

S T A T E M E N T

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T H E C O U N C I L O F T H E A S H K E N A S I C  
J E W I S H C O M M U N I T Y  
J E R U S A L E M

Presented to

UNITED NATIONS SPECIAL COMMITTEE ON PALESTINE

Jerusalem

July 1947

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The Orthodox Jewish Community of Jerusalem which is organised as the Vaad Hair Ha-Ashkenasi ( Council of the Ashkenasic Jewish Community of Jerusalem) has the honour of extending its hearty and respectful welcome to the members of the UNITED NATIONS SPECIAL COMMITTEE ON PALESTINE upon their arrival in the Holy Land on an exalted mission, having been charged by the United Nations with the task of restoring peace and justice in the Holy Land, a country to which the eyes of the peoples of the world are focused. We pray that the Almighty may bestow HIS blessings on your work and councils, may guide you along the right path, may grant you the highest divine intelligence and may crown your work with success.

#### I N T R O D U C T O R Y

Our Orthodox Community Council being the oldest Council of the Orthodox Community in the Holy Land represents those Jews who are loyal to the Laws of Moses, as handed down from generation to generation. A substantial part of our members are the direct posterity of the original founders of the Jewish Yishuv of many centuries ago. It has the honour of presenting to you the following memorandum which deals with the basic ideas on the Palestine problem and the just demands of that Council which refer in particular to Article 4 of the terms of reference of your Committee as drawn up by the United Nations Organisation, the successor of the defunct League of Nations.

#### P A R T I

##### 1. The ancient right of the People of Israel to the Land of Israel.

In approaching what is commonly called the Palestine problem and in trying to find a just and suitable solution it is imperative that the history of the Holy Land and its correlation with the Jewish People be viewed in their proper perspective. Indeed from the day onwards on which the Lord said to Abraham: " Arise, walk through the Land, in the length of it and in the breadth, for I will give it unto thee" (Genesis, 13, 17), this country was predestined to be the land of domicile for the

People of Israel. However, this predestination, this divine promise, has its basis but in religion; for only loyalty to HIS Laws and Teachings and fundamental application of that Law in Israel's public and private life will entitle them to the name "People of Israel" and only then can the term "Land of Israel" apply to this Land as it is said: "And ye shall be unto me a kingdom of priests and a holy nation" (Exodus 19, 6) and further: "For thou art a holy people unto the Lord, thy G'd." (Deuteronomy 7, 6). The interrelation between the Land of Israel and the People of Israel rises and falls with the degree and intensity with which they fulfil the Holy Law. Past experience proves that Israel fell easy prey to their enemies whenever they deviated from the path prescribed in the Holy Bible, a fact to which the chapters of the Old Testament bear eloquent evidence. It is this interrelation between the people of Israel and the Land of Israel which makes the fulfilment of certain commandments dependent on the soil of the Holy Land, commandments which cannot possibly be observed in any other country.

## 2. Unbroken settlement by Jews throughout the ages.

Hence, even after the dispersion, when Israel were scattered to the four corners of the world to atone for their sins and prepare themselves for the great task of being a holy nation and of being fit once again to live in the Land of their Promise, Jews loyal to the tradition of their forefathers have not severed the connections with the Land even for short intervals. Though unable to fulfil all the commandments while residing abroad, particularly those relating to the soil of this Land, they have constantly directed and arranged their prayers with their faces towards the Holy Land in accordance with I Kings 8, 48: "And pray unto thee towards their land".

The best of Israel endeavoured to visit the Holy Land at least once in their lives and at later periods, when transport and traffic connections became easier, these loyal Jews began to return to the Holy Land to live permanently therein in holiness and purity and literally applied the verse (Psalms 102, 14): "For thy

servants take pleasure in her stones and favour the dust thereof."

The relation between the people of Israel and the Land of Israel being an ancient and permanent religious tie, Providence has seen to it that throughout the long history of this Land Jews were never to abandon it entirely until their hold had again improved by the return of the Jews in greater numbers.

### 3. The early Jewish Communities.

The banishment of Jews from Spain resulted in the re-establishment of such Jews in the Holy Land, which exist to this very day. Almost two hundred years ago orthodox Jews from other European countries began to return in substantial groups and it was then that the first Council of Ashkenasic Jews was set up, laying the foundation for those communities which continued to develop and expand ever since.

