

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

DC 100.5  
INDEX UNIT

COMMITTEE ON JERUSALEM

13 DEC 1950

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RESTRICTED  
Com.Jer./SR.36  
30 June 1949  
ORIGINAL: ENGLISH

SUMMARY RECORD OF A MEETING BETWEEN  
THE COMMITTEE ON JERUSALEM AND THE  
DELEGATION OF ISRAEL

held in Lausanne on Thursday 30 June 1949  
at 11 a.m.

Present: Mr. Barco (U.S.A.) - Chairman  
Mr. de la Tour du Pin  
Mr. Eralp  
Dr. Serup - Secretary  
Mr. Hirsch - Representative of  
Israel.

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The CHAIRMAN remarked that, although Dr. Eytan's reply (Com.Jer./9) to the Committee's questionnaires of 3 May 1949 (Com.Jer./7) could be taken as a good beginning, the Committee would welcome more specific details. The Committee understood the answer to deal with paragraph 8 of the General Assembly's resolution of 11 December 1948 and would therefore appreciate further elucidation from the representative of Israel on the first item of the agenda for the day's meeting concerning the Holy Places, religious buildings and sites situated outside the Jerusalem area, as referred to in paragraph 7 of the General Assembly's resolution of that date.

Mr. HIRSCH told the Committee that although Dr. Eytan's reply and Mr. Eban's statement in the ad hoc Political Committee of the General Assembly dealt, generally speaking, with the problem of Jerusalem, it had been understood by both of them that the principle of international supervision of Holy Places was considered acceptable insofar as it applied to all the Holy Places in Israeli territory.

Turning to more detailed consideration of the subject, and replying to the first point in the Committee's questionnaire of 3 May 1949 (Com.Jer./7), he stated that both with regard to the definition of Holy Places and in connection with the administrative arrangements, the Government of Israel accepted the status quo existing in Palestine before the end of the British mandate. That applied also to the list of Holy Places

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supplied by the Committee on Jerusalem. He thought the Israeli delegation had no cause for disagreement on the details of the list either with the Arab delegations or with the Committee. He pointed out that if the suggestion for the appointment of a United Nations Commissioner, resident in or near Israel, and responsible for the supervision and control of the Holy Places, were accepted, his first task would probably be to proceed to Israel and determine finally which were to be considered Holy Places in much the same way that a frontier commission was called upon to decide on boundary lines.

With regard to the second point of the questionnaire referring to measures of effective supervision, he pointed out that, in that connection also, his delegation adhered to the principle of a United Nations Commissioner resident in or near Israel. The State of Israel was prepared to accept formal responsibility for the Holy Places within its territory. It had set up a Ministry of Religions whose sub-departments were charged with exactly that function. The Government of Israel envisaged that the United Nations Commissioner would be in direct contact with the Ministry of Religions. Should any difficulties arise, the heads of religious bodies would first approach the Ministry; should their complaints not be satisfactorily dealt with by the Ministry, they would be able to apply to the United Nations Commissioner who might make representations to the Israeli Government and, in an extreme case, could bring the particular question to the United Nations. Mr. Hirsch stressed the fact that it would naturally be in the Israeli Government's own interest to avoid complaints from religious bodies and the political complications which would inevitably ensue, and pointed out that, since the end of the war, his Government had made every effort to deal satisfactorily with such complaints.

Turning to the third point of the questionnaire, he preferred to consider the reply under the second and third items of the agenda for the day's meeting.

With reference to the second item on the agenda, he thought that a study of an exact legal definition of the terms "Holy Places, religious buildings and sites" to take the place of a detailed list would present no serious difficulty either with the Committee or with the Arab delegations. He was however prepared to ask the Ministry of Religions' legal adviser to supply a definition acceptable to the Israeli Government and his delegation

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would be quite ready to give favourable consideration to any definition which might be put forward by the Committee's legal adviser.

