

This Land Is My Land

“MANDATE FOR PALESTINE”
THE LEGAL ASPECTS OF JEWISH RIGHTS

ELI E. HERTZ

www.MythsandFacts.org

WHY, during the years 1917 to 1947, thousands of Jews packed the little they had and headed to a place called Palestine? The majority did so because they heard that a future National Home for the Jewish people is being recreated in their ancient homeland of – **Palestine**.



What is Palestine ?

Palestine is a Geographical Area

It is not a Nationality, not a State or a Country

“REPORT BY HIS MAJESTY’S GOVERNMENT IN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE COUNCIL OF THE LEAGUE OF NATIONS ON THE ADMINISTRATION OF PALESTINE AND TRANS-JORDEN FOR THE YEAR 1938.”

PALESTINE

“**North.** – From Ras en Naqura on the Mediterranean eastwards to a point west of Qadas, thence in a northerly direction to **Metulla**, thence east to a point west of Banias.

“**East.** – From Banias in a southerly direction east of **Lake Hula** to Jisr Banat Ya’pub, thence along a line east of the **Jordan** and the **Lake of Tiberias** and on to El Hamme station on the Samakh-Deraa railway line, thence along the centre of the river Yarmuq to its confluence with the **Jordan**, thence along the centres of the **Jordan**, the **Dead Sea** and the Wadi Araba to a point on the Gulf of Aqaba two miles west of the town of Aqaba, thence along the shore of the Gulf of **Aqaba** to Ras Jaba.

“**South.** – From Ras Jaba in a generally north-westerly direction to the junction of the Neki-Aqaba and **Gaza** Aqaba Roads, thence to a point west-north-west of Ain Maghara and thence to a point on the Mediterranean coast north-west of **Rafa**.

“**West.** – The **Mediterranean Sea.**”



What is The Mandate ?

The “Mandate for Palestine” & The British Mandate

Trust

The “Mandate for Palestine” is a Trust.

It is a legally binding document published by the League of Nations on July 24, 1922.

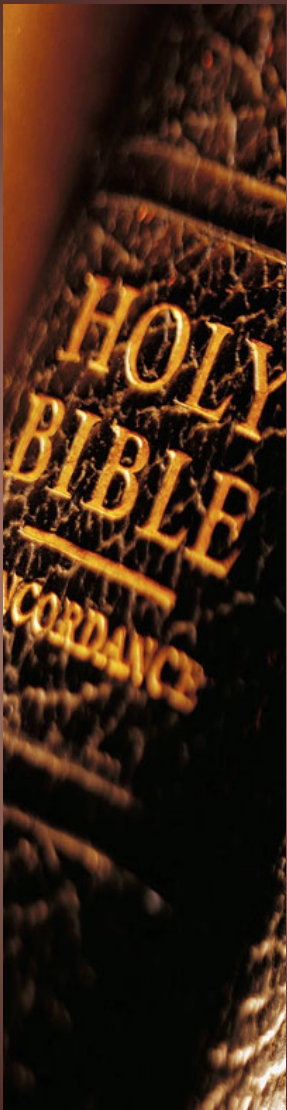
The Trust will expire only when all of its terms and conditions are met.

Trustee

The British Mandate, is a **Trustee**, known also as the Mandatory.

Great Britain was entrusted by the League of Nations with the responsibility to administer the area of Palestine in accordance with the provisions of the [28] articles of the “Mandate for Palestine.”

Terminology With Heritage



“Recognition ... to the **Historical Connection of the Jewish People with Palestine.**

(Preamble to the Mandate)

“**Redemption of Palestine.**

(Report of the High Commissioner 1920-1925)

“**Reconstituting** their National Home in that Country [Palestine].

(Preamble to the Mandate)

“**Recreation** of Palestine as the National Home of the Jewish race.

(U.S. Congress 1922)

“**Rebuilding** of their ancient homeland”.