### 4. Good neighbourly relations with other sections of the population

During no period of the immigration of such orthodox European Jews was any opposition offered by the Arab population. On the contrary these Jews were welcomed on account of economic benefits and general progress that accrued to the local inhabitants who had no fear whatsoever of being subjugated. It was common knowledge that these Jews came but for the purpose of fulfilling certain religious requirements and they had no difficulty in establishing mutual trust, and real friendship developed with all sections of the community. That was the time when good neighbourly relations existed between Jews and Arabs and in particular Rabbis and eminent scholars who then lead the Jewish Community were greatly esteemed and honoured by all inhabitants.

### 5. Palestine under the Mandate.

With the occupation of Palestine by His Britannic Majesty's Forces and after the confirmation of the Mandate over Palestine by the League of Nations, which incorporated the Balfour Declaration of 1917 a new era opened in the history of the Holy Land. We,

Orthodox Jews whose forefathers promoted the development of the Jewish Yishuv throughout the generations, who for many centuries constituted the most important element of the Yishuv in the Holy Land, were always on the very best terms with all sections of the Community. We had hoped that the real purpose of the Mandate would be the promotion of a National Home to which all Jews who lived in the Diaspora might be able to return as their Home Land in order to live here in accordance with the Commandments of the Almighty. It was only upon the first appearance of the Zionist Organisation as a political entity, created in and by the spirit of reform, a spirit to which Orthodox Jewry is so utterly opposed that the idea of the foundation of a Jewish State in the Holy Land was first advanced.

Much trouble and endless bloodshed might have been avoided if the Mandate were to have been applied in the manner hoped for by Orthodox Jewry. If in addition the various Jewish Communities in the country had been organised along traditional lines of truly Jewish Law, by actively applying the Laws of Moses to the public affairs of the Holy Land, we are convinced that the country would have remained at peace and the dangers inherent in prevailing conditions might never have arisen. Moreover, the colossal massacre of millions of our brethren at the hands of Nazism during the second World War might have been averted to a very substantial degree for many of them might have been able to live peacefully in the Holy Land as there would have been not the slightest justification for the limitations of Jewish immigration as have in fact been enforced during the last decade.

However, it is a regrettable fact that a serious blunder was committed at the time by recognising first the leaders of Zionism and then the Jewish Agency as official representation of the Jewish population and by handing the keys of immigration to that body which consists of Zionists and non-Zionists who are united in their opposition to the application of religion to public life and they have succeeded in bringing to this country free-thinking people like themselves who blocked the

way of immigration of myriads of Orthodox Jews. Only after prolonged and forceful representations supported by the Government of Palestine did they agree to issue small numbers of certificates for immigration also to Orthodox Jews. They have thus succeeded in strengthening their position by bringing in elements of the population who were faithful to their aims and ideals and have founded Jewish Communities throughout the country whose very spirit is, contrary to the requirements of Jewish Law and have thereby furthered their hold in the country, by insisting on the creation of a Jewish State therein. This arouse the fear of our Arab neighbours in connection with further Jewish immigration and thus started the determined opposition on the part of the Arabs against Jewish immigration.

#### 6. Palestine as a State.

From the times of King Salomon to our very days the Holy Land was either united with Trans-Jordan or attached to Syria or Turkey. Western Palestine was never a single and independent entity and certainly a part of that cannot possibly constitute an independent state, as envisaged in the various plans that are discussed from time to time.

However, the basic reason for our opposition to an independent Jewish State is that in prevailing circumstances where the officially recognised representation of the Jewish people does not consider the authority of the Holy Law as binding in the public affairs of the Jewish People, there can be no guarantee that the religious needs and requirements of Orthodox Jewry will be observed in the Laws of such a Jewish State and it is contrary to the wishes of G'd to create a Jewish State which will not keep Traditional Jewish Law as the basis of Law in public affairs in the Holy Land.

#### 7. Discriminatory Land Laws.

The discriminatory Land Laws as at present enforced are in open conflict with the principles of the United Nations Charter which demand that there be no discrimination against any race or

creed. The Jews being in Palestine by an ancient historic right which was acknowledged and confirmed in modern times by the terms of the Mandate, there is absolutely no basis in such laws which in any event hamper the economic development of the country as a whole.

#### 8. Summary of Part I

Orthodox Jewry has not the slightest intention of subjugating any section of the population of the Holy Land. We merely demand that the gates of Palestine be opened to all those Jews who have no home and enable them to live here Jewish lives in accordance with the commandments of the Lord. However, in order to avoid the continuation of the untenable position as set out in the last paragraph of section 5 we suggest that the keys of Jewish immigration be placed into the hands of the Government of this country.

