

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

COMMITTEE ON JERUSALEM

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SUMMARY RECORD OF A MEETING BETWEEN
THE COMMITTEE ON JERUSALEM AND THE
DELEGATIONS OF THE ARAB STATES

(Thirty-third meeting of the Committee)

held in Lausanne on Monday,
20 June 1949, at 4 p.m.

Present: Mr. Barco (U.S.A.) - Chairman
Mr. Benoist (France)
Mr. Eralp (Turkey)
Dr. Serup - Committee Secretary
Mr. Abdel Chafi EL Labbane - Representative of Egypt
Dr. Mussa Husseini - Representative of the Hashemite Jordan Kingdom
Mr. Mohamed Ali Hamade - Representative of Lebanon
Mr. Ahmad Choukairi - Representative of Syria

The CHAIRMAN welcomed the members of the Arab delegations and invited their replies to the questionnaires which had been distributed on Jerusalem and the Holy Places.

Mr. EL LABBANE (Egypt) reiterated his former statement that for centuries the Holy City and the Holy Places had enjoyed, under Moslem rule, a protection and an administration which had proved satisfactory to all the world. The Arab delegations, therefore, looked upon the proposed international regime as one imposed by circumstances, which in no way constituted a reflection upon the previous administration. In accepting the internationalisation of Jerusalem, the Arab States were once more demonstrating their desire to cooperate with the Commission.

Mr. HAMADE (Lebanon) made the following statement:

" The United Nations, by the resolution adopted on 11 December 1948, decided that the Jerusalem area, including the surrounding villages and towns, should be placed under effective United Nations control, and instructed the Conciliation Commission to present to

/the General

the General Assembly detailed proposals for a permanent international regime for the said area, which would provide for the maximum local autonomy for distinctive groups consistent with the special international status.

Taking account of this decision, the Lebanese delegation signed, on 12 May 1949, the Protocol which included a map demarcating the Jerusalem area destined to benefit from international status, as defined in the above-mentioned resolution.

It is in the light of these considerations that the Lebanese delegation, anxious to respect the decision of the United Nations and to implement the Protocol of 12 May, sets forth replies to the two questionnaires which were communicated to it on 3 May.

Questionnaire concerning an international regime for the Jerusalem area

It would seem that question 2 should be first on the list, and we reply to it first.

2. ' Do you consider that the Jerusalem area should be placed under the exclusive authority of the United Nations? '

Such a solution would be the only one consistent, in law and in fact, with the provisions of paragraph 8 of the resolution of 11 December 1948.

It is desirable that the internationalised area of Jerusalem should be under a single authority, that of the United Nations.

Any division of authority between the United Nations and any State is likely to detract from the efficacy of the international status and give rise to future complications.

If the international regime is to have permanence and stability, the authority of the United Nations must not be limited by state interference, no matter whence it comes. Moreover, Jerusalem is the heritage of all mankind.

Consequently, the adoption of an international regime under the exclusive sovereignty of the United Nations is incompatible with the creation of a corridor such as that which at present links Jerusalem with Jewish territories. Moreover, this corridor, which constitutes a permanent danger for the Holy City, is also contrary to the territorial delimitation appearing on the map attached to the Protocol of 12 May.

On the other hand, it is understood that an internal, or municipal, administrative organisation, responsible to the international authority and charged with maintaining public services, must be provided for in order to ensure the maximum local autonomy consistent with international status, for each element of the population, Christian, Moslem and Jewish, in accordance with sub-paragraph 3 of paragraph 8 of the resolution of 11 December 1948.

As for the legislative power, it should be vested exclusively in a Council in which the three communities, Christian, Moslem and Jewish, will be represented.

1. 'What kind of guarantees and international sanctions do you consider necessary to ensure the permanence and stability of an international regime for the Jerusalem area?'

The Jerusalem area must be demilitarised and declared neutral territory.

Further, an armed force of 2,000 to 3,000 men under the control of the international Administration should be provided for.

We state that this force should be under the control of the international Administration, in order that no action may be directed against the internationalised area or against that force without at the same time constituting, directly and clearly, an act of provocation against the United Nations itself and against each of its member nations.

It is needless to add that the local police should be under the direct supervision of the international armed force. Any autonomous police force would be a cause of unrest and dissension and might easily be converted into shock troops.

All paramilitary organisations should similarly be forbidden.

Further, in order to ensure the permanence and stability of the international regime for the Jerusalem area, it is important to determine the population distribution of the area on 29 November 1947, and to forbid any immigration likely to interfere with it.

The inhabitants of the Jerusalem area, thus determined, would have Jerusalem citizenship, exclusive of any other nationality or allegiance.

