

TRUSTEESHIP
COUNCILCONSEIL
DE TUTELLET/130
25 February 1948

ORIGINAL: ENGLISH

SECOND SESSION

QUESTION OF THE STATUTE FOR THE CITY OF JERUSALEM

OBSERVATIONS OF THE AGUDAS ISRAEL WORLD ORGANIZATION
ON THE DRAFT STATUTE (Document T/118)Note by the Secretariat

The Secretariat has the honour to communicate to the Trusteeship Council

1. a communication from the Agudas Israel World Organization dated 16 February 1948, containing the observations of that organization on the draft Statute for the City of Jerusalem (document T/118), and
2. a previous communication from the same organization, dated 8 January 1948, which was originally communicated to the Working Committee on Jerusalem and which is referred to in the letter of 16 February.

/I. COMMUNICATION

RECEIVED

FEB 27 1948

UNITED NATIONS

I. COMMUNICATION FROM THE AGUDAS ISRAEL WORLD ORGANIZATION

DATED 16 FEBRUARY 1948

February 16, 1948

The Chairman of the
Trusteeship Council of the
United Nations
Lake Success, N.Y.

Dear Sir:

With reference to the following documents:

- a) our memorandum to the Working Committee for the Statute for the City of Jerusalem, submitted on January 7th, 1948;
- b) the addresses of our President, Mr. Jacob Rosenheim of New York and Rabbi I. M. Lewin, Chairman of our Executive Committee in Jerusalem, at their hearing to the meeting of Working Committee on January 21st, 1948;
- c) the Draft Statute for the City of Jerusalem issued by the Working Committee on January 25th, 1948 (E/118).

we beg to submit to the Trusteeship Council some observations and proposals in the name of orthodox religious Jewry the world over and also in Palestine, organized in the framework of "Agudas Israel World Organization" and its 28 national branch-organizations.

We arrange our remarks following the sequence of Articles, (Preamble, Article 1-45) of the Draft of January 26th, basing all our suggestions on the fundamental statements sub a and b of the Preamble, which we heartily endorse in the spirit of our religious traditions.

I.

BOUNDARIES OF THE TERRITORY OF THE CITY.

(Article 2, #1)

We propose to change the words within the brackets: "including also the built-up area of Motsa" into "including also Mount Castel". This would include Motsa and the near-by quarries.

II.

ARTICLES 5. DEMILITARISATION, NEUTRALITY AND PRESERVATION OF ORDER.

The present plight of the inhabitants of the Old City of Jerusalem is unsufferable and a challenge to the authority of the U.N. and its Trusteeship Council.

We therefore suggest, that the Trusteeship Council as such shall raise its powerful voice at the Security Council of the United Nations, nominate a Governor and immediately organize under his direction, as prescribed in Article 5, #4 a special police force for the maintenance, respectively the restoration of internal law and order in the Holy City of Jerusalem.

/III.

III.

ARTICLE 8 FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS.

We propose - in special reference to our ample statements sub II of our memorandum of January 7th - to insert into #1 of Article 8 behind the words: "and petition" the following sentence: "This right of association includes the right of establishing religious congregations with duly constituted religious courts functioning according to religious tradition". As long as this right is not fully safeguarded there will be no real freedom of religious conscience in Jerusalem and conflicts will become unavoidable. (Vide also our proposal to Article 27, #4.)

IV.

ARTICLE 10 CITIZENSHIP.

There seems to be some kind of incompatibility of the rigorous denial of citizenship to any foreign national as long as he is not willing to renounce this foreign nationality with the principles developed in the Preamble.

If the City of Jerusalem is in fact the unique spiritual religious centre of the monotheistic faiths, why not consider this religious moment as a sufficient nay superior tie of brotherhood for all the permanent residents, above all their merely national connection with the different nations of the earth?

We believe that this point of view should be thoroughly considered before definite acceptance of Article 10.

V.

ARTICLE 27 JUDICIAL SYSTEM.

In #4 of this article the following underlined words should be added after the first sentence, running:

Subject to the objectives of the United Nations and to social evolution in the city the existing status and jurisdiction of religious courts in the city shall be respected; "as well as of the congregational courts that may be established thereafter in accordance with Article 8, #1 of this Statute".

VI.

ARTICLE 29 ACCESS TO THE CITY.

N 2

We propose to change the wording of the sentence in full accordance with its source, the Resolution of the Great Assembly of November 29th and to remove the further limitations of free access to the City, as far as they are going beyond those, originally resolved on November 29th. The Article would then run:

/"Subject to

"Subject to considerations of security and of economic welfare as determined by the Governor under instructions of the Trusteeship Council, residents and citizens of the Arab State and Jewish State shall at all times be free to enter, visit, reside in and leave the City".

