

## 6. What Is “Palestine”?

The first question that needs to be addressed in approaching the substantive issues is, “What is Palestine?” There is no agreement on the answer, and there are good reasons for that. But how one answers this question greatly influences how one defines the problem to be solved.

“Palestine” is not mentioned in the Hebrew Holy Scriptures, nor in the Holy Scriptures in Greek. From the time of Creation to the end of the first century C.E., there is no Scriptural or historical evidence that the name even existed, much less a place called by that name. “Palestine” is not ever mentioned in the Arabic Holy Scriptures. So what it is and what its importance is cannot be answered by reference to any Holy Scriptures.

There are eight places in the Hebrew Holy Scriptures where the word *p’lesheth* appears.<sup>1</sup> The Biblical word refers to the land of the Philistines, a small coastal strip in the land of Canaan, from south of Jaffa to south of Gaza — somewhat similar to what today is called the Gaza Strip.<sup>2</sup> In essence, the references speak of God’s judgments on the Philistines. As a result of these judgments, the Philistines came to an end thousands of years ago.

“Palestine” is a name which the imperial Romans applied to what they had called the province of Judea, i.e. “the land of the Jews,” after putting down the Bar Kokhba Revolt in 132-135 C.E. The people of Israel had rebelled several times against the Roman Empire, and so the Empire wanted to eradicate their national identity. To accomplish that the occupying empire did three things: 1) they forcibly exiled nearly the entire population from their land and relocated them to geographically remote foreign lands. This is a common practice employed by conquering empires, because the reaffirmation of the identity of a people is closely connected to its native land.

The Assyrians and Babylonians had done this many centuries earlier in destroying the northern kingdom of Israel and the southern kingdom of Judah/Judea. They then did what many conquerors have chosen to do: 2) they displaced other captive peoples off their lands into the land of the Jews to prevent the exiled inhabitants from returning. “And the king of Assyria brought men from Babylon, and from Cuthah, and from Ava, and from Hamath, and from Sepharvaim, and placed them in the cities of Samaria instead of the people of Israel; and they took possession of Samaria, and lived in its cities.”<sup>3</sup> This was the beginning of the people who later became known as “Samaritans”.<sup>4</sup>

3) The Romans changed the name of the province to “Palestine” to signify that it would never again be a Jewish land. This was intended to be the linguistic expression of a death sentence. They named it after a people which had ceased to exist more than a thousand years before.

“In Jewish tradition the fall of Bethar [the headquarters of the Bar Kokhba Revolt] was a disaster equal to the destruction of the First and Second Temples.”<sup>5</sup> The Bar Kokhba Revolt equalled, or surpassed, these previous two tragedies in the numbers who were killed, starved to death, or led into exile and slavery. In other words, the Bar Kokhba Rebellion was a greater tragedy than either the destruction of the First or the Second Temple.

The destruction of the First Temple and the subsequent exile to Babylon were eclipsed by the return of the Children of Israel to the land seventy years later, even though various captive peoples were then living in the land. The failure of the Great Revolt in 66-70 C.E. brought the destruction of a rebuilt Jerusalem and the Second Temple, but Jews were still permitted to remain in the land. Following the Bar Kokhba Revolt, Jews were forbidden to inhabit the province of Judea, though some remained in areas such as the Galilee.

One invading empire followed another in the Holy Land, usually by violent invasion and conquest, sometimes because of dissolution and decay. Christian Byzantines, Zoroastrian Sassanids, Islamic Caliphate

and the Seljuks. (The Byzantines adopted the Roman usage and sometimes spoke of “Syria Palaestina”.) These empires in turn were overthrown by the Christian Crusader invasions, which were overthrown by the Islamic invasion of Saladin, which was overthrown by the Islamic Ottoman Empire, which was destroyed by the competing empires of Christian European colonialism.

Each invader declared the empire before it to be illegitimate; each overthrown empire declared the rulers after it to be illegitimate. The loyalists longed and fought for a return to their former glory — to “Greater *Motherland* or *Fatherland*” — where the newer countries and regimes will no longer exist. Everyone claimed that the past and the future, were on their side.