We furthermore wish to express our definite opposition to a Jewish State in any part of Palestine which is not based on the principles of Traditional Jewish Law.

We also demand categorically the abolition of the discriminatory Land Laws as at present enforced.

P A R T II

9. The status of the organized Orthodox Jewish Community.

From the beginning of the Yishuv until the British occupation all Jewish public affairs, internal and external, were determined by the Local Chief Rabbinate and were actually administered by communal leaders appointed by the Rabbis with the consent of the people. The activities of the Rabbis of the Beth Din ( Religious Law Court ) in general public affairs as well as in ordinary civil disputes in matters of personal status were subject to the <sup>approval by the</sup> official Chief Rabbi and thereby received legal sanction. Since the Council of the Ashkenasic Jewish Community was the legally elected representation of the Orthodox Jewish Community in the Holy City who elected also the Chief Rabbi, it is clear that the above rights and privileges were actually vested in that Council.

The British Military Administration viewed the orthodox community with favour and gave us an assurance that in future, too, our rights would be safeguarded ( see Appendix 1 ).

As soon as the Palestine Government was established after the confirmation of the Mandate in 1922, it began to adopt a negative attitude towards the Ashkenasic Jewish Community Council and finally agreed to recognize the free thinking Community Councils of the Zionists. Thus serious obstacles were placed in the path of development of the Orthodox Community whose members were subject to pressure on their religious scruples.

10. Reasons for our opposition to the General Community Councils.

On April 13, 1926, the most eminent and authoritative Rabbis of Orthodox Jewry who were always the final authorities in Jewish Public Affairs met at an all Palestine Conference which was especially convened to pass a final statute for the Jewish Community. That Conference which was attended by almost all eminent Rabbinical Authorities in the Holy Land, passed the following resolutions:-

- a) According to the Torah a religious Community is under obligation to acknowledge the authority of the Torah as interpreted in the Shulhan Aruh (Codex of religious Law) and by the judgments of the Rabbis, in all public affairs and communal arrangements which come up for determination. Such recognition and acknowledgment is obligatory, and must be made a foundation of the constitution of a Jewish Community.
- b) According to the Laws of the Torah it is prohibited for women to take part in the election of the committees of communities, and they may not be elected to any of the executive bodies of the Community. It is also prohibited for any man to take part in elections based on the grant of franchise to women.
- c) According to the Torah no one who is not religious, desecrates the Sabbath, infringes the dietary laws, etc., may be a member of the executive committee of the community or may express any opinion on the administration of public affairs of religious Jews.
- d) According to the Torah it is prohibited to support out of Communal Funds institutions, activities and objects which are not in conformity with the Laws of the Torah, especially if they are carried out by opponents of religion. That includes the support of free-thinking schools or institutions in which the Sabbath is desecrated or kitchens in which food is prepared which does not conform to the dietary laws.
- e) According to the Torah no observant Jew may become a member of a Community that refuses to accept and embody the above mentioned foundations in the constitution of the community.

These resolutions were signed by over 70 Rabbis and legal religious authorities, Ashkenasim as well as Spharadim, and the eminent rabbis of Jewry in the Diaspora, lent their support to them.

Notwithstanding that weighty testimony and the representations of Orthodox Jewry in Palestine and to His Majesty's Government in London and to the League of Nations in Geneva, in which expression was given to the painful feelings that the official recognition to the secular community which is not based on religion would cause to masses of observant and religious Jews, the Government nevertheless gave legal validity to the statutes of the Jewish Community of the Holy Land in accordance with the wishes of the free-thinking Jews who disavow the Law of Moses. That was done by the enactment of the so-called Jewish Community Regulations, 1927, which, paradoxically, purport to be based on the enabling legislation called "The Religious Communities Ordinance, 1927". The very name of the enabling legislation proves that the intention of the legislator was to give the Jewish Community a religious character. The only appreciation of the susceptibilities of Orthodox Jewry was in the form of the right given them under regulations 17 (3) and 18 (2), to opt out of the Community of the free-thinking Jews. Under the pressure of that legislation and from a desire to discharge their religious duty 11000 adult Jews applied in the first year of that legislation in Jerusalem alone, for the right to leave the free-thinking Community, and orthodox Jews whose names are published in the Registers of the Jewish Community continue to leave the non-religious communities.

