

Monograph Series No. 8

TO WHOM DOES PALESTINE BELONG ?

by Henry Cattan

THE INSTITUTE FOR PALESTINE STUDIES

BEIRUT, 1969

THE INSTITUTE FOR PALESTINE STUDIES

The Institute for Palestine Studies is an independent non-profit Arab research organization not affiliated to any government, political party or group, devoted to a better understanding of the Palestine problem. Books in the Institute series are published in the interest of public information. They represent the free expression of their authors and do not necessarily indicate the judgement or opinions of the Institute.

FOUNDERS AND BOARD OF TRUSTEES

H. E. Mr. CHARLES HELOU
Now President of the Republic of Lebanon

Mr. SAMI ALAMI
General Manager, Arab Bank Ltd., Beirut

Mr. AHMAD BAH-ED-DIN
*President, Press Association of the U.A.R.,
Cairo*

Mrs. WADAD CORTAS
Principal, Ahliya College, Beirut

Prof. BURHAN DAJANI
*Secretary-General,
Union of Arab Chambers of Commerce,
Industry and Agriculture, Beirut*

Mr. PIERRE EDDE
President, Lebanese Bankers' Association

Dr. NABIH A. FARIS †
*Professor of History,
American University of Beirut*

Mr. MAURICE GEMAYEL
Member of Parliament (Lebanon)

Mr. ABDUL LATIF HAMAD
*President, Kuwait Fund
for Arab Economic Development*

Prof. SAID HIMADEH
*Professor Emeritus,
American University of Beirut*

Dr. NEJLA IZZEDDIN
Authoress and Educator, Beirut

Mr. ADIB JADIR
Expert on Petroleum Affairs, Baghdad

Mr. ABDUL MOHSIN KATTAN
Businessman (Kuwait)

Prof. WALID KHALIDI
*Professor of Political Studies,
American University of Beirut*

Dr. HISHAM NACHABEH
*Director of Education, Makassed Association,
Beirut*

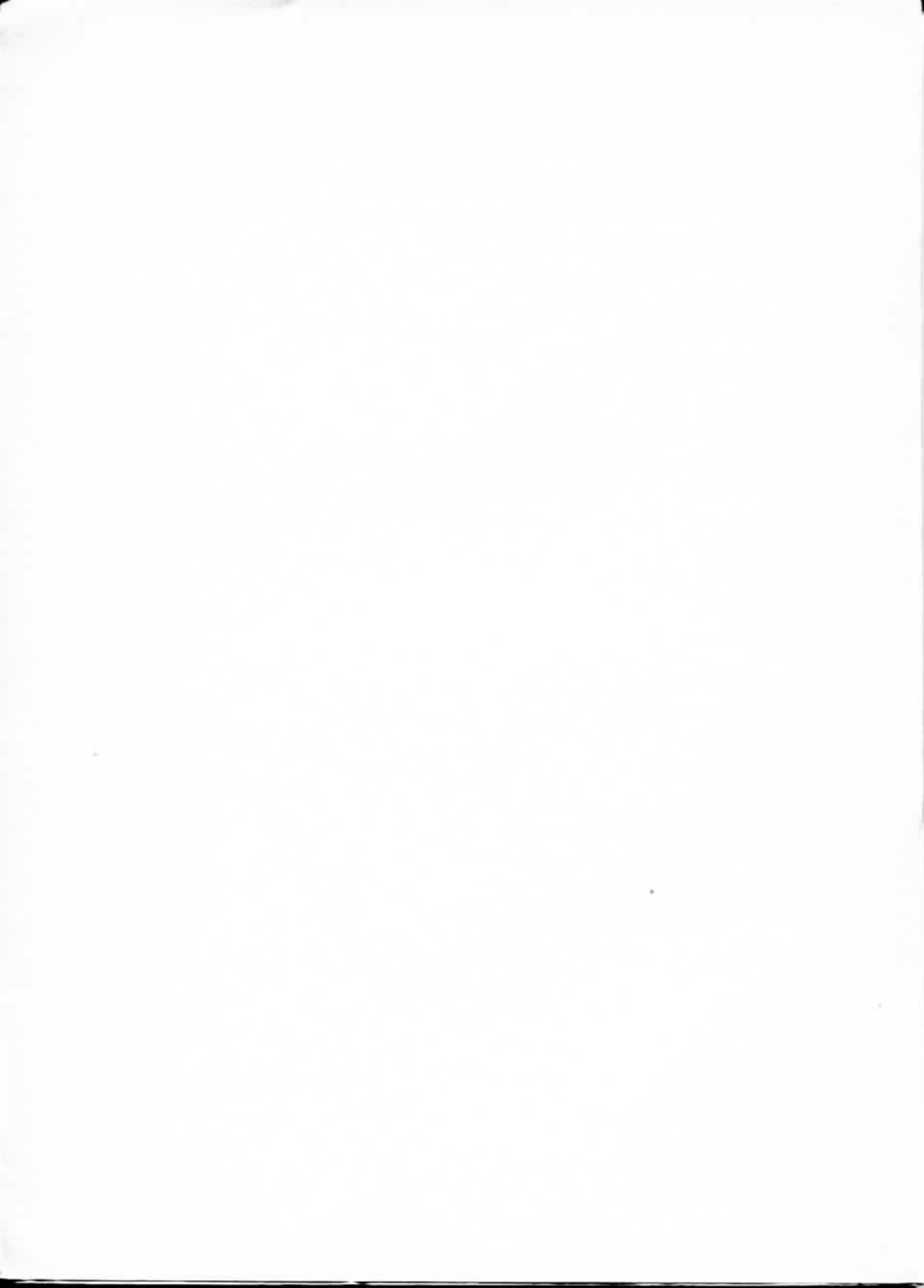
Dr. EDMOND RABBATH
*Lawyer and Professor of Constitutional Law,
Lebanese University*