In 1947, the Arab Higher Committee (AHC), which represented the Arabs of Palestine, wrote about the time of the recently ended Ottoman Empire: “Neither at that juncture nor before was Palestine a unit in itself. Part of it belonged administratively to the Vilayet of Beirut. (Beirut is now the capital of the Lebanon) and part was known as the Jerusalem District. In those days the name ‘Palestine’ was never mentioned, nor was the country ever known by it. It was considered as a part of Syria from which, in fact, it was separated by no natural barriers whatever. The Syrians, the Lebanese and the Palestinians are all united by practically indissoluble commercial, agricultural and industrial relations, not to mention the equally close ties of language, interests, customs, traditions, religion and blood that bound them together.”<sup>6</sup>

The statement is not completely accurate, because in what became Lebanon, half of the population was Christian, half was Muslim. They were one people with two religions; it was not unusual for there to be families with one branch in each of the two religions. And in the Byzantine Empire, which preceded the Ottoman Empire, the population of the entire area was overwhelmingly Christian up until the Muslim conquest in the seventh century.

Nevertheless, there is much in the AHC statement that is accurate. During the centuries of Ottoman rule and before: 1. There was no land called “Palestine”. No one ever spoke of it. 2. There was no distinct Palestinian people. In whatever way one might identify the people(s) of the area, there was no basis for a distinction of “Palestinians” from those who lived in the newly created states of Syria (1945) and Lebanon (1943). 3. Jerusalem had been a separate administrative district. “Palestine did not exist in the geographical imagination of the Ottomans.”<sup>7</sup>

“A similar problem arises with terms of ethnic identification: ‘Palestinians’ in the Mandate period included both Jewish and Arab natives of the city. ‘Arab’ was a designation that increasingly came to mean Christians and Muslims together, as opposed to Jewish Palestinians, who — especially after the 1936 rebellion and the massive migration from Europe — became identified, consciously or unconsciously with the Zionist movement. To complicate matters more there were a substantial number of Arabic speaking native Palestinian Jews — particularly in Tiberius, Safad, Hebron, but also in smaller numbers in Jaffa, Haifa and Jerusalem. There was also a sizable number of native Jerusalemites who were neither Jews nor Arabs, but definitely Palestinian. Those included the Armenians, Greeks, Syrians and Ethiopians of the Old City, and the German Templers of the New City. All of these were Jerusalemites and Palestinians, in identity if not in citizenship...”<sup>8</sup>

In the same year as the Arab Higher Committee statement, 1947, the United Nations Special Committee on Palestine expressed a similar view on this second point. “Palestinian nationalism, as distinct from Arab nationalism, is itself a relatively new phenomenon, which appeared only after the division of the ‘Arab rectangle’ by the settlement of the First World War.”<sup>9</sup> It is not unusual for the defining features of a national identity to change over time, especially in response to earth-shaking events.

These characterizations are, nevertheless, an indisputable part of the historical record. In fact, there has never in recorded history been a nation, country, or sovereign state of “Palestine”. Prior to the Twentieth

Century, there is not a single historical reference in any language, including Arabic, to such a state, nationality, or people. That is why for many years the Arab League consistently opposed the creation of a state of Palestine. They saw the inhabitants of the designated geographical area as indistinguishable from other Arabs.

In March 1977, Zuhair Muhsein, Executive Committee member of the PLO, said much the same: “The Palestinian people does not exist. The creation of a Palestinian state is only a means for continuing our struggle against the state of Israel for our Arab unity. In reality today there is no difference between Jordanians, Palestinians, Syrians and Lebanese.

“Only for political and tactical reasons do we speak today about the existence of a Palestinian people, since Arab national interests demand that we posit the existence of a distinct ‘Palestinian people’ to oppose Zionism.

“For tactical reasons, Jordan, which is a sovereign state with defined borders, cannot raise claims to Haifa and Jaffa, while as a Palestinian, I can undoubtedly demand Haifa, Jaffa, Beer-Sheva and Jerusalem. However, the moment we reclaim our right to all of Palestine, we will not wait even a minute to unite Palestine and Jordan.”<sup>10</sup>

There are others, like the Syrian Social Nationalist Party (SSNP), who have the same attitude and tactics, but for a “Greater Syria” with “Palestine” only the designation of an internal region. “Syria’s territorial claims to its neighbors have deep historical roots. From antiquity until the early 20th century, ‘Syria’ referred to the whole settled area at the eastern end of the Mediterranean, from the Taurus Mountains in the north to the Sinai peninsula in the south and from the Mediterranean Sea in the west to the Syrian desert in the east.”<sup>11</sup>

In sum, there isn’t much in history to help answer the question, “What is Palestine?” Is it the former Judean province of the Roman Empire? Is it the Syria Palaestina of the Christian Byzantine Empire? Is it the land which the League of Nations included in the Palestine Mandate which it entrusted to the British Empire? Is it the land of the Mandate minus the newly created state of Jordan? In all of history, these are the only geographical designations of a place called “Palestine”.