(U.S. Congress 1922)

The Most Significant Events in Modern History Leading to the Creation of the Jewish National Home



I. The Founding of Modern Zionism

Theodor Herzl (May 2, 1860 – July 3, 1904)



II. The Balfour Declaration

The British Foreign Office, November 2, 1917



III. The San Remo Conference

San Remo, Italy, April 25, 1920



IV. The Mandate for Palestine

League of Nations. Done at London the twenty-fourth day of July, one thousand nine hundred and twenty-two.

Theodor Herzl | May 1860 – July 1904



Founder
of modern
Zionism



“Oppression and persecution cannot exterminate us. No nation on earth has survived such struggles and sufferings as we have gone through.”

“**Palestine** is our ever-memorable historic home. The very name of **Palestine** would attract our people with a force of marvelous potency.”

“The idea which I have developed in this pamphlet is a very old one: it is the **Restoration** of the **Jewish State**.”

First Zionist Congress. Basle, Switzerland. 1897

Pamphlet: *The Jewish State*. 1896

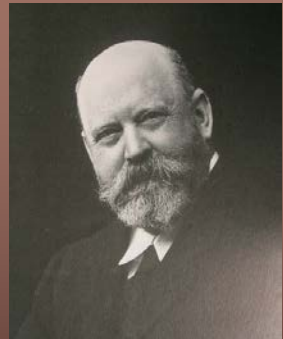
The Balfour Declaration | November 2, 1917



Arthur James
Balfour

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people."

The victory of the Allied Powers, opened the way for a larger scale of Jews returning to Palestine.



Lord
Rothschild

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Foreign Office,

November 2nd, 1917.

Dear Lord Rothschild.

I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following **declaration of sympathy** with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet.

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country"

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Arthur James Balfour
The British Foreign Office,
November 2nd, 1917

Principal Allied Powers

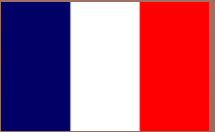
U.K.



U.S.



France



Italy



Japan



End to 400 Years of the Ottoman Empire | 1516 - 1916 World War I was Officially Over



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San Remo Conference at the Villa Devaniche

San Remo Italy, April 19-26, 1920

Principal Allied Powers

U.K.



