

INTERNATIONAL LAW AND JERUSALEM

Tom's Perspectives

by Thomas Ice

The Bible teaches that God gave to the Jewish people the land of Israel. This is repeated many times throughout the Bible. God's viewpoint on this matter is what ultimately matters since He will at some point in the future implement His will. If God says something then that settles it, that decree will surely come to pass. However, it is interesting to note that international law is and has always been on the side of the reestablishment of the modern state of Israel. Furthermore, the law also supports the claim that Jerusalem belongs to the Jews and that the Arabs have no legitimate legal claim upon Judaism's most holy location.

JACQUES PAUL GAUTHIER

Canadian lawyer Jacques Paul Gauthier recently finished a twenty-year project in which this Gentile Christian researched at the University of Geneva political science department and international law school, the legal issues relating to the ownership of Israel and Jerusalem. Gauthier's PhD thesis was completed in 2007 and is entitled: "Sovereignty Over The Old City of Jerusalem."¹ Dr. Gauthier has demonstrated in painstaking detail in his thesis of over 1,200 pages the following conclusion:

After our examination of the principles of international law pertaining to belligerent occupation, we have concluded that Israel has the right to occupy the territories under its control since 1967, including East Jerusalem and its Old City, until a peace treaty is concluded.²

Since Gauthier's publication was a PhD thesis, he had to painstakingly document every opinion or conclusion with legal and historical facts. Had the readers of his thesis not agreed with the information in his work they would not have accepted Gauthier's thesis. This means that Gauthier's work is the most authoritative opinion covering the international status of the old city of Jerusalem and the land of Israel. So what is Dr. Gauthier's argument?

GREAT BRITAIN'S ROLE

Gauthier notes that the Balfour Declaration of November 2, 1917 did not have the status of international law, at least not when issued. However, it did become the official policy of the British government that bound Great Britain to pursue the founding of a future state of Israel and granting them self-determination. The United Kingdom took the next step toward founding the Jewish state when General Allenby captured Jerusalem on December 11, 1917 and then the rest of Palestine (Israel).

On January 3, 1919 Chaim Weizmann, who was the leader and representative of the Zionist Organization on behalf of the Jewish people, met with Emir Feisal, who represented the Arab Kingdom of Hedjaz. Included in an agreement that both parties agreed upon was that the Jewish people should get the land west of the Jordan River and that the old city of Jerusalem would be under Jewish control.

The Paris Peace Conference began on January 18, 1919 and lasted about six months in which new borders were decided upon for parts of Europe and the Middle East and were given the force of international law. The conference was made up of the victorious Allied powers from World War I. The "Big Four" were made up of the

United States, Great Britain, France, and Italy. Lord Balfour represented Britain. It was during the summer of 1919 that Arab opposition began to be voiced against the Feisal-Weizmann agreement. As a result that aspect of the conference stalled and was never agreed upon. Nevertheless, Balfour issued the following statement on August 11, 1919: "The four great powers are committed to Zionism. And Zionism be it right or wrong, good or bad, is rooted in age long traditions, in present needs in future hopes of far profounder import than the desire and prejudices of the 700,000 Arabs who now inhabit that ancient land."³ The Paris Peace Conference ended without a final solution reached concerning the status of Palestine, even though there was much discussion about the matter.

THE SAN REMO CONFERENCE

A meeting to deal specifically with the unfinished business of Palestine, which was to be seen as an extension of the Paris Peace Conference was commenced on April 19, 1920 in San Remo, Italy. It was attended by the four Principal Allied Powers of World War I who were represented by the prime ministers of Britain (David Lloyd George), France (Alexandre Millerand) and Italy (Francesco Nitti) and by Japan's Ambassador K. Matsui. The San Remo Resolution adopted on April 25, 1920 incorporated the Balfour Declaration of 1917 issued by the British government. The San Remo resolution and Article 22 of the Covenant of the League of Nations, which was adopted at the Paris Peace Conference on April 28, 1919, were the basic documents upon which the British Mandate for the stewardship of Palestine was constructed. It was at San Remo that the Balfour Declaration went from being just a statement of British foreign policy to international law.