VII.

ARTICLE 29, #3 IMMIGRATION.

We propose to add the following sentence:

"In framing this order the Governor shall give due consideration to the legitimate spiritual and religious claim of religious persons of the three great monotheistic faiths throughout the world (particularly of ecclesiastics, theological students etc.) to live on the soil of the Holy City of Jerusalem".

We refer for motivation of this amendment, as far as Jews are concerned, to our memorandum of January 7, #1.

We are readily prepared to appear on invitation before the Council in order to submit further explanations of our views and to discuss the implications of our proposals for amendments.

Respectfully yours,

Agudas Israel World Organization
Jerusalem, London, New York

JACOB ROSENHEIM
President

II. COMMUNICATION FROM THE AGUDAS ISRAEL WORLD ORGANIZATION

DATED 8 JANUARY 1948

New York, January 8, 1948.

The Executive Director of
the Trusteeship Council of
the United Nations.

Dear Sir,

The undersigned "Agudas Israel World Organization" representing orthodox religious Jewry throughout the world, begs to submit the following statement to your kind attention.

We are speaking in the name of 24 organized national organizations in America, Europe, Asia and Australia and particularly in the name of the orthodox Jews of Palestine and of the Holy City of Jerusalem.

1. In view of the well known political and religious complications involved in the implementation of the U.N.- decisions concerning the creation of independent Jewish and Arab States in parts of Palestine, the future status of the Holy City of Jerusalem is of a decisive importance for orthodox Jews in Palestine as well as in all the countries of the world, where such Jews are living.

The establishment of the Holy City of Jerusalem outside the Jewish and Arab States, as an international area, thus to be sanctified for all the peoples of the earth as the central site of the three universal denominations, that are based on biblical traditions, appears to us as an act of far-reaching, truly world-historical importance.

It seems to mean a progressive step on the path to the ultimate realisation of Jesaias' prophetic visions, leading to world-peace and to the Lord's sovereignty over a united mankind.

Orthodox Jewry considers - as thousands of years of Jewish history and every page of biblical and rabbinical tradition prove - Zion and Jerusalem as the very center of religious holiness on earth, as the heart and soul particularly of Palestine.

"For out of Zion comes forth the Thora and the word of God from Jerusalem."

And He shall judge between the nations

And shall decide for many peoples

And they shall beat their swords into plowshares

And their spears into pruning-hooks

Nation shall not lift up sword against nation

Neither shall they learn war any more."

(Jesaias, II.3 & 4).

/Living on

Living on the sanctified soil of the Holy City and even to be buried one day in this holy soil on the heights of the Mount of Olives in Jerusalem, means one of the most cherished religious achievements for every orthodox Jew the world over. Hundreds of thousands of religious Jews were prepared in the past and will be prepared in future for the greatest personal sacrifices in order to live and to die in Jerusalem, the Holy City, even if no Jewish political sovereignty but that of the United Nations is prevailing in Zion.

We therefore as the representatives of independently organized religious Jewry are highly interested in the kind of the Constitution now to be created for the future status of the Holy City.

We beg to submit our suggestions with respect to some important questions, reserving further proposals and explanations:

1. Regulations concerning immigration (I).
2. Full implementation of the principles of freedom of religious conscience, as promised in the draft of the Unscop-Commission as far as congregational life and education are concerned (II & III).
3. Miscellaneous Suggestions (IV).

I. Immigration

Though the Governor of the City will certainly be the highest authority of the Executive Power, the formation of a special committee of a legislative and administrative character to regulate the vital question of immigration seems to be required.

Economic and technical (housing) conditions must be considered by experts to prevent overcrowding and on the other hand to avoid undue interference by political and discriminatory influence from without.

In accordance with the religious viewpoints stressed in our introductory remarks, we propose to grant priority for immigration into the Holy City to the following categories of Jewish immigrants from foreign countries:

- (a) Rabbis, scholars and other religious leaders of Jewish communities coming from the countries of persecution and hardship and secondly from other countries of the earth;
- (b) Persons of orthodox Jewish faith, who declare that for reasons of religious conscience they prefer to immigrate to Jerusalem and not to the Jewish State;
- (c) Students of Jewish religious scriptures and rabbinical literature;

(d) Orphan children, in need of a genuinely Jewish-orthodox education in the spirit of their parents, that have become the victims of the Hitler-persecutions.

In formulating these postulates, we assume that immigration from the Jewish State to Jerusalem will be completely free and not subject to any limitations in the framework of urban economic capacity.