Mr. FARID SAAD
*Industrialist (Jordan), and Trustee of the
American University of Beirut*

Dr. FUAD SARROUF
*Former Vice-President,
American University of Beirut*

Dr. CONSTANTINE ZURAYK
*Distinguished Professor,
American University of Beirut*





TO WHOM
DOES PALESTINE
BELONG ?

by

Henry Cattan

Licencié en Droit (Paris)

LL.M. (London)

Published by

THE INSTITUTE FOR PALESTINE STUDIES

Ashqar Bldg., Clémenceau Str., Beirut, Lebanon

1969

© The Institute for Palestine Studies, 1969

First Published 1967

Second Impression 1969

THE INSTITUTE FOR PALESTINE STUDIES

Ashqar Bldg., Clémenceau Str.

Beirut, Lebanon

THE RECENT debates at the U.N. were exclusively concerned with the withdrawal of Israeli forces from occupied territories. Some people have sought to link such a withdrawal to recognition of Israel by the Arabs. This attitude is immoral, for it grants a reward to aggression and implies a denial of the ideals and principles of the Charter of the U.N. Moreover, such an attitude appears to ignore the fact that the present situation, in spite of its extreme gravity and its explosive character, is not after all the essence of the problem, but is only its consequence. The fundamental problem of the Middle East remains that of Palestine and the establishment of Israel in a land that does not belong to it. It is true that on many occasions during the discussions, reference was made to the need for attempts to resolve the juridical, political and humanitarian problems which exist in the Middle East. But it goes without saying that no agreement exists at the U.N. upon the nature of the juridical problems involved nor upon the manner of their resolution. However, if the U.N. wants to avoid resolving its problems by ignoring them, like the ostrich, it should at least recognise that the principal juridical aspect which dominates the whole problem is the question: *to whom does Palestine belong?* It is only in the light of an examination of this question that one can foresee the natural, just and logical solution of the problem which has convulsed the Middle East for twenty years.

This question should be examined in relation to sovereignty

NOTE: The author of this article is a Palestinian lawyer born in Jerusalem. In 1947 and 1948 he represented the Arabs of Palestine at the United Nations during the debates on the Palestine Question and was also delegated by the Arab League during the Palestine war of 1948 for discussions with the United Nations Mediator, the late Count Bernadotte. He has more than once acted as an expert on the Palestine Question on behalf of the Arab League.

from the standpoint of international law and in relation to ownership from the standpoint of private law. In the framework of this article, however, such examination is necessarily confined to a mere outline of the problems and the considerations involved.