/The session

The cession of real estate titles, mortgages and long-term leases between Arabs and Jews shall be prohibited except with the express consent of the administrative authorities to whom the vendor and the buyer are answerable.

As for international sanctions, it should be specifically stated in the statute that any act committed against the international regime shall be considered as a threat to the peace, according to the provisions of Article 39 of the United Nations Charter, and must entail the sanctions and measures provided for in Articles 42 and 43 of the Charter.

It should be further provided that the Security Council shall be called upon to intervene within a maximum of three days.

Following the order of ideas expressed above, there should be established for each of the two population groups, Arab and Jewish, local courts of common law, and there should be a Supreme Court whose competence would extend to constitutional and statutory questions, jurisdictional conflicts, and appeals from decisions of the local courts of common law.

The magistrates of the Supreme Court would be appointed by the International Court of Justice, while the judges of the local courts would be designated by the international Administration.

Litigations affecting personal status would be dealt with by courts of personal status, without modification of the status quo.

3, 4, 5. The foregoing reply excludes the eventuality referred to in questions 3, 4 and 5.

6. 'Which are the Holy Places, religious buildings and sites of the three religions in the Jerusalem area in respect of which United Nations guarantees should in your view be provided?'

The Lebanese delegation considers as Holy Places, sites and religious buildings of the three religions suitable to benefit by United Nations guarantees, all localities, sites and buildings dedicated to the service of the three religions, such as:

/(a) those

(a) those dedicated to the practice of worship such as churches, mosques, temples and synagogues;

(b) those dedicated to religious and charitable works, such as hospices, tekeyes, zaouias, and religious institutions or establishments of all kinds;

(c) sanctuaries and localities sanctified by a holy presence, foundations, wakfs and cemeteries.

This being the case, the list of Holy Places annexed to the questionnaire, as well as the list of Moslem Holy Places which will be forwarded to the Committee, can only be considered as non-restrictive listings.

7. 'What measures of protection and what guarantees should in your opinion be provided by the United Nations in respect of these Holy Places, religious buildings and sites?'

The international Administration should ensure the respect of the status quo under the threat of sanctions applied by the Supreme Court.

It is understood that any act committed against the Holy Places, sites or religious buildings, which emanates from an authority outside the international area of Jerusalem, may entail the intervention of the Security Council, as already specified earlier.

8. 'What measures is your Government prepared to take with a view to ensuring free access to the Jerusalem area and to the Holy Places, religious buildings and sites situated therein?'

All necessary facilities should be accorded to any person having an authorisation from the international Administration of Jerusalem or its representatives.

The Lebanese delegation is in a position to affirm that its Government is prepared to study, with the international Administration, all material measures likely to facilitate access to the Jerusalem area.

9. 'What measures does your Government propose to take concerning the complete demilitarisation and neutralisation of the Jerusalem area and the prohibition within its boundaries of all military or paramilitary formations, exercises and activities?'

In view of the fact that the Jerusalem area must be under the exclusive sovereignty of the United Nations,

/as stated

as stated in reply to question 2, the question of demilitarisation^{and neutralisation} is the responsibility of the United Nations itself. The principle has already our full approval.

10. 'Is your Government prepared to give formal assurances with respect to the permanent demilitarisation of the Jerusalem area and to the inviolability of the demarcation line between the Arab and Jewish zones?'

The same reply as for the preceding question.

11. 'What do you consider should be the customs frontiers for the Jerusalem area?'

The customs frontiers for the Jerusalem area cannot be other than the political frontiers of that area.

12. 'What are your views concerning the desirability and possibility of establishing the Jerusalem area as an economic free zone?'

It would be desirable to establish the Jerusalem area as an economic free zone.

This proposal is obviously possible of achievement, given the fact that free access to this area must be ensured from the point of view of its economic relations, as well as from the religious point of view, as has been stated earlier.

Questionnaire concerning the protection of the Holy Places of Palestine situated outside the Jerusalem area.

1. 'Which are the Holy Places, religious buildings and sites of the three religions, situated outside the Jerusalem area, concerning which you consider formal guarantees should be given, both as regards their protection and as regards freedom of access to them, by the States under whose sovereignty they will be placed by the final settlement?'

The reply is in accordance with that given to question 6 of the Questionnaire concerning an international regime for the Jerusalem area.

2. 'What measures of effective supervision could be adopted by the United Nations as regards the points mentioned in paragraph 1 above?'

The supervision should be truly effective that is, that there should exist the authority, the strength, the capacity to prevent, and, eventually, to suppress abuses.

