
Doctoral Thesis directed by:
Prof. Dr. Vicente Prieto

ROME 2003
If I forget you, Jerusalem, may my right hand wither; may my tongue remain stuck to my palate if I do not keep you in mind, if I do not count Jerusalem the greatest of my joys.

Psalms 137:5-6
CONTENTS
ACKNOWLEDGMENT
INTRODUCTION

I. OBJECTIVE

II. OUTLINE AND STRUCTURE

III. RELEVANCE OF THE TOPIC

IV. WORKING HYPOTHESIS
   A. Fundamental Issues
   B. Attitude of the Holy See towards the State of Israel
   C. Bilateral Treaties

V. SCOPE AND LIMITATIONS
   A. In Terms of Substance
   B. In terms of Materials and Time Covered

VI. RESEARCH METHODOLOGY

CHAPTER 1  HISTORICAL ANTECEDENTS

1.1 THE FIRST CENTURIES
1.2 BYZANTINE PERIOD (313-636)
1.3 MUSLIM ARAB PERIOD (636-1099)
1.4 THE CRUSADES (1099-1291)
1.5 MAMELUKE PERIOD (1291-1516)
1.6 OTTOMAN PERIOD (1517-1917)
1.7 ZIONISM
1.8 BRITISH PERIOD (1917-1948)

CHAPTER 2  PIUS XII: PERIOD OF CONSOLIDATION

2.1 THE FIRST MAJOR POLICY STATEMENTS
   2.1.1 Historical Context
   2.1.2 Encyclical Letter Auspicia Quaedam, 1 May 1948
   2.1.3 Encyclical Letter In Multiplicibus Curis, 24 October 1948

2.2 A RENEWED CALL OF THE ROMAN PONTIFF
   2.2.1 Historical Context
   2.2.2 Encyclical Letter Redemptoris Nostrri, 15 April 1949
   2.2.3 Apostolic Exhortation Sollemnibus Documentis, 8 November 1949

2.3 RELATIONS BETWEEN THE HOLY SEE AND THE STATE OF ISRAEL
   2.3.1 Attitude of the Holy See towards the State of Israel
   2.3.2 Fundamental Issues
   2.3.3 De Facto and De Jure Relations

2.4 SYNTHESIS

CHAPTER 3  PAUL VI: A NEW THRUST

3.1 HISTORICAL CONTEXT
   3.1.1 Cycle of Wars and Palestinian Nationalism
   3.1.2 The Jerusalem and Palestine Questions in the Context of the Six-Day War
   3.1.3 Civil War in Lebanon
3.2 POLICY STATEMENTS OF PAUL VI
  3.2.1 Allocutions
  3.2.2 Apostolic Exhortation Nobis In Animo, 25 March 1974
  3.2.3 Other Documents: Discourses, Declarations and Letters

3.3 ATTITUDE OF THE HOLY SEE TOWARDS THE STATE OF ISRAEL
  3.3.1 Declaration Nostra Aetate, 28 October 1965: A New Era in Christian-Jewish Relations
  3.3.2 A Theological Document
  3.3.3 Impact of Nostra Aetate

3.4 FUNDAMENTAL ISSUES
  3.4.1 The Palestine Question
  3.4.2 The Jerusalem Question
  3.4.3 The Fundamental Issues and De Facto Relations

3.5 SYNTHESIS

CHAPTER 4 JOHN PAUL II: TOWARDS A POLICY SHIFT

4.1 HISTORICAL CONTEXT
  4.1.1 Camp David Accord
  4.1.2 The Basic Law of 1980
  4.1.3 Israel Invades Lebanon
  4.1.4 The Intifada and the Palestine State

4.2 POLICY STATEMENTS OF THE HOLY SEE
  4.2.1 John Paul I
  4.2.2 John Paul II

4.3 ATTITUDE OF THE HOLY SEE TOWARDS THE STATE OF ISRAEL
  4.3.1 Policy Statements of John Paul II
  4.3.2 Notes on the Correct Way to Present the Jews and Judaism
  4.3.3. Old and New Elements