11. Infringements of the rights of Orthodox Jewry.

Scores of thousands of Orthodox Jews who have left the Community of the Vaad Leumi have remained deprived of their right to be organized as a recognised community that could provide them with their personal and public requirements under the law. In other words they are placed in the position of a second-rate citizen also they are old-established inhabitants and indeed founders of the Yishuv of the Holy City. What is more under the Jewish Community Regulations the Vaad Leumi may include in their registers of adult Jews the name of any Jew without seeking his consent and compel him to make a formal act ( a written application to leave the Community) in order thereby to be exempted from

Joining a community which, according to their religious scruples is prohibited to them. This is in our submission a grave desecration of a person's religious feelings. The technical procedure involved is moreover one that causes much annoyance and trouble for it entails a close scrutiny, year after year, of the lists of adults of the Vaad Leumi, a task for which few people have the necessary leisure. We are convinced that the number of those leaving the community would have been much larger had the Government asked every Jew to what community he wishes to belong.

Article 51 of the Palestine Order-in-Council, 1922, recognizes the established religious courts which had jurisdiction in matter of personal status and empowers them to carry on their activities without restrictions. Accordingly the Religious Courts of the Orthodox Community, Vaad Hair Ha-Ashkenasi, which had existed at the date of the Order-in-Council, had jurisdiction in matters of personal status and most of whose members had served in their judicial capacities prior to the British Occupation should have received full recognition. We regret, however, to say that the Government has denied those Courts jurisdiction in matters of personal status, wills, religious bequests, etc.

The injustice is particularly striking as compared to the treatment accorded to the members of Christian Communities who were allowed to maintain separate religious courts for their various sects, including some that number only a few hundred members. While Christians have been given such privileges, the Orthodox Jewish Community which numbers scores of thousands of members has not been privileged to secure recognition for its courts with the result that those Orthodox Jews, old established inhabitants who had always enjoyed these rights suffered serious coercion of their religious scruples. ( see appendix 2 and 3 )

It would be desirable for the Committee to peruse the questions which the permanent Mandates Commission decided, at its 22nd meeting held in 1932, to put to the Mandatory Power.

These questions which were approved by the League of Nations in 1933 were:-

- a) In the view of the Mandatory, would the recognition of such a Jewish Community in Palestine interfere with the discharge of the other obligations arising from the Mandate, particularly of the obligation relating to the establishment of a Jewish National Home and if so in what way ?
- b) If the declaration made by the accredited representative to the effect that the Government of Palestine deems it advisable to organize the Jews in a single community, and for the time being dismiss the question of the dissentient party, purported to indicate that the request of the applicant would receive consideration in the near future?

To this day the Government of Palestine has given no reply that would be consonant with the grant of justice to Orthodox Jewry.

## 12. Summary of Part II

Realizing that your Committee and the United Nations Organization as such is now taking the place of the defunct League of Nations, we hereby approach you formally to remedy an impossible position which has unfortunately now lasted for over 15 years in spite of the action then recommended by the Permanent Mandates Commission of the League of Nations, namely recognize officially Orthodox Jewry by confirming their Community Council in Law, to abolish the legal requirements concerning registration in Jewish Community Affairs and to vest authority once again in the Ashkenasic Jewish Community Council in matters concerning personal status.

P A R T III

C O N C L U S I O N S

In relying on the sense of justice and fairness of all members of this august Committee, and on the integrity of the UNITED NATIONS ORGANISATION as practiced throughout the world and in particular with reference to Article 53, 1 of the United Nations Charter, as well as on Article 9 of the Mandate which reads:- "... similarly the rights, personal status and religious interests of the various sections of the population shall be safeguarded....", we venture to express our hope that you will see your way clear to recommend in your report the fulfilment of our just demands, as set out below, in order to rectify the prolonged injustice inflicted on an important section of the inhabitants of the Holy Land:-

- (1) To vest authority once again in the Ashkenasic Jewish Community Council as regards jurisdiction over the laws governing personal status, such as marriage, divorce, wills, bequests, etc.
- (2) To recognise officially the Orthodox Jewish Community Council by confirming it in Law in accordance with the statutes as set forth by leading Rabbis and eminent Jewish authorities.
- (3) To abolish the legal requirements concerning registration in Jewish Community affairs and to arrange that in future membership to any particular community shall depend on formal application by an individual to become a member of such community, so that the rights and privileges of Orthodox Jewry shall not be suppressed.
- (4) To open the gates of the Holy Land for Jewish immigration through the agency of the Government to all those who wish to live Jewish lives in the Holy Land in accordance with the commandments of the Lord.