France



Italy



Japan



The Birth of The League of Nations The U.S. is Excluded

Geneva,
January 10,
1920

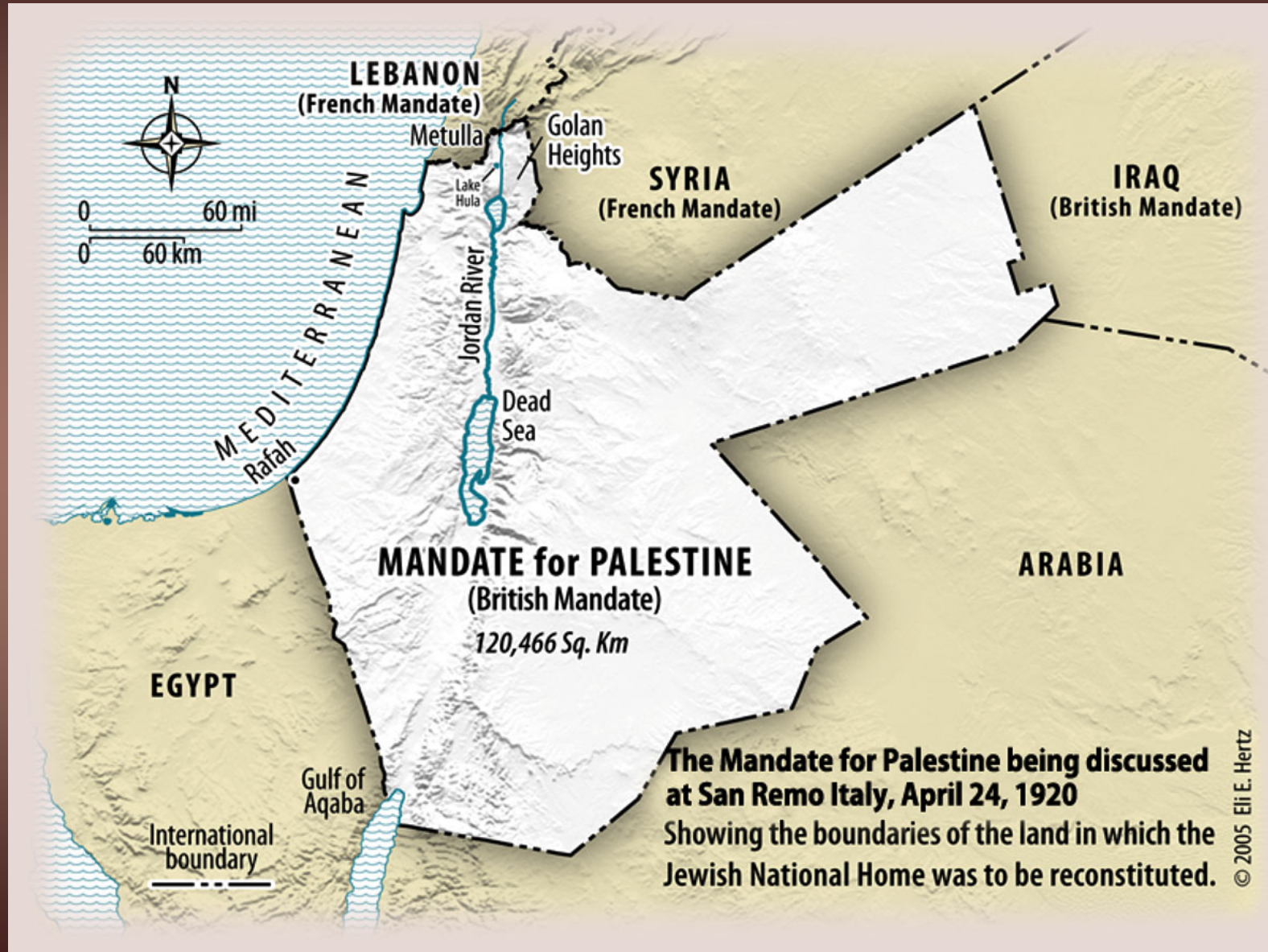
Members Pledged:

- Not to go to war
- To submit disputes to arbitration
- To keep friendly relations among nations



Territory Envisioned for the Jewish National Home

San Remo
Italy, April
24, 1920



51 member countries – the entire League of Nations – unanimously declared:

July 24,
1922

“Recognition has thereby been given to the historical connection of the Jewish people with Palestine, and to the grounds for reconstituting their national home in that Country.”



Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, British India, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, El Salvador, Estonia, Finland, France, Greece, Guatemala, Haiti, Honduras, Italy, Japan, Kingdom of Serbs, Croats and Slovenes, Latvia, Liberia, Lithuania, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Persia, Peru, Poland, Portugal, Republic of China, Romania, Siam, Spain, Sweden, Switzerland, Union of South Africa, United Kingdom, Uruguay, Venezuela.

“Mandate for Palestine” Document Consists of 28 Articles

July 24,
1922

LEAGUE OF NATIONS ----- MANDATE FOR PALESTINE,

TOGETHER WITH A

**NOTE BY THE SECRETARY - GENERAL
RELATING TO ITS APPLICATION
TO THE
TERRITORY KNOWN AS TRANS-JORDAN,**

under the provisions of Article 25.

=====
*Presented to Parliament by Command of His Majesty,
December, 1922.*
=====



PUBLISHED BY HIS MAJESTY'S STATIONARY OFFICE.