4.4 THE FUNDAMENTAL ISSUES
  4.4.1 The Palestine Question
  4.4.2 The Jerusalem Question

4.5 DE FACTO RELATIONS AND THE FUNDAMENTAL ISSUES
  4.5.1 The Palestine Question
  4.5.2 The Jerusalem Question

4.6 SYNTHESIS

CHAPTER 5 BILATERAL TREATIES

5.1 THE FUNDAMENTAL AGREEMENT
  5.1.1 Historical Context
  5.1.2 The Fundamental Agreement as a Policy Shift

5.2 THE LEGAL PERSONALITY AGREEMENT
  5.2.1 Historical Context
  5.2.2 A Closer Look at the Legal Personality Agreement

5.3 SYNTHESIS

EPILOGUE

A. NEGOTIATIONS ON PROPERTY, FISCAL AND ECONOMIC MATTERS
B. THE FUNDAMENTAL ISSUES
   1. The Jerusalem Question: Multilateral Aspect
   2. The Palestine Question

CONCLUSIONS

PIUS XII: PERIOD OF CONSOLIDATION
PAUL VI: A NEW THRUST
JOHN PAUL II: TOWARDS A POLICY SHIFT
BILATERAL TREATIES

ANNEXES

1. ENCICLICAL LETTER IN MULTIPLICIBUS CURIS, 24 OCTOBER 1948
2. ENCICLICAL LETTER REDEMPTORIS NOSTRI, 15 APRIL 1049
3. APOSTOLIC EXHORTATION SOLEMNIBUS DOCUMENTIS, 8 NOVEMBER 1949
4. DECLARATION NOSTA AETATE, 28 OCTOBER 1965
5. APOSTOLIC EXHORTATION NOBIS IN ANIMO, 25 MARCH 1974
6. APOSTOLIC LETTER REDEMPTIONIS ANNO, 20 APRIL 1984
7. CONVENTIO INTER APOSTOLICAM SEDEM ATQUE ISRAELIS STATUM, 30 DECEMBER 1993
   Fundamental Agreement between the Holy See and the State of Israel
   ADDITIONAL PROTOCOL
8. CONVENTIO INITA INTER APOSTOLICAM SEDEM ATQUE ISRAELIS STATUM. CONVENTIO
   AD ARTICULUM 3 § 3 EXSEQUENDUM PACTIONIS FUNDAMENTALIS INTER APOSTOLICAM
   SEDEM ATQUE ISRAELIS STATUM (QUAE ETIAM "DE IURIDICA PERSONA" CONSENSIO
   APPELLATUR), 10 NOVEMBER 1997.
   THE ANNEXES (Article 11)
9. BASIC AGREEMENT BETWEEN THE HOLY SEE AND THE PALESTINE LIBERATION
   ORGANIZATION, 15 FEBRUARY 2000

BIBLIOGRAPHY

I. SOURCES
   Documents of the Second Vatican Council
   Documents of the Roman Pontiffs (Chronological Order)
   Other Documents of the Holy See

II. AUTHORS
   A. BOOKS
   B. JOURNALS

III. ARTICLES WITHOUT AUTHORS
ACKNOWLEDGMENT

Many people deserve words of gratitude for having helped me in one way or another to undertake this doctoral dissertation. First of all, I would like to thank sincerely Father David-Maria A. Jaeger, Professor of Canon Law at the Pontifical Athenaeum “Antonianum,” whose expertise on the topic, enriched by his experience as Legal Adviser of the Bilateral Permanent Working Commission in the Holy See’s negotiations with Israel, helped me to organize the materials and have a clear focus of study. I would like also to express my gratitude to all those who have helped me last summer during my stay in Israel: Archbishop Pietro Sambi, Apostolic Nuncio to Israel and Apostolic Delegate in Jerusalem, for having granted me an interview, and Mr. Florent Arnaud, Secretary of the Delegation of the Holy See on the Bilateral Permanent Working Commission, for his able counsel and for having facilitated valuable materials as well as a list of contact persons. I have also gathered useful insights thanks to the interviews with and materials made available by Rabbi David Rosen, formerly a member of the same Bilateral Commission representing the State of Israel, and Samuel Hadas, former and first Ambassador of Israel to the Holy See. To establish contacts with them, the help of Counselor Zvi Tal of the Embassy of the State of Israel to the Holy See has been much appreciated.