He requested clarification as to what the Committee understood exactly by "landed property belonging to religious communities" and explained his delegation's view on that score. With regard to the Convent of Latrun for instance, his Government agreed that there should be free access to it since it was a religious site, but saw no reason however, with regard to the quite justifiable cultivation of the vineyards and the land, why activities which were not connected directly with religious functions should be granted special immunity from fiscal regulations.

Regarding the third item on the agenda dealing with the "appropriate formal guarantees" which are to be given by the State of Israel with respect to the Holy Places, religious buildings and sites which are at present placed under its territorial sovereignty or which might be so placed at a future date, the representative of Israel said that his Government's legal advisers would be prepared to supply an exact legal form for those guarantees just as in the case of the definition of the Holy Places. He thought, however, that though legal formalities were of course necessary, it was nevertheless essential to study the matter from a practical point of view.

With regard to the protection of Holy Places, he considered that the situation remained as under the British mandate. The Israeli Government accepted formal legal responsibility in ensuring the protection of the Holy Places, but he thought that, in terms of administrative practice, such protection would not require special police measures. Their protection would be the responsibility of the appropriate Ministry just as the protection of any other institution such as a school was its responsibility, but he did not think that would call for any special police force, unless of course there were some specific instance of agitation, in which case police reinforcements would be sent just as in the event of a communist disturbance, to cite an extreme example. As the problem of war receded into the past, he thought the protection of those Holy Places would afford no more of a problem than it did under the British mandate.

As far administrative measures to assure the strict preservation in their present state of certain sites, and in

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particular of the north-west shore of the Sea of Galilee, he said that that too was the responsibility of the Israeli Government, although of course the subject was open for discussion. In that connection he recalled an instance of negotiations between the authorities of the town of Haifa and the Collège des Frères on the moving of a wall belonging to the latter under a town-planning scheme. The question had been amicably settled without any difficulty and due costs and compensations paid by the town authorities. Of course, if there were any controversy in any similar case in the future, the religious body could always bring the matter to the notice of the United Nations Commissioner who would discuss it with the Israeli Government.

On the particular point of repairs to property made necessary not by war damages but by natural decay, he thought that, in the first instance, the cost of such repairs should be borne by the occupants. If the local institution were unable to provide the necessary funds, he thought it probable that a parent organization, in either France or Italy for instance, would be able to help, but, in certain cases, the Israeli Government might perhaps offer financial assistance itself. Each case would be considered on its own merits, and he recalled as an example a case when the Israeli Ministry of Religions had made an allocation from its budget to help a Moslem institution in financial difficulties.

Regarding the question of free entry and circulation of ministers of religion, he stated that it was not his Government's policy to accord any special status or passports to such ministers since it saw no practical need for such a step which would inevitably entail many legal complications. It was hoped soon to raise the travel restrictions, in the Nazareth area for instance, which had been imposed for security reasons and which were equally applicable to all citizens. He pointed out that a minister of religion evidently had some national status. An Italian minister of religion would be perfectly free to travel within Israeli territory simply in his capacity as an Italian citizen. He noted that, with regard to entry and residence visas, it would of course greatly speed the procedure if the United Nations Commissioner were prepared to supply a recommendation that the applicant was a bona fide minister of religion, as naturally some guarantees would have to be found.

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His Government was strongly opposed to the suggestion for determination by quotas of the number of ministers of religion allowed to reside in Israel.. Such a scheme would have unfortunate associations for his country men. He did not think it would serve any useful purpose to establish a comparison between the numbers of ministers of religion in Palestine in 1936 and those at present in Israel, since it was immaterial to his Government whether that number were greater or smaller than before. That consideration would only be necessary if the status of ministers of religion were abused for political purposes; a position that would not be in the interest of the United Nations or of the religious authorities.