Each of these was a designation given by an occupying foreign empire. It was not an indigenous name. For the people in the land, “In those days the name ‘Palestine’ was never mentioned, nor was the country ever known by it.”

### **People, Nation, and State**

Throughout history, the different conquerors of the land established whatever boundaries and districts their own power and purposes dictated. Neither the boundaries nor the districts were sacrosanct, and often they were not stable. That was true for the entire area from the Balkans to Iran, contributing to the ongoing conflict over boundaries which continues today.

The boiling discontent often stems from a desire to re-establish some past glory, whether real or imagined. Since other peoples do not always share the exalted view of the past or the desired vision for the future, violence is usually the tool chosen to make them give the recognition, respect, and fear that is considered to be properly due.

Woodrow Wilson said, “The only brief and adequate definition of the State that I have been able to find, is that which describes it as a ‘people organized for law within a definite territory.’”<sup>12</sup> The definition is helpful, if only because it raises more questions than it answers. What constitutes a people? Who has the right to organize them and determine the law under which they will live? Where there are competing claims, who determines which territory belongs to which people? The concept of legitimacy is noticeably absent.

If we start with the country of which Wilson was President, we can say that the American people are those with American citizenship, regardless of where they live. We can also say there are many people who live in the

United States who are not citizens, and therefore not “Americans”. And since the United States recognizes dual citizenship, we can say that there are some American citizens who are also citizens of other countries.

If we try to identify “the American people” apart from their citizenship, we encounter many difficulties. An Italian-American is part of the American people and also part of the Italian people, whether or not he or she is also a citizen of Italy, and regardless of how many generations the family has been American. Americans are from a hundred different nationalities, though they all belong to one nation. They do not necessarily share any one language, culture, religion, set of traditions, or ancestry. They are from a hundred different peoples, but they also are a singular people.

By virtually all measures, the Kurds, for example, are also a people. (As are the Uighurs, Basques, and others.) They inhabit a roughly defined geographical area which currently lies within the modern states of Iran, Iraq, Syria, Turkey, and Armenia. They have a distinct history, language, culture, and societal order, but they have no state. They do not comprise a “nation” in the sense of a state, but they do in the genealogical sense.

The Arab Higher Committee said that the people of the areas which we post-colonialists call Lebanon, Syria, and Palestine are different parts of the same people. Zuhair Muhsein included, as many would, the Jordanians as well. If we speak of “the Arab people” we could be speaking of some twenty different states, where there is ancestry from a variety of peoples. The term initially referred to the tribes of the Arabian peninsula, but was later used to designate the Semitic Muslims and Christians of the Middle East, not including those of Iran or Turkey since primacy was given to the Arabic language.

On March 22, 1945 the governments of Syria, Transjordan, Iraq, Saudi Arabia, Lebanon, Egypt, and North Yemen formed the League of Arab States. Article 1 of the Charter/Pact says, “The League of Arab States shall be composed of the: independent Arab States that have signed this Pact.”<sup>13</sup> Article 10 says: “The permanent seat of the League of Arab States shall be Cairo. The Council of the League may meet at any other place it designates.”

Its Annex on Palestine declares: “At the end of the last Great War, Palestine, together with the other Arab States, was separated from the Ottoman Empire. She became independent, not belonging to any other State.

“The Treaty of Lausanne (4) proclaimed that her fate should be decided by the parties concerned in Palestine.

“Even though Palestine was not able to control her own destiny, it was on the basis of the recognition of her independence that the Covenant of the League of Nations determined a system of government for her.(5)

“Her existence and her independence among the nations can, therefore, no more be questioned *de jure* than the independence of any of the other Arab States.

“Even though the outward signs of this independence have remained veiled as a result of *force majeure*, it is not fitting that this should be an obstacle to the participation of Palestine in the work of the League.