With regard to sovereignty over Palestine, it is fitting to recall that, once detached from Turkey at the end of the First World War, the people of Palestine—who had until that time constituted an integral part of a sovereign country—recovered their rights of sovereignty, separate and independent, over all the territory of Palestine. Besides, Article 22 of the Covenant of the League of Nations recognised “*the existence as independent nations*” of the communities then detached from Turkey. Based as it is on the principles of international law and modern civilization, the Arab position is that Palestine belongs to the people of Palestine. It does not recognise that Israel possesses any sovereignty over any parcel of this land, because Israel owes its birth to an aggression which gives it no rights over territory which it has occupied by force. The doctrine which President Wilson championed at the end of the First World War, namely that military occupation cannot justify territorial acquisition, was upheld and confirmed in the recent discussions at the General Assembly of the U.N. by all its members, with the exception of Israel naturally. Modern civilisation does not recognise that a right can be gained by the use of force.

No one can deny the evident fact that Palestine is a country which has belonged to the Arabs for many centuries. The small number of Jews who were there, about one twelfth of the population at the end of the First World War, lived on good terms with the Arabs until the Zionists began to entertain political ambitions against the country. But what is the basis of past Zionist allegations and present Israeli claims regarding Palestine?

It is evident that the principal Zionist claim based upon “the historic right of the Jews to Palestine” is pure nonsense from the juridical standpoint. Such a claim cannot give a right of sovereignty to the Jews over a territory that has not belonged to them for more than twenty centuries. If the principle of a territorial claim after more than twenty centuries is recognised as valid, the whole world will be shaken to its foundations.

On the other hand, the Balfour Declaration of 1917, which the Zionists have utilised almost as a document of title for the establishment of a national home in Palestine, has never possessed any juridical

value. Emanating from the British Government, which at no moment possessed any right of sovereignty over Palestine, the Balfour Declaration could not validly recognise a right of sovereignty in favour of the Jews, because a donor cannot dispose of what does not belong to him.

The same consideration applies to the partition resolution adopted by the General Assembly of the U.N. on November 29, 1947: possessing no right of sovereignty over Palestine the U.N. could not validly partition the country, nor dispose of it, nor grant any right of sovereignty to a Jewish State. The creation of Israel was nothing but an usurpation of a part of Palestine by force and aggression. Such usurpation has never been recognised either by the Arab world or—and this is still more important—by the Palestinians themselves who retain to this day the legal right of sovereignty over Palestine. The Palestinian nation now merged with the Transjordanian people, has never lost nor abandoned its rights over its country. Neither the usurpation of the territory by Jewish immigrants introduced into the country against the will of its inhabitants, nor the territorial acquisitions of these immigrants by force, nor even the recognition of Israel by several States, can deprive the people of Palestine of their inalienable and imprescriptible rights of sovereignty over their own country.

Let us now consider the question from the standpoint of the ownership of land in Palestine. Enquiry into this matter shows the unbelievable dimensions as well as the iniquity of the Israeli usurpation. It is established by the official statistics of the mandatory Government of Palestine, which were submitted to the United Nations in 1947, that the lands which then belonged to the Jews amounted to 1,491,699 dunums¹ out of a total of 26,323,023 dunums representing the area of Palestine.² It is thus evident that Jewish property in Palestine is no more than 5.66% of the total area of the country. The same statistics establish that percentages of Jewish land ownership in Palestine were 2% in the sub-district of Jerusalem, 4% in the sub-district of Hebron, 4% in the sub-district of Gaza, 3% in Galilee and less than 1% in the sub-districts of Nablus, Jenin and Beersheba.³

¹ One dunum equals one thousand square metres.

² See these figures in Appendix VI to the Report of Sub-Committee 2 to the Ad Hoc Committee on the Palestine Question, *Document A / AC. 14 / 32 of November 11, 1947*, p. 270.

³ See Map No. 94 (b) United Nations attached as Annex V to the Report of Sub-Committee 2 mentioned above.

8 To Whom Does Palestine Belong?

It is to be remarked that in none of the sub-districts of Palestine, even at Jaffa, Tel Aviv, Haifa, or Tiberias, was Jewish property equal in area to land in Arab ownership.