/To this

To this end, a control commission under the authority of the United Nations should be established. This commission would receive complaints and carry out the necessary inquiries. Measures to be taken would be ordered by an ad hoc organ of the United Nations, whose decisions would be final.

3. 'What assurances do you consider the above-mentioned States should be asked to give concerning the permanent residence and free circulation, in their territory, of a certain number (equal in principle to the number in 1936) of ministers of the three religions appointed to the Holy Places, religious buildings and sites mentioned in paragraph 1?'

While reserving our opinion concerning the restriction of the number of ministers, we consider that all necessary assurances should be given.

These assurances, moreover, should extend to all persons exercising their functions within the sanctuaries."

Mr. LABBANE (Egypt) declared that his delegation entirely supported the opinions expressed by the representative of Lebanon. He wished to emphasise that neither Arabs nor Jews should establish their capital in any part of the zone delimited in the General Assembly resolution.

Dr. HUSSEINI (Hashemite Jordan Kingdom) made the following statement:

" The Hashemite Jordan Kingdom made its views on the future of Jerusalem known to the Palestine Conciliation Commission on several occasions -- in Shunah by His Majesty the King and in Jericho and Beirut by the Prime Minister and the Minister of Defence.

Since the beginning of the Lausanne Conference and the formulation by the Jerusalem Committee of its two questionnaires, dated May 3rd on Jerusalem and on the Holy Places, the Hashemite Jordan Kingdom delegation, together with the other Arab delegations, signed a Protocol with the Conciliation Commission, which was, we were informed, signed by the Jews, and to which a plan was attached. That plan set out the Jerusalem zone as a separate, international area, and specified its relationships with the rest of Palestine.

/The Hashemite

"The Hashemite Jordan delegation continues to make its stand on that Protocol (which is in its turn derived from the resolutions of the General Assembly of the United Nations) in its entirety, and regards the question of Jerusalem as an integral part of the whole Palestine problem. No solution for the Jerusalem problem is conceivable before the solution of the problem as a whole.

As soon as the above-mentioned Protocol begins to be applied, the Hashemite Jordan delegation will make clear its detailed views on the future of Jerusalem."

In regard to the Holy Places outside Jerusalem, he shared the views of the Lebanese representative, and would shortly be submitting a supplementary list of such Holy Places.

The CHAIRMAN asked if he was correct in thinking that Mr. Hamade's statement represented the views of all the Arab delegations, subject to the reservations made in individual statements.

Dr. HUSSEINI (Hashemite Jordan Kingdom) stated that his delegation confined itself to its own statement.

Mr. CHOUKAIRI (Syria) supported the Lebanese statement, adding that he also associated himself with the remark of the representative of Egypt and shared the fears which were to be read between the lines of the statement of the Hashemite Jordan representative.

As the late Mediator had recognized, in a letter to Mr. Shertok, there was no possibility of any partition scheme which did not leave Jerusalem in the heart of Arab territory. The Jerusalem area was itself Arab territory. Originally, the Arabs had insisted that it must remain under Arab sovereignty, supporting that view by a number of considerations, i.e. that the United Nations was in its infancy and the proposed international regime a new experiment; that the failure to implement many General Assembly resolutions justified fears that a resolution setting up such a regime might not be respected; that, as some speakers in both the Assembly and the Political Committee had affirmed, the United Nations had not always kept faith to its Charter or the principles of democracy; that the Arabs had learned from bitter experience the ineffectiveness of international guarantees up to the

present time; and that the Jews openly aimed at seizing Jerusalem for themselves and had on frequent occasions violated the truce. None the less, the Arabs were willing to relinquish Arab sovereignty over Jerusalem in favor of an international regime, in their desire to respond to the appeal from the international community. They were prepared to discuss a scheme for the internationalisation of Jerusalem, so long as it was certain that it would not be merely a preparatory stage for the transformation of Jerusalem into a Jewish capital. If a watertight system was devised, they would agree to it and would collaborate with the Committee.

To ensure that the scheme was genuinely international, it would be necessary to base it on the following principles:

(1) The preservation of the status quo as it existed at the time of the General Assembly resolution of 29 November 1947. The Committee should ascertain what was then the proportion of Arabs and Jews and ensure that it was preserved. Hence the particular importance of prohibiting Jewish immigration and the alienation of Arab land, and of releasing Arab property and accounts.

(2) The establishment of a genuine corpus separatum, confined to the Jerusalem area and free from any shadow of Jewish influence.

(3) The demilitarisation and neutrality of the area, implying disarmament and the prohibition of military or paramilitary activity. The Jews in the Jerusalem area must be citizens of that area, owing no allegiance to Tel-Aviv.