“Therefore, the States signatory to the Pact of the Arab League consider that in view of Palestine’s special circumstances, the Council of the League should designate an Arab delegate from Palestine to participate in its work until this country enjoys actual independence.”<sup>14</sup>

Are “the Palestinians” a people? If so, or if not, by what definition? The Charter of the League of Arab States indicates that they are entitled to be called a nation, though it makes no mention of them being a distinct people.

Are the Jews a people? For more than 1800 years, they did not inhabit a specific territory, though they had inhabited a specific territory for 1600 years before that. But not all lived within that territory. As with many communities, including the Muslim and Christian communities, some left the territory or were forcibly removed, and some outsiders were added in.

When the Children of Israel left Egypt, “A mixed multitude went up also with them; and flocks, and herds, and very many cattle.”<sup>15</sup> When the Children of Israel were in exile in Persia (which had conquered the Babylonian Empire), there was a time when, “In every province, and in every city, wherever the king’s command and his decree came, the Jews had joy and gladness, a feast and a good day. And many of the people of the land became Jews; for the fear of the Jews fell upon them.”<sup>16</sup>

The Arab Higher Committee said that the Jews were not a people. “Judaism no longer possesses the characteristics of a nation or a race. It is nothing but a mere creed. There is to-day English, American, French, German and Russian Jews, just as there is English, American, French and Russian Catholics, Orthodox, Protestants and Angelican Christians. ...No ties of language or common interest bind them as is the case with other nations. In fact Hebrew continues to be the language of their religious books only. It is actually a foreign language to the great majority of the Jews.”<sup>17</sup>

“Judaism” is a religion, which is not necessarily something that all the members of the people share. In India, or Lebanon, or a multitude of other nations, there is one people but they do not all have the same religion. A common religion can characterize a people but it is not necessary for the existence of a people.

There is not even a biblical Hebrew word that means “religion”. The biblical record does indicate that most of the time, most of the Children of Israel did not hold true to the law and faith that God entrusted to them. That, however, never negated the fact that they are presented as one people, the Children, or “people,” of Israel. The defining characteristic that made them a people was their descent from a common ancestor, Jacob, whom God also called “Israel”.

In Torah, when Jacob left his father’s house, God appeared to him and said, “I am the Lord God of Abraham your father, and the God of Isaac; the land on which you lie, to you will I give it, and to your seed.... and in you and in your seed all the families of the earth will be blessed. And, behold, I am with you, and will keep you in all places where you go, and will bring you back to this land; for I will not leave you, until I have done that about which I have spoken to you.”<sup>18</sup>

When Jacob returned to the land after many years, his brother Esau came out to kill him. The night before they encountered each other, an angel of God appeared to him and said, “Your name will be called no more Jacob, but Israel; for as a prince you have struggled with God and with men, and have prevailed.”<sup>19</sup> God changed Jacob’s name and He changed Esau’s heart. The brothers both lived in the land, though separated from each other.

Isaac’s son Esau did not kill Isaac’s son Jacob, but they were estranged for most of their lives. This tragic scenario was repeated in the lives of Jacob’s sons — Joseph and his brothers. Abdullah Yusuf Ali comments on the passage where Joseph tells his dream to his father Jacob (12:4). He says, “The place where Jacob and his family and his flocks were located was in Canaan, and is shown by tradition near modern Nablus (ancient Shechem), some thirty miles north of Jerusalem.”<sup>20</sup>

The common interest that binds “English, American, French, German and Russian Jews” et alia, is their connection to the land of Israel. For example, everywhere where Jews are dispersed in the world, they say at Passover, the festival which commemorates deliverance from slavery in Egypt 3500 years ago, “Next year in Jerusalem.” They say it in many different languages and also in Hebrew.

Some, of course, as with any community, have drifted or run from their common heritage. That never negates the reality of the existence of the community itself. It only affects how some people identify themselves.

The French Christian, Blaise Pascal, wrote of the Jews: “They carry with love and fidelity the book in which Moses declares that they have been ungrateful to God all their lives, and that he knows that they will be again

even more after his death; but that he calls heaven and earth to witness against them, and that he has taught them enough: he declares that finally God, irritated against them, will disperse them among all the peoples of the earth: that, as they angered Him by worshipping the gods who are not their God, so He will provoke them to appeal to a people who are not His people; and that He wants all his words to be preserved forever, and that His book is to be put in the ark of the covenant to serve as a witness against them forever. Isaiah says the same thing in 30:8. But this book that dishonors them in so many ways, they keep it at the cost of their lives. It is a sincerity that has no example in the world, nor its root in nature.”<sup>21</sup>

As for “ties of language,” there are many nations where a number of different languages are spoken. In Switzerland, for example, German, French, and Italian are the national languages. Some citizens may speak all three, but that is not the norm, and it is irrelevant to being part of the Swiss people.