It is important to note these figures because Zionist propaganda has often attempted to spread the lie that the Palestinians have sold their lands to the Jews. The facts refute such propaganda. Even if we take the figure of 1,491,699 dunums of land belonging to the Jews towards the end of the British mandate, it is to be remarked that, of this total area, one third had already been acquired by the Jews during Turkish times, another one third was acquired by them either by direct purchase or through public auctions from non-Palestinian landowners and only one third, i.e. less than 500,000 dunums or, in other words, less than 2% of the land of Palestine, was bought by the Jews from the inhabitants of Palestine during a quarter of a century.

Notwithstanding the fact that the majority of the population was Arab,⁴ and in spite of the predominance of Arab ownership of the land, in 1947 the General Assembly of the U.N. recommended the partition of Palestine between Arabs and Jews. It was proposed that two States be formed, one Arab and one Jewish. The Jewish State was allocated by the partition resolution 5,700 square miles as against 4,300 square miles allotted to the Arab State.⁵ In effect, this meant that the Jews, as owners of 1,491,699 dunums of land, were given a territory which was ten times the area owned by them. At whose expense? Obviously, not at the expense of the givers but at the expense of the Palestinian Arabs. Apart from any other consideration, the injustice of such partition is so staggering that it defies all logic and understanding. One third of the population, consisting mostly of foreign Jewish immigrants brought into the country by the British mandatory power against the will of its inhabitants, and owning no more than 5.66% of the land, are allocated an area equivalent to 57% of the total territory of the country, in order to establish therein a Jewish State. The fact that the U.N. gave its blessing to such a flagrant piece of injustice, by a narrow majority obtained by the joint efforts of world Zionism and President Truman, does not remove the illegality.

⁴ At the end of the mandate, the number of Jews in Palestine was less than one third of the total population. As regards the distribution of the Arab and Jewish population by sub-districts, see *Appendix I*.

⁵ The Plan of Partition of Palestine in accordance with the U.N. Resolution of November 29, 1947 is shown in *Appendix II*.

lity or diminish the injustice. The establishment of Israel in such circumstances was nothing but the usurpation of a territory which was fully in Arab ownership and subject to the sovereignty of the people of Palestine.

