

United Nations

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TRUSTEESHIP
COUNCIL

CONSEIL
DE TUTELLE

T/AC.7/SR.16
16 January 1948

ORIGINAL: ENGLISH

SECOND SESSION

SUMMARY RECORD OF THE SIXTEENTH MEETING OF THE
WORKING COMMITTEE ON JERUSALEM

Lake Success, New York

Friday, 16 January 1948, at 2.00 p.m.

Present:

Chairman:	Mr. GERIG	(United States)
Members:	Mr. Forsyth	(Australia)
	Mr. Lin Mousheng	(China)
	Mr. Garreau	(France)
	Mr. Noriega	(Mexico)
	Mr. Trafford-Smith and Mr. Fletcher-Cooke	(United Kingdom)
Rapporteur:	Mr. Laurentie	(France)
Secretary:	Mr. Anker	

HEARING OF REPRESENTATIVES OF THE JEWISH AGENCY

The CHAIRMAN welcomed Mr. Shertok, Head of the Political Department of the Jewish Agency, Mr. Auster, former Mayor of Jerusalem and Mr. Eliash, legal adviser to the Jewish National Council.

Mr. SHERTOK expressed thanks for the invitation which had been extended to the Jewish Agency. They were interested in a frank, free and extensive discussion. They sought no special privileges but they would be in a much better position if they could have been given opportunity to study more precise proposals. Dr. Eliash and Mr. Auster would comment seriatim on Part III of the Plan.

The CHAIRMAN explained that the work of the Committee had been closely based on the Plan.

Dr. ELIASH asked to be forgiven if he should make points which had already been exhaustively discussed in the Committee. With regard to Section B of Part III of the Plan, he suggested that the boundaries might be extended to

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include the pools of Solomon which were only half a kilometre away from the proposed boundaries and which were very important to the water supply of Jerusalem.

Mr. AUSTER emphasized the importance of this matter to the City. It might be necessary to incorporate also the neighbouring village of Artas which had some 400 Arab Christian inhabitants.

The CHAIRMAN said that the matter would be brought to the attention of the Palestine Commission.

Mr. NORIEGA (Mexico) said that during the Committee's discussion of the boundaries of the City a suggestion had been made for an exchange of territory at a point west of the City in order to include the whole of a road within the boundaries of the City. He asked for the opinion of the Jewish representatives on this point.

The CHAIRMAN pointed out that the point had arisen because of a defective map and that there was no problem.

Mr. SHERTOK, in reply to a question by the representative of France, mentioned that there were several other places it might be desirable to include within the territory, notably the airport at Qualandia.

Dr. ELIASH thought that the drafting of Section C, paragraph 1 (b) was careless and suggested that if this provision were included in the Statute, it should read "...to promote the security and the well-being of the residents and any constructive measures of development in the area". He referred to the plan mentioned in paragraph 2 and presumed it would contain some recommendations about an Executive Council consisting of Heads of Departments and other officials nominated by the Governor. He supposed that the question of the powers to make treaties would also be dealt with in the recommendations of the Plan.

The CHAIRMAN said it was the view of the Committee that the Governor already possessed such powers by virtue of the terms of the Assembly Resolution.

Dr. ELIASH said that this question had been provided for in the Mandate and considered it also should be dealt with in the Statute or else in the plan to be prepared by the Governor. In regard to paragraph 3 (Local Autonomy) he pointed out that there were at present no townships in the territory but there were several local councils. Jerusalem was at present administered by an ad hoc Commission of officials. The Governor must be given power to nominate a similar Commission until elections could be held. This was only one of the reasons which made urgent the early appointment of a Governor. He presumed that paragraph 3 (a) was declaratory and that the Legislative Council would have to confer these powers by laws. If it was
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implied that wider powers of local government than those enjoyed at present were to be granted he welcomed the principle.

He emphasized the importance of paragraph 3 (b) but thought comment here should be deferred as he presumed the Statute would not elaborate this point.

The CHAIRMAN confirmed that the Committee took this view.

Mr. AUSTER said that the Old City was not mentioned in the Plan. The last sentence of paragraph 3 (b), if included in the Statute, should read "The new town-units and the Old City shall continue...".

Mr. SHERTOK said he had been associated with the drafting of this paragraph and it had been assumed that the Old City would remain under the direct administration of the municipality.

The CHAIRMAN stated that this was the assumption of the Committee.

