection of the Holy Places and of religious buildings and sites in the City, the Governor shall organize a special police force of adequate strength, the members of which shall be recruited outside of Palestine. The Governor shall be empowered to direct such budgetary provision as may be necessary for the maintenance of this force."

Under the Mandatory regime the Palestine Police, consisting of British, Arabs and Jews, operates in Jerusalem. Should this force be entirely withdrawn at the termination of the Mandate, there would be no police protection in the City until the Governor to be appointed had recruited the special police force mentioned in the plan as well as other police forces.

It is suggested that the Commission, as a preparatory measure, might envisage securing the services of part of the Palestinian Police for the protection of the City. It seems advisable, if possible, to retain some of the British personnel, officers and other ranks, who have an intimate knowledge of the duties connected with the protection of the Holy Places, for which skill and tact are required that may take years of experience to acquire. The British police personnel has been hired under three-year contracts. Some of them might be willing to serve the new regime in the City, provided the British Government would acquiesce in such an arrangement.

It may be that the strength of the international police force to be recruited by the Governor should be about 2,000 officers and men in the initial period, to be reduced in normal times to possibly 300-500 men.

The question of arms and equipment of the possible nucleus of the international police force of the City will also have to be considered.

11. Economic Union:

According to the Plan (Part III C, paragraph 7), "The City of Jerusalem shall be included in the Economic Union of Palestine and be bound by all stipulations of the undertaking and of any treaties issued therefrom, as well

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as by the decisions of the Joint Economic Board. The headquarters of the Economic Board shall be established in the territory of the City. The Statute shall provide for the regulation of economic matters not falling within the regime of the Economic Union, on the basis of equal treatment and non-discrimination for all Members of the United Nations and their nationals.

No special arrangements have been made, however, for a representative of the City on the Joint Economic Board. Some provision will have to be foreseen for the protection of its interests in this body. It has to be noted that the City of Jerusalem is entitled to "not less than five per cent and not more than ten per cent" of the surplus revenue from the customs and other common services under the Economic Union.

During the transitional period the Commission will be responsible for the protection of the economic interests of the City.

Doubts have been raised as to whether the financial provisions in paragraph 3 of Chapter 3 of Part I C are applicable to the City of Jerusalem.

12. Holy Places:

The plan contains detailed provisions for the protection of the Holy Places (Part III C, paragraphs 13-14), for which the special regime was largely created. The basic policy has been to maintain so-called "existing rights". Most of the provisions of the Plan in this respect have been taken over from the Mandate, which, in turn, perpetuated the regime installed by the Ottoman Government.

According to the Assembly Resolution, the Governor to be appointed for the City has extensive powers for the protection of the Holy Places and for the settling of disputes and other matters in relation to the Holy Places. Upon termination of the Mandate and until such time as a Governor is appointed and the Statute of the City comes into force, the Commission will have to be responsible for all matters relating to Holy Places, religious buildings and sites as described by the Plan.

18. Religious Courts:

Family law and personal status are regulated in Palestine by religious courts (Christian, Jewish and Moslem). These courts are likely to continue, not only in Jerusalem, as implied by the provision in Part III, paragraph 12, sub-paragraph 4: "The family law and personal status of the various persons and communities and their religious interests, including endowments, shall be respect," but also in the rest of Palestine. The Courts of Appeal of the different religious communities are, however, all located in Jerusalem. These Courts form part of the official judiciary and it would seem, justifiable, therefore, that the Arab and Jewish States contribute to the maintenance of these Courts of Appeal.