The U.S. has never had an official national language, but there were those early on who wanted it to be Hebrew. “That the Puritans were avid students of the Hebrew language has long been recognized and documented. Their interest in ‘that most ancient language and Holy tongue in which the Law and Oracles of God were write’ led to the inclusion of Hebrew in the curricula of the early American colleges. The curricula of the ten schools founded before the American Revolution were centered on mastering theological treatises, the art of rhetoric, and the learned languages. These last included Greek, Latin, and often Hebrew and Aramaic. Dartmouth, founded in the decade before the Revolution, gave Hebrew a special place of prominence. This was evident in the structure of the curriculum, the appointment of faculty, and the acquisition of Hebraica for the college library.

“At Harvard, where the first two presidents were scholars of Hebrew, all freshmen had to study the language.”<sup>22</sup> Yale president Ezra Stiles, and others, sometimes gave college commencement addresses in Hebrew. The Hebrew language and the ancient people of Israel were very important in forming the initial sense of American identity.<sup>23</sup>

Additionally, “The Framers [of the U.S. Constitution] recognized the cultural diversity of the white immigrant populations in the colonies and proposed, initially, to make that very diversity the symbol of the new nation. Furthermore, in its context, the phrase *E Pluribus Unum* [“out of many, one,” on the official seal of the U.S.] meant, in equal measures, a union composed of ethnically different peoples.’

“...Despite the popular perception that English always has been the only language of the United States, Americans have spoken many languages throughout the nation’s history. Native Americans, for example, spoke approximately 1000 different languages. Substantial populations spoke European languages other than English: Spanish in Florida and what is now the southwestern United States; German in Pennsylvania, Maryland, Virginia, New York and Ohio; French in Louisiana; Dutch and Swedish in New York and Delaware. The principal European languages other than English in what is now the continental United States were German, French and Spanish.”<sup>24</sup>

Hebrew is the language of Israel today, even as it has been of the Holy Scriptures and traditions throughout history. Jews around the world as well as in the land, speak many different languages. In the time of Jesus, the languages of the Jews in the land were Hebrew, Aramaic, Greek, and Latin. Jews outside the land spoke mostly Greek. That is why the Law, the Writings, and the Prophets (and the Apocrypha) were translated into Greek two centuries earlier, by Jews living in Alexandria.

There is an old joke about a self-important scholar who was boasting to an Israeli acquaintance that he spoke five languages fluently. The Israeli congratulated him on his achievement, and added in a self-deprecating tone: “There aren’t more than 100 taxi drivers in Jerusalem who can do that.”

Pascal said of the Jews: “This people is not only to be considered for its antiquity; but it is still singular in its

duration, which has always continued from its origin until now: for unlike the peoples of Greece and Italy, of Lacedaemonia, Athens, Rome, and the others who came such a long time afterwards, ended so long ago, these still exist; and, in spite of the undertakings of so many mighty kings who tried a hundred times to destroy them, as the historians testify, and as it is easy to judge by the natural order of things, for during such a long space of years they have always been preserved nevertheless, and extending from the first times to the last, their history encloses in its duration that of all our histories.”<sup>25</sup>

Pascal realized that there could not be any Christians, if there had not been the Jews. The same could be said of Muslims, since the Scriptures and origins which Christians and Muslims treat as holy are presented as being built upon God’s relationship with the Jews. Without that foundation, these two faiths would have nothing on which to rest.

Others spoke of this fact, too. “‘The Jew is that sacred being,’ says Tolstoy, ‘who has brought down from heaven the everlasting fire, and has illumined with it the entire world. He is the religious source, spring, and fountain out of which all the rest of the peoples have drawn their beliefs and their religions.’”<sup>26</sup> As the Quran says, “He sent down the Torah and the Gospel aforetime, as a guidance to mankind...”<sup>27</sup>

In any case, we have some peoples who live in one state which they rule. And we have some peoples who live in many states but do not rule any of them. And we have some peoples, like the Arabs, who live in many different states or nations, and rule many of them. It would, of course, be more accurate to qualify that by saying that someone from their people group rules, because in many states people have no say in how they are governed.

