

# ISRAEL'S LEGAL STATUS

## AN ABC SPECIAL STUDY

### *Introduction*

There are four levels on which we may view the architecture of Israel's status as we come to terms with reality in today's world.

- (1) The legal oracles prophetic revelation and Apocalyptic dictate of Jesus
- (2) International law as it now stands *de jure* and *de facto*
- (3) Overtures towards *Ordo Novo* under political incentive and statecraft
- (4) Stabilisation of the middle east and the *settlements* question under a peace plan

### *Perspective*

Aside from an observation on *peoplehood* this abbreviated *nota bene* is an analysis of (2) - the situation it under international law as I understand it.

### *Peoplehood*

The fourth perspective is dynamic and drives the arguments because of the acute on the ground *life situation*. The two parties currently in contention for the 1/6<sup>th</sup> part of the original mandated territory (known as the West Bank) are the Jewish state-cum- settler citizens of Israel and the Palestinian people represented politically by the *Fatah* and *Hamas* factions. The lineal demography and various dispersions of the Jews is well understood. The peoplehood of the main body of non-Jews who protest territorial rights over against the Mandated formula and in respect of a variety of other resolutions and the supposed option of the "Green" 67 unique cease-fire line (with Druze and Armenians etc. there being no contest) is less well known though it is manifestly Arabic. This people group is in search of status as a nation. Yasser Arafat argued that Abraham was an Iraqi and Jesus a Palestinian and Hanan Ashrawi in AD1991 asserted that she was a descendant of the first Christians who spread the gospel 600 years before the Arab Conquest of the Levant under Abu Bakr and his military strategist Khlid Ibn al Walid in 634(common era). This also is peculiar since at the time cited the residents of Bethlehem were known to be almost exclusively Jewish. The "Palestinian" peoplehood surmise attempts a link with the Cypriot-Minoan Philistines and perhaps stone age Canaanites. The historical links thus attempted are nebulous and would seem at best historically revisionist.

### *The situation under international law*

#### *1. What constitutes international law?*

*There are two elements that constitute international law "Treaties" and "Custom". The General Assembly of the United Nations makes resolutions but is not ipso facto by its existence a law making body so when it terms an act "illegal" is strictly not always legally binding. Technically resolutions are mainly "a consensus of international opinion".*

2. *What are the powers of the Hague?*

*The international Court of Justice in its deliberations vis a vis nations acts in an advisory capacity but is empowered to further matters agreed to be referred to its tribunals in law by constituent nations of the UN*

3. *What is the status of the Security Council of the United Nations?*

*It can make binding resolutions in respect of land and borders in cases where nations break UN Charter law in offensive conflict for strictly such war is deemed illegal.*

4. *Mandates*

*After WWI under the Treaty of Versailles numerous non-arabic nations of the old Ottoman Empire were transitioned to statehood by supervisory powers as Britain and France. There were 26 mandates in all.*

5. *The League of Nations Mandate*

*The concept of "League" might be rendered "The whole world". This body favoured the establishment of a national home for the Jews and issued a determination on 24 July 1922 based on agreement hammered out at San Remo in 1920 and Sevres five months later in August of that year. The Geo-physical area contemplated included the current area west of the Jordan river and the entirety of present day Jordan. An asseveration or variation of the plan was made in the foreseeable event of there being fewer Jews than might occupy such a large land donation. An award was made to the famous Saudi Hashemite family of Saudi Arabia (The Husseins) in lieu of the service of the Arab peoples (cf Lawrence of Arabia)*

6. *The British Mandate in its outworking*

*The British were tired of war after the 1914-18 struggle besides which finances were heavily constrained. A messy struggle developed between Irgun and the British and between the Interim or nascent leadership of Israel and the British military. At sea there was large and avoidable loss of life of returning settlers because Britain enforced immigrant quotas. Britain de facto said "We are getting out". The supervisory role was up in the air and incomplete. Israeli national independence was declared by the Ben Gurion administration.*

7. *The General Assembly of the United Nations*

*This body in some endeavour to re-enter the scene sent fact-finders who developed a schema for the division of Israel into 6 portions three of which were contiguous running from the North East to the South west and these were contemplated as a home for the Arab styled Palestinian people. Amid the strife of war in 1948 these withdrew with no possible prospect of partition. The pan Arab onslaught on Israel was repulsed. Curiously British military personnel heavily supported the Jordanians during the 1949-67 period even leading the earliest military assault.*

8. *Israel accepts the partition terms of the UN following 1948*

*In generous style Israel accepted the above terms but the Arab peoples refused in line with an avaricious quest of the entire territory originally mandated to Israel. This was hardly an astute or sensible decision. Under the United Nations Security Council initiative Jordan supervised an area including much of Samaria and Judea and the city of Jerusalem was internationalised.*

9. *The Green line following the 1967 war*

*The six day war in which Israel was attacked on Yom Kippor and undertook its own defense evented in an unprecedented military reversal. Article 52 of the UN charter legitimises national self defense so strictly that the powers of the Security Council could not be employed to finalise any borders different from the mandate. The 1967 fighting ended and a so-called "Green line" with no precedent in geo-political history nor any track record in political reality was devised and recognised only by Britain and Pakistan. The Jordanian hegemony was ended and Jerusalem was brought under Israeli control. The armistice agreement did not construe political boundaries different from the original mandate. Sinai was not in the original mandate and as such was returned to Egypt. Under Article 25 of the UN charter this was recognised. The West Bank and Gaza de facto inhabited and governed locally by Arab-Palestinian authority continued. Its status in law being that it either has no owner or is owned under the mandate by Israel. In Real Politic it is administered by Israel.*

10. *The famous resolution 242*

*This resolution was finally worded after many drafts and stated that "Israel should withdraw from territories conquered. The Soviet Union insisted on "All;" territories. The United States and the United Kingdom said "No" to that insistence because it was considered suicidal. The USSR said "No" to "Some territories" and the diplomats arranged it to read simply "territories". They agreed to disagree. Actually Israel withdrew from 99% of the territories.*

11. *The position today - Settlements*

*Israel is constituted under the terms of the Original League of Nations mandate. Israel is settled under resolution 242. Israel is respectful of International Law. There is no such thing as "settlement treaties" in international law though under the 1949 Geneva Convention when one country occupies another as with Iraq and Kuwait there is international law. Under Article 49 of the Charter of the UN and clause 6 there is provision that no occupying power shall deport or transfer part of its population. Israel has not acted to deport Arabs nor acted in law to transfer population-in fact it has acted to eject Jewish settlers from land where nothing hinders in law that they may purchase and build homes. Over against the acquisitive hopes of the Arab-Palestinian people and now considerable requirements of the growing Jewish communities a detailed but uneasy territorial demography is emerging.*

## *12. Prospects for Peace*

*What seems inevitable is the brokering of a solution to the land or territorial issues under a master plan or peace initiative activating head (4) above would bid for the all important Jewish signature. Such a plan envisaged under head (3) above will then have to stand the test of overriding and internecine conflict that seems bound to erupt in the area within the near future and ultimately will only find lasting solution in the overarching kingdom of Messiah the Shiloh of prophecy under whom Jew and Gentile shall live harmoniously in the larger territory to which anciently Moses referred. The prophecy of Daniel envisages such a plan which will emerge and fail within a span imposed upon it by the sovereign dealings of the Almighty who is the ultimate “despotes” ( N.T. Greek) of the boundaries and settlement of mankind under (1) above.*

**FINIS**

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