Cover reconstructed

“Mandate for Palestine” Where Jews can not leave

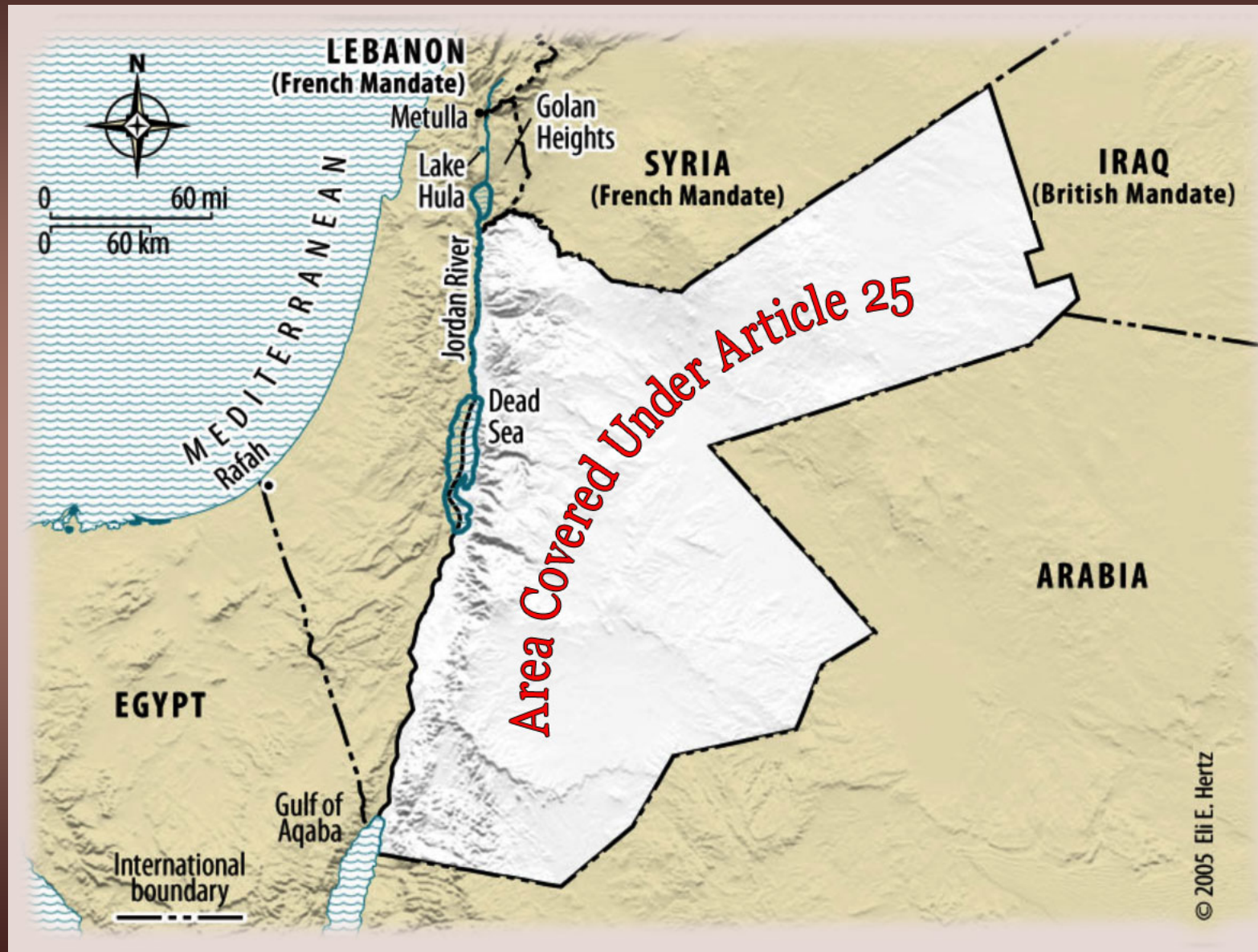
Article 25

Article 25 of the “Mandate for Palestine” entitled the Mandatory to change the terms of the Mandate in the territory east of the Jordan River.

Great Britain exercised the option provided by Article 25, cutting away 77% of the land originally earmarked for the Jews, and gave it to Jordan.