When we speak of a people, a nation, or a state, depending upon how the terms are defined, there is an interplay of genealogy, geography, culture, and government. And, practically speaking, it is often power alone that determines who gets a state, not conformity to a definition. That was true with Wilson’s advocacy of “self-determination,” and it remains true a century later. As we see with the Kurds, it is often power alone that determines who does not get a state.

The nation-state is desirable in some circumstances, but, however it is defined, it is a modern phenomenon, “not a fact of nature.” It is neither a formula for success, nor a panacea for resolving conflicts. It is necessary to ask, ‘What exactly is being sought for the people concerned?’ ‘By whom is it being sought?’ and ‘Why are they seeking it?’

### **Authority, Rights, and Possession**

Every conqueror felt justified; every conqueror claimed a right to the land. Every conqueror believed in his/their own authority. But “Authority” — the right to command, or the right to possess — cannot be self-generated. As John Austin expressed it: “A sovereign government cannot acquire rights through laws set by itself to its own subjects.... Every party bearing a right (divine, legal, or moral) has necessarily acquired the right through the might or power of another.”<sup>28</sup>

Only someone who already has authority can bestow it upon others. One cannot give what one does not have. Neither an individual nor a ruler acquires a right simply by claiming to have it. The question must be repeatedly asked in regression: “If one has authority, from whom did one receive it?” The ordinary answers are from People, from Nature, from God.

Taking People as the source of authority, the regression goes like this: Individuals or a multitude can agree to obey someone, but they can only bestow authority on those who rule over them if they have an authority which they can bestow. Since Humanity has a beginning, such authority could not be innate; it would have to

have been received from a prior source. Many believe that people receive natural rights from Nature.

That is something that has been believed in different forms almost everywhere at almost all times. Nevertheless, there are some problems with the belief. “Nature can be considered to be a source of [legal] norms only if we assume that there is a will immanent in Nature to the effect that things, especially living beings, are to behave in certain ways. Since the norms of Natural Law decree a certain human behaviour to be obligatory, this will must be directed to a human behaviour. But since Nature itself is not endowed with any will, it must be the will of God present in Nature (which is his creation)... This is the meta-physico-theological presupposition without which no Natural Law theory is possible, and with which Natural Law theory succeeds or fails. The ultimate source of Natural Law is God’s will.”<sup>29</sup>

Ruling out spontaneous generation, authority cannot originate in anything that has a beginning. The only possible source of authority is therefore something without a beginning, something which precedes everything else, something which has innate, unbestowed authority. From a variety of perspectives, it is fairly well established today that this natural world in which we live had a beginning. Therefore, if Nature can bestow authority or rights, it must have received that authority from a source which existed prior to it and caused it to come into existence.

The importance of finding a source for authority lies in the fact that a political government that lacks authority is not different in essence from any other exercise of force designed to control the behavior of others. Anyone can claim authority or rights, but not everyone can show an original source for them. In many cases, the claim is merely words, no matter how vehemently they are expressed or believed in.

International Law used to be based on Common Law, tied to Biblical Law. Now it is said to be derived solely from human-generated documents. It is “treaty law,” and treaties are created by power, without any necessary connection to authority.

Logically, ultimately, there is only one possible original source of authority in the earth: the supernatural force that created this world. Each of the three Holy Scriptures presents that as a reality. Each of the three presents God as the Creator and owner of all that exists, and the one who delegates some of His authority to various people. Ultimately, therefore, only God can delegate legitimate possession.

None of the conquerors created the land; none of them could give themselves the right to possess it. They could issue their own decrees claiming that they owned everything and everyone, but an assertion is not a proof. A pretension is not a fact, not even when those with power act as though it is.