Finally, as guarantee, the International Court of Justice should be ready to receive complaints of any violation of the Statute of the Jerusalem area, or of either the letter or spirit of the United Nations decisions.

If the United Nations could produce an international regime fulfilling such conditions, his delegation would support it wholeheartedly. If the Jews surrendered to the Resolution, the Arabs would be ready to collaborate actively with the Committee. The cautiousness of their attitude was understandable, since Jerusalem was particularly dear to them, and since they were the most immediate servants of the Holy Places. It had been only through the action of

Arab regular and irregular forces in the battle of Jerusalem that the Holy City had been saved for the world. A tribute was due to the fallen. The scheme for the area should provide safeguards against a coup d'etat, such as might be attempted any time a Jewish festival assembled large numbers of young Jews in Jerusalem.

In regard to the Holy Places outside Jerusalem, he wished to state, in addition to the remarks of the representative of Lebanon, that the most effective guarantee would be constituted by the inhabitants who used the Holy Places for religious worship. Otherwise such Holy Places would become merely empty museums, like the mosques in Spain.

The CHAIRMAN, assuring the Arab representatives that their views would be studied and would form the object of further discussion, asked whether there was any objection to submitting them to the Israeli delegation, provided that the Israeli delegation authorized the submission to the Arab delegations of the statements already made by themselves.

Mr. LABBANE (Egypt) voiced the view of all the delegations that there would be no objection.

Mr. HAMADE (Lebanon) emphasised the exceptionally great responsibility resting on the Jerusalem Committee; on the soundness or unsoundness of its proposals would depend whether the future brought peace or war. He reiterated what he considered the three fundamental principles for a sound solution: complete internationalisation, the absence of any divided allegiance and the maintenance of the frontiers delimited by the Assembly Resolution and the map attached to the Protocol of 12 May 1949.

The CHAIRMAN assured Mr. Hamade that the Committee fully shared his views as to the seriousness of the responsibilities with which it had been entrusted.

Mr. BENOIST drew the attention of the Arab delegations to two points. (1) The question of a Jewish corridor between Jerusalem and Tel-Aviv and of the geographical separation of the Jerusalem area from the State of Israel fell outside the competence of the Committee, which was not empowered to discuss problems relating to areas outside that of Jerusalem, except in the case of Holy Places. (2) Whatever the regime instituted, it would provide for local zones

enjoying at least municipal autonomy. He had gathered from the statement of the Lebanese representative that it might be necessary to provide for a Christian zone, in addition to Jewish and Arab municipal zones. He also asked whether the Arabs could indicate on the wall-map which districts their municipal areas should comprise.

Mr. CHOUKAIRI (Syria) could not accept the view that the question of the Corridor was not within the competence of the Committee, since such a Corridor would invalidate any scheme for internationalising Jerusalem. In the first place, the viability of the Jerusalem scheme depended upon the picture presented by the whole Palestine problem. If that problem was not settled in a manner that would consolidate the neutrality and security of the Jerusalem area, the Arabs would refuse to accept the internationalisation of that area, knowing that the burden of its defence would fall on them. In the second place, the existence of a Corridor would mean that Jerusalem, far from being genuinely internationalised, would be attached to Jewish territory; the result would be continuous agitation and perhaps a future war. The Arabs would never take the offensive in such a war, in view of their respect for the Holy City, but would fight in its defence. Since the whole work of the Committee was conditioned by those two factors, he submitted that the question of the Corridor, though not included in its terms of reference, was intrinsic to its production of a sound scheme for internationalisation.

In regard to municipal organisation, he interpreted the reference to Christians in the Lebanese statement as not implying a separation of communities. Christians and Moslems in Palestine, and especially in Jerusalem, lived in harmonious association; there could therefore be no question of a Christian municipal zone, but merely of one Arab and one Jewish zone. The line of demarcation would follow the property line between Jewish and Arab quarters, and might be identical with that envisaged by Sir William Fitzgerald, former Chief Justice of Palestine, in his Report on the Local Administration of Jerusalem.

The CHAIRMAN, in the name of the Committee, undertook to consider all the aspects of the problem. As representative of the United States, he agreed that it was impossible to separate the question of Jerusalem from the whole problem before the Commission.

Mr. HAMADE (Lebanon) thanked the Chairman for recognition that no watertight divisions could be set up between the work of the various organs of the Commission. Discussion both of the boundaries of the Jerusalem area and of the means of ensuring its economic existence was bound to impinge on territorial questions. Mr. Benoist's question on municipal zones had given him the opportunity of clarifying the idea he had wished to express. In speaking of "local autonomy ... for each element of the population", he had meant the maximum personal and religious guarantees, to be ensured by local courts.