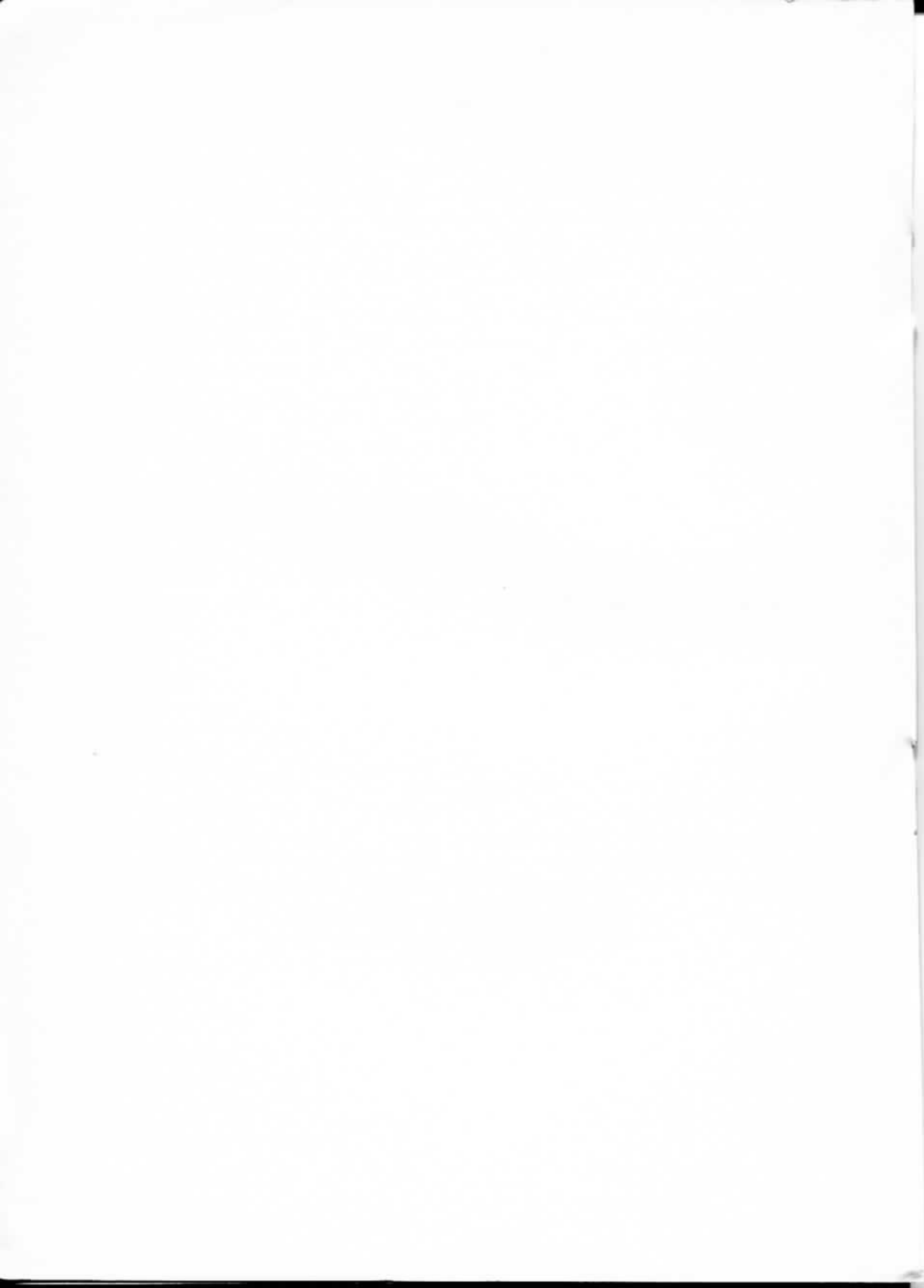
But Israel was not content with this partition, itself unjust and iniquitous to the Arabs. In 1948, in violation of the territorial limits proposed by the U.N. partition resolution, and in 1949, in violation of the truce agreements concluded with the neighbouring countries, Israel seized another 1,400 square miles of the territory of Palestine, thus gaining control over 71% of the total area of the country. The areas occupied by Israel in 1948 and 1949 in defiance of the U.N. partition resolution are shown on the map annexed as *Appendix III*.