- (5) To rescind the discriminatory Land Laws as in force at present; such laws being in fundamental conflict with the basic Human Rights under the United Nations Charter, and a serious obstacle in the development of the entire country for the benefit of all its inhabitants.
- (6) Not to recommend the foundation of a Jewish State in any part of Palestine which is not based on the principle of Traditional Jewish Law.

Jerusalem,  
July, 1947

Council (Vaad Hair) of the Ashkenasic  
Jewish Community, Jerusalem.

Appendix 1.

Exh. 1.

Chief Rabbi

Council (Waad Hair) of the Ashkenasic Jewish  
Community, Jerusalem.

Sir,

I have the honour to acknowledge receipt  
of your letter of 30th April, 1920.

The Chief Administrator instructs me to  
inform you that the interests of your Community ,  
equally with all others, will be safeguarded in  
the future as in the past.

I have the honour to be,

Sir,

Your obedient servant,

(sgd) Walter Taylor

Colonel.

Chief of Staff.

H.Q., O.E.T.A.(S).

JERUSALEM

4/5/20

Appendix 2.

RELIGIOUS COMMUNITIES (ORGANISATION)

An Ordinance to provide for the organisation of  
Religious Communities.

(16th April, 1926).

WHEREAS it is provided in Article 83 of the Palestine Order in Council, 1922, that each religious community recognised by the Government shall enjoy autonomy for the internal affairs of the community, subject to the provisions of any Ordinance or order issued by the High Commissioner;

BE IT ENACTED by the High Commissioner for Palestine, with the advice of the Advisory Council thereof:-

1. This Ordinance may be cited as the Religious Community (Organisation) Ordinance.

2. (1) If any religious community in Palestine makes application under this Ordinance, the High Commissioner in Council may, with the approval of the Secretary of State, make rules for its organisation as a religious community and its recognition as such by Government of Palestine.

(2) Separate rules shall be made in each case and shall be suited to the special circumstances and organisation of the community concerned.

(3) Any such rules may provide for the constitution of religious and cultural councils or boards of the community which shall have capacity to acquire and hold immovable and movable property of every description, to enter into contracts, to execute any deeds and to sue and be sued under the titles granted to them.

(4) Any such rules may bestow upon the said councils or boards power to impose upon members of the community contributions or fees for communal purposes which shall be recoverable in the same way as municipal taxes and fees.

3. Any rules made under this Ordinance may provide that any Ottoman decree or regulation relating to matters falling under this Ordinance shall cease to have effect in Palestine.

Religious Communities Organisation (Amendment) Ordinance, 1934, Section 2, sub-section 3 amended :-

(a) by the insertion of the words "to raise loans" between the words "into contracts" and "to execute", and

(b) by the addition of the following proviso at the end thereof:-

" Provided that no loan raised by any such council or board shall be binding on such council or board unless the consent of the High Commissioner has been given to the issue thereof and the terms upon which such loan was raised shall be binding only so far as they have been approved by the High Commissioner, and nothing in this Ordinance shall affect the liability of any members of any such council or board in respect of any unauthorized loan contracted by any such council or board."

Appendix 3

Palestine Order in Council

51. Subject to the provisos of Articles 64 to 67 inclusive jurisdiction in matters of personal status shall be exercised in accordance with the provisions of this Part by the Courts of the religious communities established and exercising jurisdiction at the date of this Order. For the purpose of these provisos matters of personal status mean suits regarding marriage or divorce, alimony, maintenance, guardianship, legitimation and adoption of minors, inhibition from dealing with property of persons who are legally incompetent, successions,

wills and legacies, and the administration of the property of absent persons.

Sup. No. 2. Palestine Gazette No. 898 of 29.6.39

9. - (1) Article 51 of the Principle Order shall be numbered as paragraph (1) of that Article; the words " established and exercising jurisdiction at the date of this Order" in that Article shall be deleted;

Article 51, sub-paragraph 2 of the Order-in-Council was unjustly amended to the prejudice of Orthodox Jewry. The amendment conflicted even with the intention of the legislator. Although the High Commissioner has been given power to make changes in the composition and jurisdiction of the Religious Courts of the Moslem Community only, and not of those of the Jews, which existed at the time of the making of the Order-in-Council, as is clear from the terms of Article 53 of the said Order-in-Council, nevertheless the first text of that Order-in-Council has been amended by the omission from it of the words "established and exercising jurisdiction at the date of this Order", as may be seen from the wording of the amended Article.

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Council of the American Society for the Study of the Negro in America 2/06/1947-07/1947

ORIGINAL ORDER

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BOX 3

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