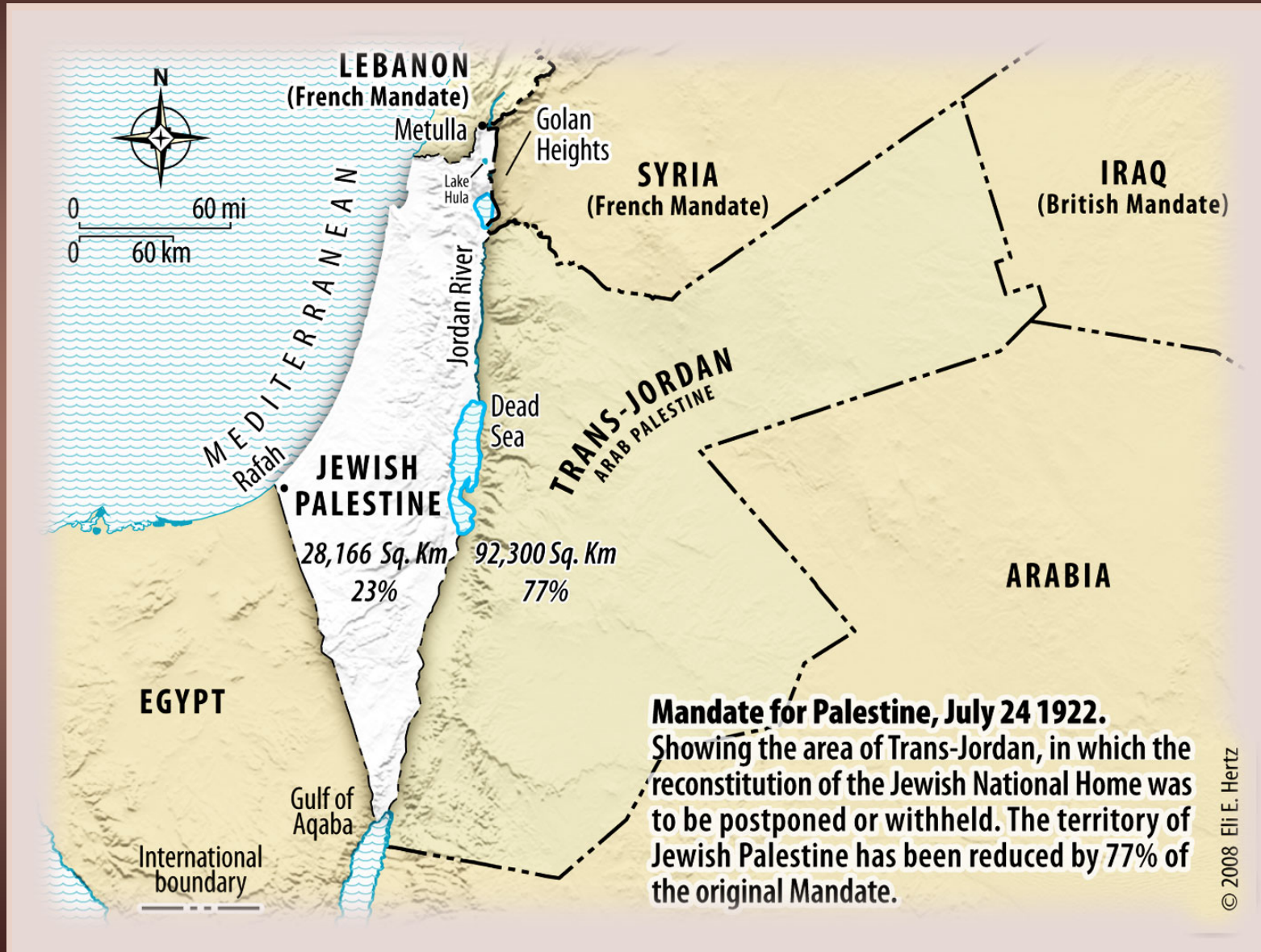
“Mandate for Palestine”

Where Jews Are not Permitted to Settle



Final Territory in Which the Jewish National Home is to be Rebuilt

July 24,
1922



Land Divided by the Mandate System: Jews 3% | Arab 97%

Today's
Land in sq. km.