Mr. FLETCHER-COOKE (United Kingdom) emphasized the importance of appointing a body to take over the functions of the present Commission of the municipality of Jerusalem. Some of the members of the Commission were Central Government officials, and would not be available after the termination of the Mandate. Other members, including the Chairman, though British Officials, were paid by the municipality and might be available. He agreed with Dr. Eliash that there should be more decentralization. The British authorities intended to proceed in this direction in the short time available before the end of the Mandate.

Mr. SHERTOK stated that whatever personnel might be used to run the municipality of Jerusalem, it would be necessary to confer upon them new authority at the end of the Mandate.

The CHAIRMAN pointed out that, even if the Governor had not been appointed, the Palestine Commission would have interim powers to confer such authority.

Mr. AUSTER thought that a Provisional Council of Government should be formed in Jerusalem.

Dr. ELIASH emphasized the tremendous importance of the issues raised by paragraph 4 (Security Measures). It would take a considerable period of time to recruit the Special Police Force. Jerusalem would soon have no army, no British police and he presumed no militia. The Jewish population would be exposed to very real dangers. Paragraph 4 (c) implied that there would be local police also and he agreed that in the future Jewish and Arab police would be indispensable. In the meantime the present police force should be strengthened by supernumeraries at least until the Special Police or International Force arrived in the territory.

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He drew attention to the security provisions of the Trieste Statute. Jerusalem depended on outside food, water and electricity. The road from Tel-Aviv which passed through Arab territory must be kept open. That presumably would be a responsibility of the Joint Economic Board, who by Part I, Section B, paragraph 4 of the Plan, might carry out their task directly or by delegation. It was perhaps conceivable that in case of difficulty they might delegate the task of keeping open the road to the militia of the Jewish State, but that might lead to clashes. The Board could apply economic sanctions but before they could be effective Jerusalem might be starved. There had been difficulties in this connection in December 1947. He noticed the Special Force could not operate outside Jerusalem. The Governor might be given power to apply to the Security Council.

Mr. FLETCHER-COCKE (United Kingdom) underlined Dr. Eliash's plea. Adequate and immediate arrangements for security were urgently required.

The CHAIRMAN stated that this question was part of a general problem which was being studied by other United Nations bodies besides the Committee. The Committee was considering the question of granting authority to the Governor the right to apply to other competent United Nations organs. Dr. Eliash's remarks on the subject would be very valuable.

Dr. ELIASH commenting on paragraph 5 wanted present laws to remain in force, insofar as they were consistent with the Statute. A similar provision had been included in the original Mandate. It was difficult to discuss the problems of the Legislative Council without a draft before him. He thought, however, that a Council of between forty to fifty members would be best. It should be elected for three years and the Governor should have the powers to dissolve or prorogue. As the Governor possessed the veto, he should not be required specifically to assent to legislation. The franchise should be given at the age of twenty. On other questions he thought that the plan had laid down the principles of proportional representation from which he did not think it was possible to depart. He considered there should be one constituency only.

In reply to a question by the representative of Mexico he stated that the age limit of twenty was a compromise between eighteen years laid down for the Arab State and the Jewish State and the twenty-one years at present in force under the Mandate.

Mr. AUSTER thought that among the subjects on which the Governor could make temporary ordinances should be appropriations. In reply to a question by the representative of Australia, he thought that the sum of £1,000,000, which the City would receive in tax revenue and the eight or nine per cent of /the net income

the net income of the Joint Economic Board would be enough to cover the expenses of the City. In the past, Jerusalem had been able to cover its expenses. It was true that the expenses of the police force had not been included in the municipal budget.

Dr. ELIASH explained that it was difficult to apportion the present Central government expenditure among the various parts of Palestine. The expenditure of Jerusalem had been estimated by UNSCOP to be £3,000,000 but much of this expenditure might have been necessary because the City was the capital of Palestine.

Mr. LIN MOUSHENG (China) asked the opinion of the representatives of the Jewish Agency as to the possibility of holding separate elections for the different communities on the basis of separate lists.

Mr. ELIASH thought the provisions of the Plan precluded that.

Mr. SHERTOK thought that proportional representation would adequately safeguard minority rights. If one section boycotted the elections, how would separate representations of the communities solve the problem?

Mr. LIN MOUSHENG (China) asked if he thought proportional representation meant proportional to the size of the population groups or proportional to the number of voters. He pointed out that Arab women might not vote.

Mr. SHERTOK considered it meant proportional to the number voting. If, in accordance with a decision of the Moslem community of Jerusalem, Moslem women did not vote he agreed that it would be only fair to find some corrective in order to avoid under-representation. However, the few Arab women in Tel-Aviv did vote.