I am also indebted in a special way to the staff of Service International de Documentation Judéo-Chrétienne (SIDIC) in Rome for having given me access to a wealth of materials, the secretariat and library personnel of the Pontifical Athenaeum “Antonianum,” the Hebrew University of Jerusalem and, needless to say, the Pontifical University of the Holy Cross. Apart from these people and institutions, numerous friends both in Israel and in Rome have extended me logistical and moral support, but whose names I regrettably omit to avoid making a long list.

The doctoral thesis itself would not have been possible without the able support, guidance and encouragement of my thesis Director, Professor Vicente Prieto, who followed closely every phase of my work from the outset to its finishing touches, helping me to proceed with order and scientific rigor. It was under his course on «Church-State Relations» during the first year of licentiate that my choice of research area and topic gradually took flesh.
INTRODUCTION

In the afternoon of Tuesday, 21 March 2000, Pope John Paul II landed at the Ben Gurion International Airport in Tel Aviv, the second leg of his week-long Jubilee pilgrimage to the Holy Land. In his opening address, the Holy Father underscored the need for lasting peace and justice, not only in Israel, but also in the entire region of the Middle East. He noted the positive developments that had taken place since the pilgrimage of Paul VI to the Holy Land in 1964. Among these stood out the establishment of diplomatic relations between the Holy See and the State of Israel in 1994 — a historical landmark that has sealed decades-long efforts to open a new "era of dialogue on questions of common interest concerning religious freedom, relations between Church and State and, more generally, relations between Christians and Jews. On another level, world opinion follows with close attention the peace process which finds all the peoples of the region in the difficult search for a lasting peace with justice for all." \(^1\)

Highlighting the spiritual nature of his trip, the Holy Father went on to say that his pilgrimage was "a tribute to the three religious traditions which coexist in this land... I pray that my visit will serve to encourage an increase of interreligious dialogue that will lead Jews, Christians and Muslims to seek in their respective beliefs, and in the universal brotherhood... the motivation and the perseverance to work for the peace and justice which the peoples of the Holy Land... yeart so deeply." \(^2\)

The Church's interest for the Holy Land rests on its uniquely sacred character: *Terra est, quam sanctam appellant, quippe quae terrestra patria fuerit Christi, qui eam circumiit «praedicans Evangelium Regni...»* \(^3\) Indeed, it was the very theater where the drama of human salvation reached its climax two thousand years ago. Although Christianity is a universal religion not confined to a certain country, yet it is essentially based on a history of salvation. *Iuxta «historiam salutis» nimirum constat «geographiam salutis» adesse.* \(^4\) At the dawn of the new


\(^2\) Pope John Paul II at Tel Aviv Airport: Arrival, op. cit., p. 14.


millennium, the Holy Land even acquires greater significance as the whole of Christendom celebrates the two thousandth birth anniversary of the Church.

However, as can be gleaned from the address of John Paul II, the Holy Land and, in particular, the City of Jerusalem, is sacred not only to Christians but also to Jews and Muslims. Indeed, Jerusalem is a crossroads of the three great monotheistic religions of the world, a patrimony of the whole mankind.

I. OBJECTIVE

The dissertation aims to study the policy basis of the Holy See's relations with the State of Israel, as reflected in the pontifical documents, from the establishment of the latter in 1948 up to the present time. In discussing the various issues, the thesis employs, as its main tools of analysis, the categories of «multilateral» and «bilateral» in international relations, in conformity with the approach of the Holy See to the fundamental issues (i.e., Jerusalem and Palestine questions) and the kind of relations it has maintained with the State of Israel.