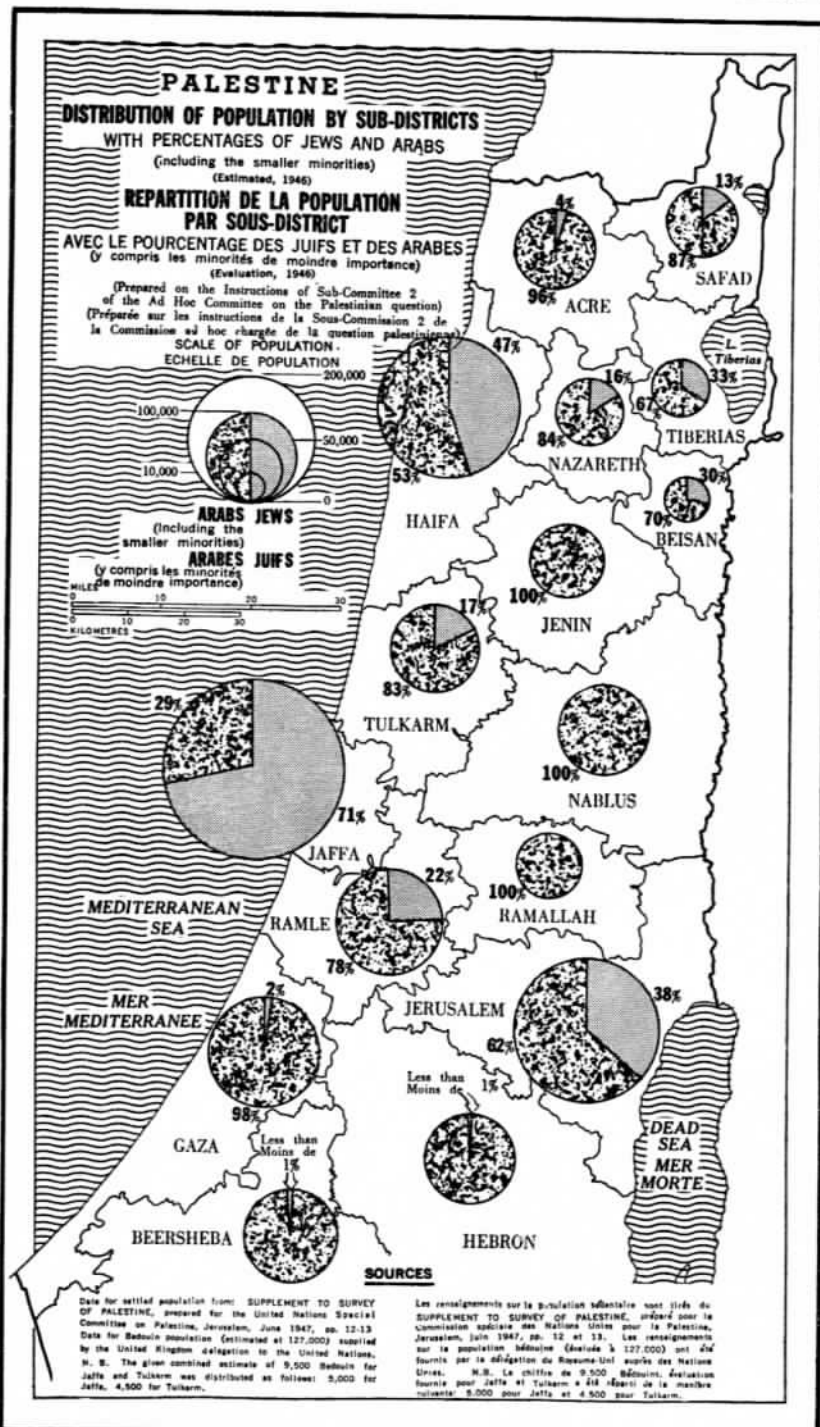
In June 1967, under the pretext that Egypt had denied it the right of passage through the Strait of Tiran, Israel seized the remainder of Palestine as well as portions of the neighbouring Arab countries. The areas seized during this last aggression are also shown on the map annexed as *Appendix III*.

It goes without saying that the expropriations, usurpations and other arbitrary measures carried out by Israel since 1948 in order to dispossess and deprive the Palestinians of their lands and vest title in Jewish organisations cannot produce any effect which is legally valid. Such measures do not alter the juridical reality that in spite of their occupation by force of the whole of Palestine, the Jews own only 5.66% of its territory. This fact cannot be changed by legislation, usurpation or propaganda. It is evident that Palestine belongs both in law and in fact to the Arabs of Palestine.