With regard to the special conditions governing the granting to pilgrims of entry visas for Israel, he thought that to be merely a question of administrative practice. The Israeli Government was ready to grant every facility to pilgrims. Indeed it was in its own interests to do so. He said too that his Government would be willing to supply collective entry visas for pilgrims.

He wished to make it quite clear to the Committee that all the administrative details he had surveyed applied to the Holy Places outside the Jerusalem area. As regards Jerusalem, there was need for discussion of principles before administrative details could be examined; but his Government had the same general approach to the subject on the principle of United Nations supervision.

Commenting on a news item which had just been sent that morning from Tel Aviv to the effect that the Israeli parliament had adopted a motion which stated that Jerusalem was an integral part of Israel, he warned the Committee that it would be advisable to wait for the official text of the motion before drawing any premature conclusions. He took the opportunity of emphasizing before the Committee that there had been no change in his Government's policy and that it continued to seek a solution of the Jerusalem problem in conjunction with the United Nations authorities.

The CHAIRMAN, commenting on Mr. Hirsch's statement, made it clear that the list of Holy Places which had been transmitted to the delegations was of a provisional character and not to be regarded as the considered opinion of the Committee.

The Chairman did not think that there was any misunderstanding between the Committee and the Israeli delegation as to what was

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meant by the landed property belonging to religious communities. If such property were a major source of income, then it could be taken as having a direct bearing on their religious activities. He would like to know the Israeli delegation's views on taxation with regard to such cases.

On the question of supervision by a United Nations Commissioner, as envisaged by the General Assembly's resolution of 11 December 1948, the Chairman pointed out that such a scheme could be taken to mean the presence of a Commissioner for consultation as Mr. Hirsch seemed to have understood it, or that it might be given a more direct interpretation and taken to imply day-to-day control and supervision by the United Nations Commissioner with administrative machinery at his disposal.

Referring to the question of an exact definition of Holy Places, he wished to draw Mr. Hirsch's attention to a draft definition which had been suggested by the representative of France and on which the Committee would like to hear the views of the Israeli legal advisers.

Regarding repairs to religious buildings and sites, the Chairman pointed out that disputes might occur if more than one religious organisation were concerned in the matter which would require intervention by the United Nations authorities.

Mr. de la TOUR DU PIN wished to draw Mr. Hirsch's attention to the fact that daily manual work, in vineyards and gardens for instance, was a rule of certain monastic orders, quite apart from any financial considerations. That problem concerned not only the property of certain Christian orders but also, he understood, Wakf property.

He asked whether the United Nations Commissioner would be able to intervene with the Israeli Government in the case of an entry visa being refused to certain religious persons or pilgrims, and whether the Israeli Government had sufficiently studied the administrative details which the possible appointment of a United Nations Commissioner would inevitably involve.

On the question of visas, he wished to have further clarification on Israeli policy with regard to visas, collective or otherwise, granted to Arab ministers of religion and pilgrims, whether Christian or Moslem, and on assurance that the United Nations Commissioner's guarantee of bona fides would be accepted. It was essential for free access to be ensured in practice as well as in law and in principle, and in that connection he quoted

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an instance of a member of a religious congregation who had in six months not yet succeeded in obtaining a positive reply from the authorities.

He also stressed the practical consequences of the acceptance of the principle of free access to Holy Places and religious buildings and enquired whether facilities would be granted for identity cards, ration books, tyres and the priority petrol which was essential for the exercise of their religious duties.

On the question of religious teaching in schools, he wished to know whether the Israeli Government adhered to the principles contained in Article 16 of the Declaration of Human Rights, and also requested elucidation on the position of the Alliance Israelite Universelle.

He was sure the Committee was anxious to see the official text of the resolution voted by the Israeli parliament, and also mentioned that a complete copy of Mr. Sharett's statement had not yet been received from the Israeli delegation.