II. OUTLINE AND STRUCTURE

The present work is divided into five chapters. Chapter 1 gives a brief historical background of the situation in the Holy Land before 1948, showing in broad strokes how the Catholic Church manifested her interest in the region in the light of the changing historical circumstances across the centuries. Chapter 2 covers the period of Pius XII. Given the coincidence of his Pontificate with the birth of the State of Israel, the outbreak of Israeli-Arab conflict and the emergence of Palestine and Jerusalem questions, this chapter defines the nature of the problems and the policy line adopted by the Holy See. Chapter 3 corresponds to the Pontificate of Paul VI. This part discusses how the Holy See, in the light of new historical circumstances, reaffirmed the policy line — with the necessary adaptations — set forth by Pius XII. Chapter 4 tackles the Pontificate of John Paul II, specifically the period spanning 1978-1993, which was characterized by reaffirmation of the policy stand of his predecessors, taking into account the political changes, while preparing the Holy See for an eventual policy shift. Chapter 5 analyzes the bilateral treaties signed between the Holy See and the State of Israel: a) the Fundamental Agreement of December 1993 which marked the new policy approach of the Holy See, coinciding with the establishment of its full diplomatic relations with the State of Israel and b) the Legal Personality Agreement of November 1997 which granted full effect in Israeli law to the juridical personality of the Catholic Church and its institutions. A brief Epilogue is added after Chapter 5 to discuss briefly the pending issues and present the relevant latest developments concerning the Jerusalem and Palestine questions.

III. RELEVANCE OF THE TOPIC

The unique and unrepeatable character of Jerusalem and the Holy Places as a patrimony of the entire world gives them a universal and perennial value that, in itself, independently of the vicissitudes of history, merits the attention and interest of scholars. However, there is a special interest in the history of the Holy Land in the last half a century, as it has been marked by political upheavals that
undermined peace in the Middle East and threatened the immediate interests of the Catholic Church in the region: the preservation of the unique historical and religious configuration of the Holy City of Jerusalem and the Holy Places as well as juridical guarantees for the fundamental rights of the diverse communities. For this reason, the Holy See has made countless public interventions before the world community as well as leaders of the Jewish and Palestinian peoples. Also for this reason, the Holy See had maintained de facto relations with the State of Israel since its founding in 1948, right up to the establishment of their diplomatic relations in 1994.

Apart from its strictly historical interest, the specific topic of the dissertation has relevance in the ambit of canon law, within which the present work is precisely undertaken. In particular, the diplomatic relations between the Holy See and the State of Israel pertains to the field of Church-State relations. Given the multilateral-bilateral character of the policy approach of the Holy See, its activities unfolds on two concrete levels: supranational (the Holy See's relations with the United Nations and other international bodies) and national (the Holy See's relations with individual states such as the State of Israel). In this regard, the question of the juridical subjectivity of the Holy See in international law, its juridical personality and its corresponding rights (active and passive) of legation, without being treated as the main object of study, are indirectly taken up throughout the thesis.

In addition, the topic of the dissertation bears much upon Public Ecclesiastical Law in so far as the rights of the religious minorities in a democratic yet semi-confessional State such as Israel are at the core of the Holy See's concerns. These precisely form the substance of its Fundamental Agreement with the State of Israel and continue to be the object of negotiations — in what refers to the property, economic and fiscal aspects of the Church and its entities — between the two parties up to the present moment.

Although the thesis does not intend to study the relations of the Holy See with the State of Israel in the light of the relevant theories or doctrines on Church-State relations or Public Ecclesiastical Law, it provides reference material for specific studies on these areas.

IV. WORKING HYPOTHESIS

The dissertation formulates a working hypothesis that it seeks to demonstrate in the succeeding pages. At the same time, the hypothesis serves as an outline that helps direct the flow of the arguments and provide a logical order in the presentation of ideas throughout the exposition. The hypothesis is as follows.

Since 1948 the Holy See had maintained *de facto* relations with the State of Israel without the benefit of a solemn or formal establishment of relations. Over the years the former has issued various policy statements (encyclicals, apostolic exhortations, allocutions, etc.) which did not deal directly with diplomatic relations but which reflected the basis of such relations on two levels: a) the fundamental issues (Palestine and Jerusalem questions) and b) the attitude of the Holy See towards Israel as a State.