Total
Jewish Land
22,072

Lebanon
10,400

Syria
185,180

Iraq
438,317

Jordan
89,342

Total
Arab Land
723,239

Source: CIA, 2011

Size Vs. Justice



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Churchill Reassured the Jews in Palestine ...



Winston
Churchill

A June 1922 letter from the British Secretary of State for the Colonies, Winston Churchill, reiterated that “The [Balfour] Declaration of 1917 [was] re-affirmed by the Conference of the Principle Allied Powers at San Remo and again in the Treaty of Sevres”...

... **“the Jewish people ... is in Palestine as a right and not on sufferance.** That is the reason why it necessary that the existence of a Jewish National Home in Palestine should be internationally guaranteed, and that it should be formally recognized to rest upon ancient historical connection.”

*Winston Churchill
British Secretary of State for the Colonies
June, 1922*

Before Local Jews Began Calling Themselves Israelis in 1948 ...

... The term '*Palestine*' applied almost exclusively to institutions founded by Jews:

- *The Jerusalem Post*, founded in 1932, was called *The Palestine Post*.
- Bank Leumi L'Israel, incorporated in 1902, was called the *Anglo-Palestine Company* until 1948.
- Today's Israel Electric Corporation, founded in 1923 by Pinhas Rutenberg, was originally called *The Palestine Electric Company*.
- Today's Israel Philharmonic Orchestra, founded in 1936, was originally called the *Palestine Symphony Orchestra*.

Photo: Toscanini and Huberman, in the first Palestine Symphony concert, 26 Dec .1936



The United States and The “Mandate for Palestine”



U.S. Presidents Supported the Establishment of a National Jewish Home in Palestine



President Woodrow Wilson (March 3, 1919)

"I am persuaded that the Allied nations, with the fullest concurrence of our own government and people, are agreed that in **Palestine** shall be laid the foundation of a Jewish Commonwealth."



President Warren G. Harding (September 21, 1922)

Signed the Lodge-Fish joint resolution of approval to establish a Jewish homeland in **Palestine**.



President Calvin Coolidge (December 3, 1924)

Signed the Convention [Treaty] between the U.K. and the U.S. calling to safeguard the American interests in **Palestine**. The Convention incorporated the complete text of the "**Mandate for Palestine**," including the preamble.



President Herbert Hoover (October 29, 1932)

"On the occasion of your celebration of the 15th Anniversary of the **Balfour Declaration**, which received the unanimous approval of both houses of Congress by the adoption of the Lodge-Fish Resolution in 1922, I wish to express the hope that the ideal of the establishment of the **National Jewish Home in Palestine**, as embodied in that Declaration, will continue to prosper for the good of all the people inhabiting the Holy Land."

Congressional Record

NATIONAL HOME FOR THE JEWISH PEOPLE.

Mr. FEISS. Mr. Speaker, I submit the following privileged report from the Committee on Rules, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 360 (Rept. No. 1172).

Resolved, That upon the adoption of this resolution it shall be in order for the Committee on Foreign Affairs to call up for consideration the joint resolution (H. J. Res. 322), being a joint resolution favoring the establishment in Palestine of a national home for the Jewish people. That there shall be not to exceed two hours debate on said joint resolution, to be controlled by the gentleman from New York, Mr. FISH.

On June 30, 1922, a joint resolution of both Houses of Congress of the United States **unanimously resolved:** "Favoring the establishment in **Palestine of a national home for the Jewish people.**"

H. J. Res. 322 (PUBLIC RESOLUTIONNO. 73 67TH CONGRESS.)

July 1922 - U.S. House of Representatives Discussing Resolution 322

Representative Walter M. Chandler from New York expresses his views upon the Arab question in Palestine:

“(1) That the Arabs shall be **permitted to remain in Palestine under Jewish government and domination**, and with their civil and religious rights guaranteed to them through the British mandate and under terms of the Balfour declaration.

