

COMMITTEE ON JERUSALEM

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Draft Proposal for an International Regime
for the Jerusalem Area

(Working Paper prepared by the Secretariat in pursuance of the decision of the Committee of 29 March 1949 requesting the Legal Adviser to prepare a Draft based on (1) the Draft Statute prepared by the Trusteeship Council (U.N. document T/118/Rev.2), (2) the Draft Statute submitted by the French member of the Committee (Com. Jer/15) and (3) suggestions submitted on the same subject by the U. S. member of the Committee. The present Draft Proposal for an International Regime for the Jerusalem Area is based on the idea of dual-sovereignty over the area of Jerusalem and breaks decisively with the principle of corpus separatum which was the basis of the Draft Statute prepared by the Trusteeship Council. For this reason no provision has been made for a special nationality, flag, monetary system, free zone, representation abroad, etc., as it is felt that such attributions necessarily require that the area be conceived as a separate legal entity, that is as a corpus separatum.)

I. GENERAL PROVISIONS

- 1) The area of Jerusalem includes the present municipality of Jerusalem together with the surrounding villages and towns, the most eastern of which is 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.
- 2) The area of Jerusalem shall be divided into two zones, a Jewish zone and an Arab zone. The demarcation line shall be determined through agreement between the Parties concerned. All matters which are not specifically dealt with in the present Statute shall be considered as being within the purview of the responsible authorities of the two zones.

II. ORGANS

3) The United Nations shall be represented in the area of Jerusalem by an Administrator who shall be appointed by and be responsible to the General Assembly of the United Nations which may also dismiss him. He shall not be a citizen of Israel or any of the Arab States.

4) There shall be established for the area of Jerusalem an Administrative Council which is to be composed of 4 Municipal Councillors for each of the two zones and two nominated members being neither Jewish nor Arab.

5) On behalf of the United Nations the Administrator shall ensure:

(1) the protection of and free access to the Holy Places as provided in Part III of this Plan;

(2) protection of human rights and the right of distinctive groups as provided in Part IV of this Plan;

(3) the demilitarization and neutralization of the area as provided in Part V of this Plan;

(4) the freest possible access to Jerusalem by road, rail or air for all inhabitants of Palestine.

6) The Administrative Council shall be responsible for:

(1) Common public services

(2) Coordination of measures to maintain peace and order

(3) Budgetary questions

(4) Such other municipal matters, as town-planning, which must of necessity be common to the area, and such

plans for the future development of the area which may serve to emphasize its character as the spiritual centre of the world.

7) There shall be established an International Tribunal composed of three Judges selected by the President of the International Court of Justice.

The Tribunal shall have jurisdiction with respect to:

(1) cases of jurisdictional conflicts between administrative organs and courts within the area of Jerusalem;

(2) cases submitted either by the Administrator or the responsible authorities of the Jewish or Arab zone involving claims, that laws, ordinances, regulations, administrative acts or court decisions are incompatible with the Statute.

8) There shall be established a Mixed Tribunal composed of three Judges of whom two are to be appointed by the responsible authorities of the Jewish and Arab zones respectively, whereas the third Judge shall be appointed by the President of the International Tribunal.

The Mixed Tribunal shall have jurisdiction with respect to cases in which the Parties involved do not belong to the same zone.

9) The Administrator shall be authorized to recruit a small number of guards for the protection of the Holy Places as well as for the protection of his Headquarters and his staff.

III. HOLY PLACES

10) The Holy Places within the Jerusalem area to which the Status Quo applies: the Basilica of the Holy Sepulchre and its dependencies, the Deir el Sultan, the Sanctuary of the Ascension, the Tomb of the Virgin, the Wailing Wall, the Basilica of the Nativity, Bethlehem, the Grotto of the Milk, Bethlehem, the Field of the Shepherds, Bethlehem, Rachel's Tomb, near Bethlehem, are placed under the direct control of the United Nations Administrator who shall be empowered to make regulations to ensure their protection and free access and who shall also, if necessary, have the right to station guards at the Holy Places and along routes giving immediate access to them.

11) The Administrator shall supervise the protection of and access to the Holy Places in the Jerusalem area other than those mentioned under 10) and suitable arrangements shall be made to that effect with the responsible authorities of the two zones.

12) In order to facilitate the access to all Holy Places in the Jerusalem area, the Administrator shall be empowered to call on the responsible authorities of the Jewish and Arab zones to grant rights of passage to persons who want to visit the Holy Places and to make suitable arrangements with respect to such passage.

13) The Administrator shall decide disputes between any religious communities or within any religious community in connection with any Holy Place, religious building or site. Such decision shall not be called in question in any court.

He shall further have the power to carry out necessary repairs to Holy Places when such repairs are urgently needed and the community concerned, though having been called upon, does not carry out within a reasonable time the repair in question.

IV. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

14) All persons in the area of Jerusalem shall enjoy the human rights and fundamental freedoms set forth in the Universal Declaration of Human Rights of 1948.

If the United Nations Administrator considers that any such rights are being interfered with unreasonably, he may bring the matter to the attention of the responsible authorities of the zone in question and, if necessary, bring the matter before the competent organ of the United Nations.

V. DEMILITARIZATION AND NEUTRALIZATION

15) The area of Jerusalem shall be permanently demilitarized and neutralized. There shall be no military or paramilitary forces or stocks of war material within the area.

The responsible authorities of the two zones shall be called upon to give formal assurances with respect to the demilitarized character of their respective zones, and the inviolability of the demarcation line between the zones.

Any violation of the present regime or any attempt to alter it by force shall immediately be reported by the Administrator to the Security Council.

VI. ECONOMIC AND FINANCIAL ARRANGEMENTS

16) The responsible authorities of the Jewish and Arab zones shall be called upon to negotiate such arrangements of an economic and financial nature which may be appropriate in the circumstances, taking into consideration the necessity of facilitating the commercial intercourse between the two zones.