Mr. HIRSCH, in reply, said that he considered both interpretations of the duties of the United Nations Commissioner referred to be the Chairman to be quite applicable. The Israeli delegation had always understood that supervision would be applied constantly and that the Commissioner and his staff would travel round the country continuously. He pointed out, however, in answer to the Chairman's suggestion as to whether the Israeli Government would agree to the presence of United Nations guards in Israel, that it must be borne in mind that many religious institutions guarded their privacy very zealously and might not welcome constant intrusion.

On the question of fiscal exemption in connection with landed property of religious orders, he said that his Government had reverted to the status quo under the British mandate and had already signed certain undertakings with the French Government confirming that position. He pointed out that the Israeli Government had adopted certain laws which had existed under the British mandate, including laws which stipulated that any import of food, clothing and certain other articles for the use of religious bodies and which were not on any account to be sold would be exempt from taxation and customs duty. On the question of vineyards, gardens and fields, once it had been shown that the proceeds from sale were a source of income, and not necessarily the only one, the taxes were waived. That was also part of

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the regulations under the British mandate. Agreements on that had also been signed with the French authorities and copies of both the laws and the agreements could be supplied to the Committee. He also wished to make it quite clear that the Israeli Government did not go into extensive investigations in deciding on whether that agricultural produce were a source of income.

With regard to Wakf property, the situation was different as it was closely bound up with other problems.

With regard to disputes between two or more communities concerning a Holy Place, the Government of Israel would be unwilling to intervene in such cases and felt that they should be dealt with by the United Nations Commissioner.

With regard to visas, he wished to say that cooperation of the United Nations Commissioner would be welcomed and would indeed help to expedite administrative investigations. It was true that at the moment, for reasons of security, neither Christian nor Moslem Arab ministers of religion were being allowed to enter, although exceptions were made in particular cases, as with Monsignor Hakim for instance who, with some of his followers, came to Israel and was shown the true state of affairs. He had since left again, with the Israeli Government's full consent, in order to look after the interests of his congregation abroad. Mr. Hirsch emphasized the fact that practical negotiations with such persons were taking place and that the situation would vary with the passage of time and would no doubt be greatly relaxed once security requirements became less strict. That also applied to the entry of pilgrims and in some cases to the free circulation of religious dignitaries as there was sometimes the possible danger of their being a source of agitation.

He assured the representative of France that he would do his utmost to prevent further delay with regard to the case to which the French representative had referred.

On detailed points, such as priority petrol, he answered that ministers of religion would in all probability be granted the same privileged treatment as diplomatic or consular representatives.

Satisfactory progress had been achieved on the question of schools and details would shortly be put before the Committee. In particular, a basis of agreement existed with the Alliance Israelite Universelle, and a draft had already been approved.

He assured the Committee that a translation of Mr. Sharett's

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speech would be made available to them as soon as possible.

The CHAIRMAN thanked Mr. Hirsch for all the assistance he had given the Committee in supplying detailed information.

He would appreciate it if the Israeli delegation would make known its views on the status of the property of the Russian Ecclesiastical Mission and of the Orthodox Palestine Society. The Committee had been informed by these groups that they considered themselves independent from the Soviet Church. A statement had appeared in the London "Times" of 24 June, however, which indicated that the property of the Russian Church in exile had been taken over by the Government of the Union of Soviet Socialist Republics.

He wished to make it quite clear that the Committee was raising the point with the Israeli delegation only because it had been formally brought to its attention in two memoranda received from the societies in question.

Mr. HIRSCH said that was an extremely complicated problem with far-reaching political implications, and his Government did not feel that it came within the terms of reference of the Committee on Jerusalem or of the Conciliation Commission in general. The position was in fact that the USSR Government considered itself to be the owner of that property and an exchange of views was taking place through the normal diplomatic channels.

In reply to a request from the Chairman for more explicit comment with regard to the Jerusalem area, he re-emphasized that it was his delegation's view that the principle of the matter should first be agreed upon before the more detailed aspects of the problem were tackled.