A. Fundamental Issues

1. The Palestine Question

As far as the Holy See was concerned, the Palestine question was mainly a political problem (territorial dispute) with a religious component (many refugees were Christians, they were deprived of their places of worship, etc.). On this question, the role of the Holy See basically assumed the character of a conciliator (an advocate of peace in the world community) — in accordance with its neutral stand — since the final solution to the problem fell outside its proper competence. In view of this, the Holy See demanded for a just settlement of the Palestine question without proposing means or a concrete policy approach.

2. The Jerusalem Question

On the other hand, the Jerusalem question was mainly a religious problem (protection of the Holy Places, guarantees of the rights of religious communities, etc.) with a political dimension (juridical status of Jerusalem: *corpus separatum* and its variants). Given the legitimate rights and immediate interests of the Catholic Church in the Holy Land, the role played by the Holy See in the Jerusalem question went beyond that of a simple conciliator — it was, in a sense, a party to the dispute. In view of this, the Holy See demanded not only a solution to the problems (protection of the Holy Places and religious rights) but also the form of the solution and its essential contents.

Therefore, as a diplomatic agenda of the Holy See with Israel, the Jerusalem question had two levels or aspects: the multilateral (the question of the status of the City of Jerusalem) and the bilateral (the issues of free access, freedom of worship and the maintenance of the *status quo*). When the City of Jerusalem was divided between Israel and Jordan after the 1948 War, the multilateral and bilateral aspects of the Jerusalem question were potentially separable. In other words, the two aspects could be tackled separately in such a way that the Holy See could have settled the bilateral matters directly with the Israeli Government (and Jordan for that matter). However, for a number of serious reasons (e.g.,
political uncertainties, state of belligerency) the Holy See did not pursue the bi-
lateral channels. Rather, it lumped the multilateral and bilateral aspects together
as a single multilateral agenda by adhering to the idea of a special international
regime, a policy opposed by the State of Israel.

Thus, the multilateral policy course of the Holy See on the question of Jerusa-
lem (previously outlined in broad strokes by Benedict XV and reaffirmed by Pius
XI) was consolidated by Pius XII and was continued by John XXIII, Paul VI and
John Paul II — each in a way that responded better to the changing political cir-
cumstances, without altering the substance of the original proposal. More con-
cretely, the proposal of Pius XII to internationalize Jerusalem and its outskirts (a
multilateral approach in its radical form) assumed another variant in Paul VI and
John Paul II in the form of internationally guaranteed special statute for the Holy
Places (a multilateral approach in a less radical form).

3. Consequences for the Diplomatic Relations

Given the diverse natures of the Palestine question and the Jerusalem ques-
tion, each problem determined in a different way the Holy See's diplomatic rela-
tions with the State of Israel. The Palestine question affected these relations
mainly by the end pursued by the Holy See: justice to the Palestinian people. The
Jerusalem question, on the other hand, affected the diplomatic rapport mainly by
the means adopted by the Holy See: international regime and international guar-
antees. In other words, the Holy See wanted the Palestine question settled justly
by any means; it wanted the Jerusalem question solved specifically by means of
a multilateral scheme.

These concerns were the dominant theme in the public discourses of the Ro-
man Pontiffs on the Holy Land since 1948, including those occasions in which
such discourses were pronounced before the officials of the State of Israel.

B. Attitude of the Holy See towards the State of Israel

In the years following the establishment of the State of Israel in 1948, the
Holy See opted to remain silent by not mentioning the former in any of its policy
statements. However, the Holy See gradually acknowledged the reality of Israel
as a State, mentioning it more and more in its policy statements especially after
the Second Vatican Council's Declaration Nostra Aetate — but always in a way
counterbalanced by a parallel call to respect the legitimate aspirations of the Pal-
estinian people to found a homeland. Such manner of presenting the problem can
already be observed in Paul VI in the mid-1970's, but was carried on with greater
vigor by John Paul II in the context of maturing Christian-Jewish relations.

C. Bilateral Treaties

btcadg
The evolution of the relations of the Holy See with the State of Israel entered a new phase with the Fundamental Agreement in which one of the fundamental issues — the Jerusalem question in its bilateral aspects, meaning Church-State relations — became an object of bilateral negotiations, paving the way at the same time for the two parties to elevate their *de facto* relations to a *de jure* level.