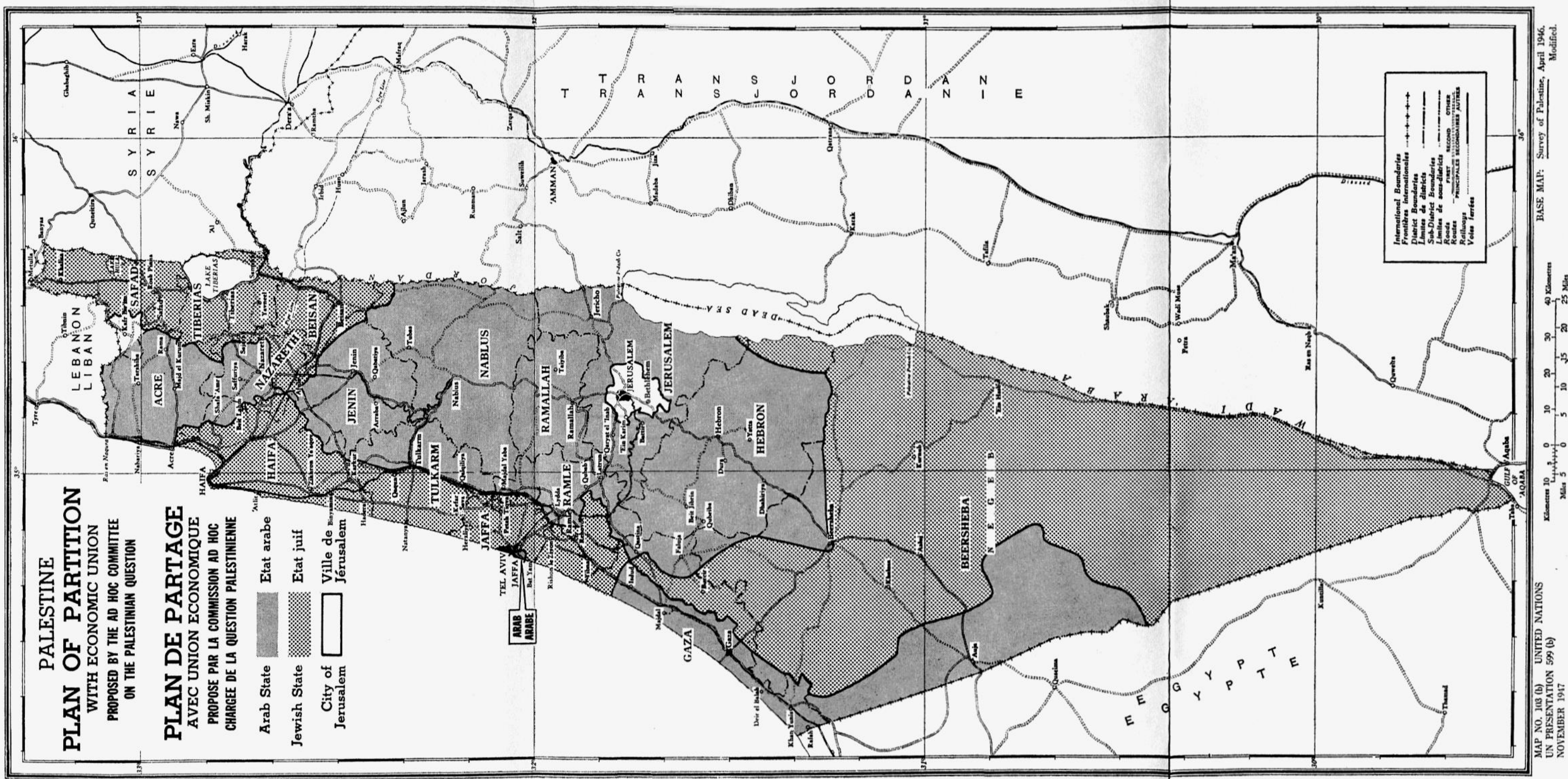
The architects of the partition of Palestine deluded themselves in 1947 with the illusion that time will cause the injustice to be forgotten. Certain friends of Israel even believe this today. Are not three wars, the last of which almost brought the world to the brink of the abyss, sufficient to remind them that no solution of the Palestine problem which is not in harmony with law and justice can restore peace to this region?