II. Congregational Life.

The Community-life of Jews in Jerusalem is at present constitutionally based on the "Religious Community Ordinance" of April 15th, 1926. On basis of this Ordinance the High-Commission issued the "Jewish Community Rules". Sect. 3 of these rules decrees: "There shall be a recognized community of the Jews in Palestine." There cannot be the slightest doubt that this Community is meant to be a religious community, even though its character is not furtherly analyzed in this fundamental passage, because the "Rules" are issued under the "Religious Communities (Organization) Ordinance". The fact, that the Zionists called the supreme executive of the religious congregation "Vaad leumi" (i.e. National Council) cannot change its confessional religious character, as in any way the English text decides and the English title of the "Vaad leumi" is: "General Council". It had been assumed by the legislator that, in spite of the deep-rooting differences of opinion about matters of faith and religion among Palestinian Jews, all Jews of Palestine could be organized into a single religious community. This assumption however proved as fallacious.

In accordance with basical Zionist theory, that considers religion as a private concern of the individual and as a more or less important cultural product of the nation, the religious "Community, Knesseth Israel" refused to acknowledge the absolute and undivided authority of the divine law (Thora), as codified in the codes of orthodox, historical judaism over the organized religious community. The consequence was, that many thousands of strictly believing and observant orthodox Jews obeying to the decision of their rabbinical leaders all over the world and to the imperative call of their own religious conscience, made use of Nr. 17 and 18 of the "Rules" and voted out of the official religious community to belong exclusively to their own private congregation.

Though, in this way a direct challenge to the primitive freedom of conscience for the individual was avoided, the equality of right and development between historical judaism and the recently grown up nationalism has not been restored to date. The orthodox community under the name of "Vaad hair ashkenasi", though it was older than the "Knesseth Israel" and had been in full existence from Ottoman times, was condemned
/to become

to become suddenly a religious sect, a private association without the right of taxation, without an official recognized Rabbinate for the performance of marriages, divorces and similar jurisdictional competences, and those who wish to be freed from the oppression of their religious conscience have to undergo the unpleasant formality of "voting out".

The struggle of independent historical Judaism against this discrimination has not ceased during the whole period between 1926 and 1939 as the files of the Palestine Government and of the Mandates Commission of the League of Nations are bearing witness.

Now, that we are facing a turning-point in the history of the Holy City, we beg to claim the restoration of the parity between historical (orthodox) and modern-zionist Judaism. We fully agree to the maintenance of the "Knesseth Israel" as a legally religious community with their present Chief-Rabbinate and some important ritual institutions as different places. But no consideration of justice and tolerance can justify the existing condemnable discrimination against historical Judaism represented by the ancient orthodox community, called Waad hair Ashkenasi.

The whole monopoly of the "Knesseth Israel", that necessitates the troublesome procedure of "voting out" for those, who are conscientiously clinging to the ancient religious traditions, should come to an end, and membership of the "Knesseth Israel" as well as of other religious communities should be acquired by voting in, by voluntary adherence. It is sufficient, if the law compels every Jew to belong to one of the acknowledged Jewish religious communities. If there are 9 different Christian Communities in Jerusalem in existence, all of them in full equality, with the same official rights, why should it not be possible to tolerate at least two Jewish Communities on basis of complete parity thus terminating a tragical story of decades of unjust discrimination. This would by no means prevent, but on the contrary further the formation of a representative united Jewish-national body in Jerusalem of a strictly secular, economic and political character above all the religious differentiations that can never be removed by undue compulsion.

III. Education.

The majority-report of the Unscop-Commission provides in part III, Nr. 3,2 for all the inhabitants of the city the enjoyment of fundamental freedoms including freedom of education. Education of the younger generation in adequate school-institutions represents for orthodox Jews the very soul of the national life and only on the basis of full autonomy, without any undue interference from outside authorities, the

/goal of

goal of Jewish education is attainable. In Article 15 of the Palestine mandate matters of education are brought into direct connection with freedom of conscience, freedom of worship and prohibition of discrimination. Even the present "Education Ordinance" for Palestine represents only machinery for sanitary control on behalf of the government, inspection and licensing of teachers and physical training. Jewish "religion" (the Thora, as the national law) is not a catechism that can be taught in comparatively few hours during the week, but is founded on the Holy Scriptures and the Rabbinical literature as an all embracing code of life, which must stand in the center of all Jewish education, particularly in the Holy Land. This kind of concentrated education contains the secret of the indestructible existence of the Jewish people. Any attempt therefore to limit the freedom and full independence of traditional Jewish school-education in Talmud-Thora-Schools, Yeshiwoth and similar institutions - that are our national Public schools, Secondary schools and High-Schools would provoke the most violent reactions on behalf of tens of thousands faithful, believing Jews in the Holy City, who wish to live and to die with their children for the Thora, the spiritual center and the very happiness of their life.