Mr. GARREAU (France) thought perhaps a remedy might be sought, but he did not see how it could be consistent with the normal meaning of the word "representation".

Mr. SHERTOK suggested tentatively that perhaps the vote of Moslem Arabs might be doubled.

Mr. GARREAU (France) pointed out that such an abnormal solution might not be acceptable to the Commission on the Status of Women.

Mr. AUSTER pointed out that the wives of certain strict Orthodox Jews would not vote.

The CHAIRMAN considered that they might have to adopt a system of proportional representation that was "sui generis".

Dr. ELIASH thought that temporary ordinances referred to in paragraph 5 conveyed the suggestion of a limited application in time. He suggested that in the Statute they be referred to as emergency legislation so that they might not lapse at the end of a short period. He supposed that the "independent

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judiciary" mentioned in paragraph 6 meant that it should not be linked with the system of the other states. He presumed, however, that the Ecclesiastical, Sharia and Rabbinical Courts would be retained. These last would be linked with the Chief Rabbinate in one system for all Palestine and he presumed the same would be the case for the other religions. He wanted the present jurisdiction of these courts and the execution of their judgments by the civil courts to be maintained by the Statute. Appeal should be allowed throughout the whole system outside the territory, just as under the Mandate appeals had been allowed from the Catholic courts to the Sacra Rota in Rome and decisions made there had been enforceable in Palestine. All religious courts should be made part of the state system of justice and financed by the Government, instead of merely the Sharia courts as at present. He thought that there should be reciprocal recognition between the Arab and Jewish states and the City of the judgments of the ecclesiastical courts. Extradition between the states and the city should be provided for in the Statute.

The composition of the courts should be dealt with either in the Statute or perhaps in the detailed plan to be prepared by the Governor. He suggested that magistrates sitting individually in the Magistrates Court should be Jews or Arabs. There should be District Courts consisting of a Jewish Chamber with two Jewish judges and a similar Arab Chamber. There should also be a Supreme Court (Court of Appeal) and it seemed reasonable that it should be headed by an "international judge" as Chief Justice, with one Arab judge and one Jewish judge as members. That seemed to be the reasonable adaption of the present position in Palestine to the future regime of Jerusalem. He would submit a detailed memorandum on this point at a later date.

Mr. NORIEGA (Mexico) asked whether the functions of the ecclesiastical courts had any bearing on the civilian life of persons of the jurisdiction.

Dr. ELIASH replied that these courts had jurisdiction in the matter of marriages, wills and divorces and other related questions.

The hearing of the representatives of the Jewish Agency was adjourned until 19 January at 2.00 p.m.

The Committee took a short recess from 3.45 p.m. to 4.15 p.m.

QUESTION OF HEARING REPRESENTATIVES OF CERTAIN COMMUNITIES (Continuation).
QUESTION OF THE FUTURE PROCEDURE OF THE COMMITTEE.

The CHAIRMAN asked the Committee what decision it would take with regard to the request by the Agudas Israel World Organization to be heard. The representative of this organization was in New York.

Mr. TRAFFORD-SMITH (United Kingdom) pointed out that this was the most important world organization of Orthodox Jews. It had as much right to be

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heard as the Jewish Agency. The difficulty was that many other Jewish organizations might also request to be heard.

Mr. LIN MOUSHENG (China) suggested that a time limit should be set for requests to be heard.

The CHAIRMAN pointed out that there was no need for the Committee to announce that it was hearing the Agudas Israel World Organization. He raised the question of hearing a representative of the Greek Orthodox Patriarch of Jerusalem.

The SECRETARY explained that the Patriarch had made no formal request to be heard, but had expressed indirectly the wish to receive an invitation.

The CHAIRMAN proposed that the Agudas Israel Organization and the Greek Orthodox Patriarch should be informed that the Committee was prepared to hear their representatives on 20 January 1948 at 10.30 a.m. and 2.00 p.m. respectively, and it was so agreed.

Mr. NORIEGA (Mexico) resubmitted his proposal to make a copy of the revised Statute available to the Jewish Agency. This seemed even more desirable in the light of what had been said during the hearing earlier in the afternoon and the discussions of the Trusteeship Council regarding the Statute would not be complicated by the need to hear representatives of the Jewish Agency.

The CHAIRMAN asked if Mr. Noriega had moved that copies be sent to the other members of the Trusteeship Council, to the Jewish Agency and to the Arab Higher Committee.

Mr. NORIEGA (Mexico) said that he had not moved that a copy be sent to the Arab Higher Committee, but he had no objection. He thought that articles dealing with religious questions should be sent to the other groups interested.