“(2) That if they will not consent to Jewish government and domination, they **shall be required to sell their lands at a just valuation and retire into the Arab territory** which has been assigned to them by the League of Nations in the general reconstruction of the countries of the east.

“(3) That if they will not consent to Jewish government and domination, under conditions of right and justice, or to sell their lands at a just valuation and to retire into their own countries, **they shall be driven from Palestine by force.**”

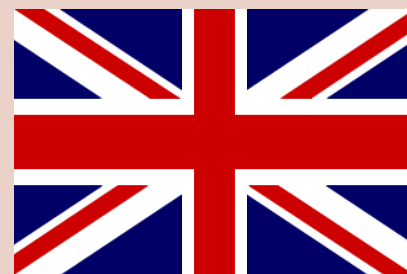
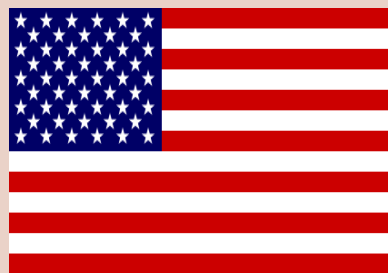


Convention Between the U.S. and the U.K.

December 3,
1924

The U.S. Government claimed on November 20, 1920 that the participation of the United States in WWI entitled it to be consulted as to the terms of the Mandate. The British Government agreed, and the outcome was an agreement calling to safeguard the American interests in Palestine. It concluded with a convention between the **United Kingdom** and the **United States of America**, signed on December 3, 1924.

It is imperative to note, that the convention incorporated the complete text of the “Mandate for Palestine,” including the preamble.



The Demise of the League of Nations

April 20,
1946

**The League of Nations
Failed to Secure Peace**

**Assets, Rights and
Obligations were all
Transferred to the
United Nations**

The Charter of the United Nations Came into Force on October 24, 1945 – in San Francisco CA.



The **UN General Assembly** convenes its first meeting in Lake Success, Flushing Meadows, New York
November 19, 1946

The “Mandate for Palestine” – Valid to This Day

- **Article 27** of the “Mandate for Palestine” document states that “consent of the Council of the League of Nations is required for any modification of the terms. No such consent was ever passed.
- **Article 80** of the UN Charter recognizes the continued validity of the rights granted to all states or peoples, or already existing international instruments including those adopted by the League of Nations. [such as the “Mandate for Palestine”]
- “[**The International Court of Justice (ICJ)** has consistently recognized that the Mandate survived the demise of the League of Nations.” [ICJ Advisory Opinions: July 11, 1950, June 21, 1971, July 9, 2004].

The “Lobbyists” that Made Article 80 Part of the UN Charter



Professor
Eugene V.
Rostow

“[A] Strong Jewish delegations ... attended the San Francisco Conference, 25 April – 26 June 1945.

“Rabbi Stephen S. Wise, Peter Bergson, Eliahu Elath, Professors Ben-Zion Netanayu and A. S. Yehuda, and Harry Selden were among the Jewish representatives.

“Their mission was to protect the Jewish **right of settlement in Palestine** under the Mandate, against erosion in a world of ambitious states. **“Article 80 was the result of their efforts.”**

Professor Eugene Rostow

The Partition Plan - UN GA Resolution 181

November
29, 1947



UN Resolution 181, *recommended* to partition the remaining 23% of “Jewish Palestine” into a **Jewish state** and an **Arab state**. (Not a Palestinian state).

Jews *accepted* the recommendation.

Palestinian Arabs and their Arab brethren in neighboring countries *rejected* it, promising to defy its implementation by force.

Resolution 181 lost its validity and relevance.

Jerusalem and the Holy Places



Professor, Judge Elihu Lauterpacht explains how **Jerusalem is not mentioned** in the “Mandate for Palestine” yet the **Holy Places** are. And this in itself is relevant, for it shows that in 1922 there was no interest to identify the question of the Holy Places with internationalizing Jerusalem.

Jerusalem, the spiritual, political, and historical capital of the Jewish people, has served, and still serves, as the political capital of only one nation – the one belonging to the Jewish people.