As regards the administration and the financial maintenance of the school-system for orthodox Jews, special arrangements between the recognized religious communities and the civil authorities should be made on basis of hearings of and deliberations with the rabbinical and the pedagogical leaders of these communities in the Holy City.

IV. Miscellaneous Suggestions.

(a) System of urban settlement. We have been asked by the orthodox Community in Jerusalem to urge the advisability of mixed living-quarters in the Holy City, thus bringing Jews, Moslems and Christians into personal relations as neighbours in their daily life. The division of the population into separate locally divided groups according to their origin, race, religion or economic characteristics should not be favored, as it is obviously aggravating the education for a peaceful human amalgamation. Such amalgamation appears in our opinion possible without any danger of undesirable religious or cultural assimilation of the different groups. The inhabitants of Jerusalem should feel in their entirety as citizens of the Holy City, united in the desire to lead mankind to brotherhood and peaceful co-operation in the sense of the divine commandment (Leviticus XIX-18) "Thou shall love thy neighbour as yourself".

/(b) Land

(b) Land Purchase: The administrative regulations concerning the purchase of land for building purposes on the territory of the city of Jerusalem require urgent reform in view of the increase of immigration to be expected in the very near future. These regulations should be revised in order to alleviate, as far as possible, any legitimate transactions for the development of housing-plans in the city and in the suburbs.

(c) Pilgrimage to the Holy Places: Everything should be done by the Government of Jerusalem to facilitate to the believers of all the denominations concerned the traditional pilgrimages to their Holy Places in Jerusalem as well as in the Jewish and Arab States. Orthodox Jews throughout the world are especially interested in the so-called "Alija Leregél" (Pilgrimage for the three Feasts) (Exodus XXIII,17) to Jerusalem, when prayers before the Wailing-Wall and participation in the services on the Mount of Zion are deeply cherished by every religious mind. The supervision over the Holy Places of Jews should be entrusted - in accordance with the present Wailing-Wall-Ordinance - to the Chief Rabbinate of the Religious Communities, the zionist and the orthodox one, that will readily cooperate for this purpose.

We beg to submit a formal certified authorization on behalf of the Chief Rabbinate of the orthodox Community in Jerusalem empowering us to speak in their particular name also and not only in the name of independently organized orthodox Jewry incorporated in "Agudas Israel World Organization".

We shall be at any time prepared to supplement our statement by oral explanations and to answer any inquiries about the single points mentioned therein.

Yours respectfully

Jacob Rosenheim, President of
Agudas Israel World Organization,

ANNEX 1

ANSHEL RAND
Barrister-at-Law, Advocate
Notary Public
4, Ben-Yehuda Str.
Jerusalem - Palestine

AR/806/47
P.O.Box 993
Phone 5089

I, ANSHEL RAND, of Jerusalem, Palestine, Barrister-at-Law, Advocate, a Notary Public, duly licensed and competent to do this act under the Notaries public (Foreign Documents) Ordinance, 1921, Do HEREBY CERTIFY AND ATTEST that the signature appearing at the foot of the document annexed hereto and marked "A" is the true and authentic signature of Rabbi J. H. DUSCHINSKY, Head of the Ashkenasic Jewish Community in Jerusalem and President of the Council (Waad Hair) of the Ashkenasic Jewish Community of Jerusalem, who is personally known to me, and who, in my presence has, this day, subscribed his name at the foot of the said document.

stamp 50 mils

seal

IN WITNESS WHEREOF I have

hereunto set my hand and

seal Notarial in Jerusalem

this 7th day of December,

in the year One Thousand

Nine Hundred and Forty Seven.

ANSHEL RAND (signed)

NOTARY PUBLIC

PALESTINE.

ANNEX 2

J. H. DUSCHINSKY
Head of the
Ashkenasic Jewish Community
in Jerusalem and
Chief Rabbi of the orthodox
Jewry in Palestine

Jerusalem, 7th December, 1947.

POWER OF ATTORNEY

I, the undersigned Rabbi J.H. Duschinsky, Chief Rabbi of the
Ashkenasic Jewish Community of Jerusalem, as President of the Council
(Waad Hair) of the Ashkenasic Jewish Community of Jerusalem,

hereby empower and authorize RABBI JACOB ROSENHEIM of New York, to
represent the Ashkenasic Jewish Community of Jerusalem before the
United Nations TRUSTEESHIP COUNCIL in matters relating to the
status of our Community Council in the International Zone of
Jerusalem.

This Power of Attorney specifically includes the presentation of
legitimate claims of the Council of Ashkenasic Jewish Community of
Jerusalem regarding the lawful recognition of our Council in
the future constitution of Jerusalem as a religious community with
all rights and privileges enjoyed by such body.

signed

DUSCHINSKY

Seal