Mr. TRAFFORD-SMITH (United Kingdom) did not think the Committee could determine in what articles these groups would have an interest.

Mr. ANKER (Secretary) pointed out that as the Arab Higher Committee had no representative in New York it would be several days before the Arab Higher Committee could receive a copy of the revised draft Statute.

Mr. FORSYTH (Australia) while not enthusiastic about giving out copies of the draft Statute at the present stage, thought that if this were done, representatives of the groups in question should be required to submit comments in writing in order to save time.

Mr. LIN MOUSHENG (China) and Mr. GARREAU (France) were not convinced of the need to give out copies of the Statute at that early stage.

The CHAIRMAN did not consider any grave risk would be run if the draft Statute were given out. That did not mean that it would be published.

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It was the common sense approach and the spirit of the Trusteeship Council's Resolution seemed to require it. Time might be lost now but it would be saved later during the Council's session.

Mr. NORIEGA (Mexico) thought the draft Statute should be given to the Jewish Agency and the Arab Higher Committee on the understanding that it was a confidential document and that any observations they might make on this document were also confidential. The texts of the articles on religious questions should be given to the Agudas Israel World Organization and to other bodies interested on the same terms.

The CHAIRMAN suggested that the copies given out should be marked "PRELIMINARY DRAFT. NOT FOR PUBLICATION". They should be distributed only to those who responded to the invitation to be heard and hence not to the Arab Higher Committee.

Mr. TRAFFORD-SMITH (United Kingdom) thought the copies should be given before the representative appeared so that they might present their comments.

The CHAIRMAN stated that Mr. Lisicky, Chairman of the Palestine Commission, had expressed the desire to appear before the Committee at the beginning of the following week. Mr. Lisicky had thought that a joint meeting of the Committee and the Commission was premature at this stage. It was decided to hear Mr. Lisicky on 20 January at 2.00 p.m.

Mr. FORSYTH (Australia) suggested that in view of the probable departure of the Commission at the beginning of the Trusteeship Council Session, a joint meeting of the Committee and of the Commission should be held at the end of the following week.

Mr. GARREAU (France) suggested a meeting on 26 January.

The CHAIRMAN said he hoped to finish the work of the Committee by Friday, 23 January so those members of the Trusteeship Council, of which the capitals were far distant from New York could have adequate time to study the draft Statute.

Mr. FORSYTH (Australia) said that the opening date of the Trusteeship Council was still indefinite.

Mr. GARREAU (France) suggested that a joint meeting might be held, to discuss inter alia modifications of the frontier and free transit to the sea, after the draft Statute had been approved and communicated to members.

The CHAIRMAN asked the Secretary to produce a paper containing questions to be discussed with the Palestine Commission.

Mr. FORSYTH (Australia) suggested a change in the programmes for hearings, so that the parties concerned might have an opportunity to study a revised draft first and preparing comments in writing.

The CHAIRMAN proposed that the Jewish Agency should be heard on 19 January as previously arranged and that the representatives of the Agudas Israel World
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Organization and of the Greek Orthodox Patriarch be heard on 21 January 1948 in the morning and afternoon respectively. He mentioned that the Preamble to the draft Statute had not yet been studied by the Committee.

CONSIDERATION OF THE DRAFT STATUTE FOR JERUSALEM (Continuation of first reading).

The Committee then considered the Preamble of the Draft Statute.

Mr. LIN MOUSHENG (China) proposed that the words "delimited in accordance to the Resolution" be deleted in line 4 and proposed that the last "whereas" clause should read "whereas the Resolution directed...Statute for the City which should contain the substance of certain provisions contained therein".

The CHAIRMAN thought that in this clause the words "whereas the General Assembly directed" would be better, and suggested the same change in paragraph 2.

Mr. LIN MOUSHENG (China) suggested that paragraph (b) should be modified in the way proposed by Dr. Eliash, but the Committee did not think it could make any change in words which were an exact quotation from the Plan.

Mr. FORSYTH (Australia) opposed the deletion of the words "delimited in accordance with the Resolution" and it was agreed to retain it. He also proposed for paragraph 3 the following wording: "Whereas the special objectives ...were set forth as follows". This proposal was also accepted.

The CHAIRMAN proposed in the last line but one "in pursuance of the aforesaid resolution" and this wording was adopted both here and in paragraph 3.

There was a brief discussion on Article I which the representative of Mexico said was not in keeping with the solemn character of the Statute. It was decided to reserve the decision upon this Article until the second reading.

The meeting adjourned at 5.05 p.m.