Professor Elihu Lauterpacht
Jerusalem and the Holy Places
Published October 1968

“Mandate for Palestine”

Political Rights

Article 2

“The Mandatory **shall be** responsible for placing the **country** under such **political**, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for **safeguarding** the **civil** and **religious** rights of all the inhabitants of Palestine, irrespective of race and religion.”

Political Rights in Palestine were Granted to Jews Only

Jews

Religious Rights
Civil Rights
Political Rights

Other Inhabitants

Religious Rights
Civil Rights

Political rights to self-determination as a polity for Arabs, were guaranteed by the same League of Nations in four other mandates.

Under the French Mandate: Lebanon & Syria

Under the British Mandate: Iraq & Trans-Jordan

“Mandate for Palestine”

No Foreign Power Allowed in Palestine

Article 5

The
Territory of
Palestine
was
Assigned
Exclusively
for the
Jewish
National
Home

“The Mandatory shall be responsible for seeing that no **Palestine territory shall be ceded or leased to, or in any way placed under the control of the government of any foreign power.”**



“Mandate for Palestine”

Where Jews are Permitted and Encouraged to Settle

Article 6

**Jewish
Settlements
Therefore
Are Legal**

“ The administration of Palestine ... shall encourage ... close settlement by Jews on the land, including State land and waste land not required for public purpose.”



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Jewish Rights to Palestine Were Internationally Guaranteed

The most senior official of the Mandate for Palestine, the High Commissioner for Palestine, underscored how “international guarantee[s]” for the existence of a Jewish National Home in Palestine were achieved:

The [Balfour] Declaration was endorsed at the time by several of the Allied Governments;

It was reaffirmed by the Conference of the Principal Allied Powers at San Remo in 1920;

It was subsequently endorsed by unanimous resolutions of both Houses of the Congress of the United States;

It was embodied in the Mandate for Palestine approved by the League of Nations in 1922;

It was declared, in a formal statement of policy issued by the Colonial Secretary in the same year, “not to be susceptible of change.

The policy was fixed and internationally guaranteed.”

Israel's Declaration of Independence on May 14, 1948

On May 14, 1948, the Jewish People's Council gathered in Tel Aviv, declaring the establishment of the State of Israel.



WHY, during the years 1917 to 1947, thousands of Jews packed the little they had and headed to a place called Palestine? The majority did so because they heard that a future National Home for the Jewish people is being recreated in their ancient homeland of – **Palestine**.



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“Mandate for Palestine”

The main sources used in this study

**Professor Judge
Stephen M.
Schwebel**

(1929) Prof. Judge Schwebel has served on the International Court of Justice since January 15, 1981. He was Vice President of the Court from 1994 to 1997 and has been President from 1997 to 2000. A former Deputy Legal Adviser of the United States Department of State and Burling Professor of International Law at the School of Advanced International Studies of The Johns Hopkins University (Washington).

**Professor
Julius Stone**

(1907-1985) Prof. Stone was recognized as one of the twentieth century's leading authorities on the Law of Nations. His work represents a detailed analysis of the central principles of international law governing the issues raised by the Arab-Israel conflict. He was one of a few scholars to gain outstanding recognition in more than one field. Professor Stone was one of the world's best-known authorities in both Jurisprudence and International Law.

**Sir Elihu
Lauterpacht**

(1928) Sir Lauterpacht was the founder (1983) of the Lauterpacht Centre of International Law at the University of Cambridge. Published Jerusalem and the Holy Places (London: The Anglo-Israel Association, 1968). Sir Lauterpacht was also a Judge ad hoc of the International Court of Justice.

**Professor
Eugene Rostow**

(1916-2003) Prof. Eugene Rostow was Sterling Professor of Law and Public Affairs Emeritus at Yale University and served as the Dean of Yale Law School (1955-66). In 1967, as U.S. Under-Secretary of State for Political Affairs he was a key draftee of UN Resolution 242.

The Archives

The British and the League of Nations archives.

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