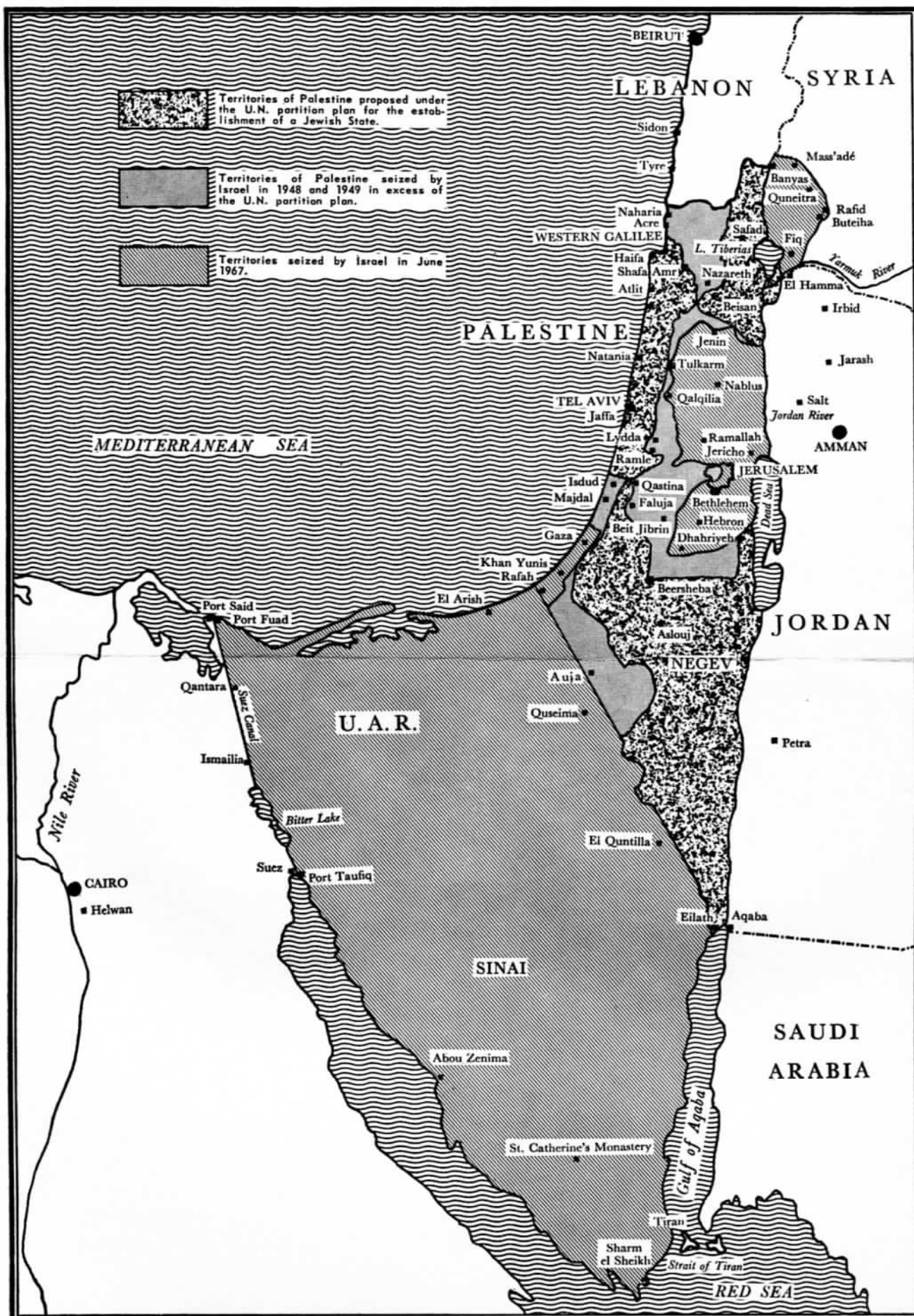
August, 1967













OTHER PUBLICATIONS BY THE INSTITUTE

The Decadence of Judaism in Our Time (E)*

by Moshe Menuhin. 622 pages, 21 L.L.**

Nisi Dominus (E)

by Nevill Barbour. 256 pages, 15 L.L.

Between Arab and Israeli (E)

by E.L.M. Burns. 336 pages, 21 L.L.

The Arabs in Israel 1948-1966 (E)

by Sabri Jiryis. 180 pages, 7 L.L.

Israeli Withdrawal from Sinai 1956-1957 (E)

by Walid Abi-Mershed. 144 pages, 10 L.L.

Mer Rouge et Golfe d'Aqaba dans l'évolution du Droit International(F)

by Dr. Edmond Rabbath. 65 pages, 4.50 L.L.

United Nations Resolutions on Palestine 1947-1966 (E)

Edited by Sami Hadawi. 228 pages, 9 L.L.

The Arab-Israeli Armistice Agreements, February-July 1949 (E, A)

(U.N. texts and annexes). 30 pages, 2 L.L.

Palestine before the United Nations 1966 (E)

Edited by Sami Hadawi. 920 pages, 25 L.L.

The Palestine Yearbook for 1967 (A)

Edited by Prof. Burhan Dajani. 900 pages, 35 L.L.

The Palestine Documents 1967 (A)

Edited by G. K. Nasrallah. 1200 pages, 45 L.L.

Documents on Palestinian Arab Resistance to the British Mandate and Zionism 1918-1939 (A)

Edited by A. Kayali. 700 pages, 30 L.L.

* E (English), A (Arabic), F (French).

** 1 L.L. = 35 cents.