As Rousseau expressed it: “When Núñez Balboa, standing on the sea-shore, took possession of the South Seas and the whole of South America in the name of the crown of Castile, was that enough to dispossess all their actual inhabitants, and to shut out from them all the princes of the world? On such a showing, these ceremonies are idly multiplied, and the Catholic King need only take possession all at once, from his apartment, of the whole universe, merely making a subsequent reservation about what was already in the possession of other princes.”<sup>30</sup>

They had power to possess the land, but they had no right or authority to possess it. Any right to possess the land would ultimately have had to come from its rightful owner, God. Power does not create authority, but rather it is authority which creates the right to use power to enforce commands. Rousseau said, “To yield to force is an act of necessity, not of will — at the most, an act of prudence. In what sense can it be a duty? ...Let us then admit that force does not create right, and that we are obliged to obey only legitimate powers.”<sup>31</sup>

A rule of law only obligates human beings if it has been enacted by one who has authority, i.e. the right to command. The claim to have authority does not establish the fact. That holds true for individuals and organizations, for empires, Great Powers, and multi-national organizations.

There are often reasons of prudence for obeying a strong power, whether it is benevolent or malevolent. Regardless of who the ruler is, there is often some wisdom in yielding to greatly superior force. "In a phrase used by the Maliki jurists of North Africa, 'whose power prevails must be obeyed.'"<sup>32</sup> Obedience was seen to be due only as long as the power prevails.

Ibn Jama'ah of Damascus (circa 13th century) laid out the principle that, "The sovereign has a right to govern until another and stronger one shall oust him from power and rule in his State. The latter will rule by the same title and will have to be acknowledged on the same grounds; for a government, however objectionable, is better than none at all; and between two evils we must choose the lesser."<sup>33</sup>

These were declarations of how God wanted those faced with superior physical force to respond. They were not conferrals of authority. Additionally, in the traditional Islamic view, though there could be various governmental jurisdictions, an individual "state" was merely a temporal occurrence within the dar al-Islam, the world of Islam. The state itself was not sovereign.

The Roman Empire changed the name of the captured province of Judea to "Palestine". No one belonged to "Palestine" then, no one recognized it as their homeland. That was the point. After the demise of the Ottoman Empire, then the British Empire and the League of Nations used the long-abandoned Roman terminology in creating the "Palestinian Mandate," but did not apply it to exactly the same territory. Where then, and on what basis, is "Palestine" defined and geographically delineated?

This, of course, is not an academic question, because it cannot be answered academically. It is not a historical question, because it cannot be answered historically. This is not a scriptural question, because "Palestine" is not mentioned in anybody's Scriptures. It cannot be said that "Everybody knows," because everybody does not know the same thing. There is no agreement. It is a political question, but one that, like many others, can be informed from a variety of sources. Because of the intensity of feeling and the great value of what is at stake, it must be informed from a variety of sources.

As the Roman Empire did, so the British Empire and the League of Nations assumed they had the right to do with the land according to their own wisdom or desires. They felt no need to present any kind of case for having the authority to do that. Consequently, they failed to bring any clarity to the issue.

The United Nations inherited the problem, the confusion, and the assumption of authority. Since then, it has failed on its own to make any positive contribution towards a solution. The reasons for that will become more evident when we look at the origins of the United Nations, its identity, and its composition.

#### FOOTNOTES

1. Exodus 15:14, Psalm 60:10/8, Psalm 83:8/7, Psalm 87:4, Psalm 108:10/9, Isaiah 14:29 & 31, and Joel 4:4/3:4. [Hebrew numbering first]
2. Cf. Jeremiah 47:1-7; Ezekiel 25:15-17; Amos 1:6-8; Zephaniah 2:4-7.
3. 2Kings 17:24
4. In the lifetime of Jesus/Yeshua, the Samaritans had been living in the land for more than 500 years. In the parable of the good Samaritan, he rebukes any Jewish conceit of righteousness based on descent rather than actions. (Luke 10:25-37) At Jacob's well, he rebukes the conceit of the Samaritan woman in claiming Jacob as their father, and in thinking that they and their worship had replaced the Jews. (John 4:5-22) In the Greek text, he speaks of a Samaritan as *allogenes*, meaning "from another people," i.e. a "foreigner". (Luke 17:18)
5. Samuel Abramsky, "Bar Kochba," *Encyclopedia Judaica*, Vol. 2, Keter Publishing House Ltd., Jerusalem, 1971, P. 236
6. *The Palestine Arab Case*, The Arab Higher Committee, April 1947, p.4
7. "Palestine," *Encyclopedia of the Ottoman Empire*, p.452
8. *Jerusalem 1948: The Arab Neighbourhoods and their Fate in the War*, ed. Salim Tamari, 2d edition (Bethlehem:

- Badil Resource Center for Palestinian Residency and Refugee Rights, 2002) p.5
9. General Assembly A/364, 3 September 1947, Official Records of the Second Session of the General Assembly, Supplement No. 11, United Nations Special Committee on Palestine, Report to the General Assembly, Vol. 1, Lake Success, New York, 1947, Chapter 2.166.
  10. Zuhair Muhsein, "Wij zijn alleen Palestijn om politieke reden," Interview with James Dorsey, in the Dutch newspaper, *Trouw*, March 31, 1977. In 1979, Zuhair Muhsein, a Syrian-backed terrorist leader who headed As Saiqa, was assassinated outside Cannes.
  11. "Syria's Claims: The Old Order," New York Times, July 31, 1983 <https://www.nytimes.com/1983/07/31/weekinreview/syria-s-claims-the-old-order.html>
  12. A. London Fell, *Origins of Legislative Sovereignty and the Legislative State, Vol. I, Corasius and the Renaissance, Systematization of Roman Law*, (Cambridge, MA: Oelgeschlager, Gunn & Hain, 1983) p. 2. ARTICLE 1 of the 1933 Montevideo Convention on Rights and Duties of States says that "The state as a person of international law should possess the following qualifications: a ) a permanent population; b) a defined territory; c ) government; and d) capacity to enter into relations with the other states."
  13. [https://avalon.law.yale.edu/20th\\_century/arableag.asp](https://avalon.law.yale.edu/20th_century/arableag.asp)
  14. [https://avalon.law.yale.edu/20th\\_century/arableag.asp](https://avalon.law.yale.edu/20th_century/arableag.asp)
  15. Exodus 12:38
  16. Esther 8:17
  17. *The Palestine Arab Case*, The Arab Higher Committee, April 1947, p.12
  18. Genesis 28:13
  19. Genesis 32:29 Hebrew. In the Quran, Sad 38:45-48 , Ishmael is said to be "among the excellent," but not listed with Abraham, Isaac, and Jacob "among the chosen, the elect."
  20. Quran English Translation & Commentary, Abdullah Yusuf Ali, Note C1632 on verse 12:4. <http://www.quran4u.com/Tafsiraya/002%20Baqarah.pdf>
  21. Blaise Pascal, *Les Pensées*, arranged by Aloïse Guthlin, (Paris : P. Lethielleux, [1896), Pp.150-151. My translation with the help of deepl.com
  22. Shalom Goldman, "Biblical Hebrew in Colonial America: the Case of Darmouth," *Hebrew and the Bible in America: The First Two Centuries*, edited by Shalom Goldman, (Hanover: University Press of New England, 1993) Pp. 201,205
  23. See, for example, *The Great Awakening: documents illustrating the crisis and its consequences*, Heimert, Alan & Miller, Perry, (Indianapolis : Bobbs-Merrill, 1967)
  24. Perea, Juan F., "Demography and Distrust: An Essay on American Languages, Cultural Pluralism, and Official English" (1992). *Minnesota Law Review*. 1713. Pp.275, 284
  25. Blaise Pascal, *Les Pensées*, arranged by Aloïse Guthlin, (Paris : P. Lethielleux, [1896), P.142. My translation with the help of deepl.com.
  26. *The Pentateuch and Haftorahs*, ed. by Joseph H. Hertz, Soncino Press: London, 5716/1956, p.45, note on 12:2.
  27. Quran, The House of Imran/*Al-Imran* 3:3-4
  28. John Austin, *Jurisprudence*, 305
  29. Hans Kelsen, *General Theory of Norms*, p. 5. This is an inadequate treatment of a foundational issue. For a fuller treatment, see *Law without Authority or Limits: Kelsen's Dilemma*, Daniel Gruber, (Hanover: Elijah Publishing, 2019).
  30. Jean Jacques Rousseau, *The Social Contract, or Principles of Political Right*, trans. by G. D. H. Cole, 1762, p.16
  31. Rousseau, *Social Contract*, pp.4,5
  32. Bernard Lewis, *The Political Language of Islam*, (Chicago: Univ. of Chicago Press, 1988), p. 102
  33. Adda Bozeman, *Politics and Culture in International History*, (Princeton, N.J.: Princeton University Press,