The British Mandate was fully implemented upon approval by the Council of the League of Nations on September 22, 1922. However, when the parties left San Remo in April 1919 the future state of Israel was to be made up of what now constitutes the Kingdom of Jordan, as well as all the land West of the Jordan River. After September 22, 1922 what is now the Kingdom of Jordan was taken away from Palestine and became another Arab nation. This was the beginning of the trend still operative today that Israel needs to give up more land in order to be promised peace. The reality is that every time Israel gives up land, she experiences even less peace.

THE MANDATE

On July 1, 1920 the British military administration, which had controlled Palestine since December 1917, was replaced by a British civil administration covering all of Palestine on both sides of the Jordan River, with its headquarters in Jerusalem. The Mandate instructed Great Britain that she would oversee Palestine with the goal of the establishment of a national home for the Jewish people in Palestine. At the time of the issuance of the Mandate, it was believed that there were not enough Jews in the land to establish a nation. Thus, Great Britain was to oversee the immigration of Jews to the land and when there were enough then Palestine would become the national homeland for the Jewish people. However, normally, Britain obstructed the goal of developing a Jewish homeland in Palestine.

As the League of Nations was dissolved in 1946, the United Nations, which was founded in 1945, began to deal with the Palestine issue. The UN General Assembly passed a Partition Resolution (Resolution 181) on November 29, 1947. This UN resolution adopted the necessary legal status from the League of Nations needed for Israel to declare her independence on May 14, 1948. Under 181, the land of Palestine

was partitioned and part of Palestine was given to the Arabs and the rest was given to Israel, except Jerusalem was to become an international city. Gauthier tells us, "The special international regime for the *corpus separatum* which was to be established on or prior to October 1, 1948 was to remain in force for a period of ten years. At the end of that period, 'the residents of the City shall be . . . free to express by means of a referendum their wishes as to possible modifications of the regime of the City.'"⁴ The Arabs rejected resolution 181 and attacked the Jews resulting in a larger land area for Israel when the fighting stopped in 1949. Israel's war for independence also prevented Jerusalem from becoming an international city. The promised election by October 1959 to determine to whom Jerusalem belonged never took place. There is no doubt that the city would have voted for Israel if an election had taken place. Thus, all of the legal rights to the Old City of Jerusalem belong to Israel and the Jews.

CONCLUSION

Gauthier's work, which I have only provided a glimpse into, demonstrates that both the land of Israel and the Old City of Jerusalem belong to Israel and the Jews based upon the standards of international law. When commentators appear on the media today and start talking about how Israel is violating international law with their occupation, they are absolutely without any basis in the truth. These advocates for the Arab occupation of Jewish land have no legal basis to stand. However, that does not seem to bother them since they are lawless and many hope through jihad to take over Israel. Most of these spokesmen really do not care about the law, international or otherwise.

The facts are that both the Bible and even international law says that the land of Israel and Jerusalem belong to the Jewish people. The fact that many within the international community know this information means nothing. Today the Gentile nations are in an uproar, while increasingly clamoring for the extermination of the nation and people of Israel. Yet, the hand of God's providence has restored His people to their land while still primarily in unbelief. We increasingly see the lawless attitudes of the nations constantly on display as they certainly do not care about God's Word, nor do they heed the clear mandates of manmade international law. So it will be in the end, as at the beginning and throughout her history, that Israel will have to be saved by the actual hand of God as He interrupts history in order to save His people. Today's hatred toward Israel is just a warm-up for the real heat of the furnace of the tribulation, from which God will redeem the nation of Israel through the coming of Messiah. Since mankind does not recognize God and His law, nevertheless, He will impose it upon humanity one day. Maranatha!

ENDNOTES

¹ Jacques Paul Gauthier, "Sovereignty Over The Old City of Jerusalem: A Study of the Historical, Religious, Political and Legal Aspects of the Question of the Old City," PhD Thesis, University of Geneva International Law School, (2007).

² Gauthier, "Sovereignty Over Jerusalem," p. 848.

³ Cited by Gauthier, "Sovereignty Over Jerusalem," p. 356 from *Documents on British Foreign Policy, 1919–1939*, vol. IV, No. 242, p. 345.

⁴ Gauthier, "Sovereignty Over Jerusalem," pp. 599–600. Citation by Gauthier is from Article D, Part III of the Partition Resolution.