In its form (bilateral treaty), the Agreement reflects the new policy option of the Holy See whereby it treated separately the bilateral and multilateral aspects of the Jerusalem question. In its content, the Agreement embodies the said bilateral aspects (freedom of worship, free access, maintenance of the *status quo*, etc.). In its remote origin (political entente ushered in by the Madrid Peace Conference), the Agreement indicates the progress of the other fundamental issue (the Palestine question) whose definitive solution did not directly depend on the Holy See.

The decision of the Holy See to settle in a bilateral way with Israel the bilateral aspects of the Jerusalem question was a direct intervention made possible owing to the nature of the question itself (a religious problem), the corresponding role played by the Holy See (an interested party) and the instrumental character of the multilateral scheme it had adopted.

The Fundamental Agreement itself sealed the new policy line of the Holy See in the sense that the establishment of diplomatic relations on the ambassadorial level constitutes the maximum expression of a bilateral approach. Henceforth, all matters of exclusively common interests to the Holy See and the State of Israel should be settled through the established bilateral channels. Thus, within this framework the Holy See and the State of Israel concluded the Juridical Personality Agreement in November 1997, as stipulated in the Fundamental Agreement.6

With the Fundamental Agreement, though, the Holy See has not abandoned the question of Jerusalem in its multilateral aspect. As a matter of fact, after the signing of the Agreement, the Holy See continued to highlight the need for a special juridical statute that would protect the unique and universal character of Jerusalem (especially the Old City) and the Holy Places. But precisely because this issue is of a multilateral character, it should be an object of a multilateral negotiation, rather than an exclusively bilateral concern of the Holy See and the State of Israel.

---

6 The new bilateral course adopted by the Holy See has been reflected also in the establishment of its full diplomatic ties with Jordan and the Basic Agreement with the Palestine Liberation Organization. In both cases, the Holy See sought to resolve through bilateral treaties issues it had considered as items of a multilateral agenda.
V. Scope and Limitations

A. In Terms of Substance

1. The thesis does not study the relations *per se* between the Holy See and the State of Israel, but rather the policy basis of such relations as contained in the pontifical documents during the period 1948-1997. Hence, it does not seek to give a complete account of how such relations in fact evolved over the years, although historical data are provided to the extent that these help explain the policy statements of the Holy See and corroborate the arguments.

2. Neither does the present work deal with the relations between the Catholics and the Jews (i.e., relations on the religious or theological plane), but rather the relations between the Holy See and the State of Israel on the politico-juridical level as two sovereign and independent subjects of international law. Christian-Jewish relations are discussed only whenever these had clear impact on the diplomatic sphere.

3. Nor is it the aim of the thesis to study the fundamental issues in themselves (i.e., Palestine and Jerusalem questions), but rather the way these issues are expressed in the policy statements of the Holy See and how they affect its relations with the State of Israel. This means that the work does not delve deeply into the intricacies of the Palestine and Jerusalem questions which have generated considerable volumes of documents and unending debate in Israel, the Arab countries and international forums such as the United Nations. However, it falls within the scope of the thesis to discuss how the Roman Pontiffs have conceived the issues in the light of the Holy See's own principles and the changing political circumstances.

B. In terms of Materials and Time Covered

1. The thesis does not necessarily include all the papal statements in which the terms «Holy Land», «Palestine» or «Israel» are mentioned, (e.g., official statements in relation to biblical studies that deal with the Holy Land or Palestine) but concentrate on those documents that deal, exclusively or partially, with the Jerusalem and/or Palestine questions and to where the State of Israel is referred.

2. It also falls outside the scope of the present work to make an in-depth study of the period before 1948 (except as a historical background in Chapter 1). The investigation properly starts from 1948 since the Holy See's relations with Israel could develop only with the emergence of the latter as a State, and ends in 1997 when the last important document concerning the relations between the two parties appeared (the period 1997 to date is discussed in the Epilogue).
VI. RESEARCH METHODOLOGY

The thesis is basically a study of the pontifical documents, for which a descriptive and analytical approach is adopted, tracing the evolution of the policy posture of the Holy See on the fundamental issues and its attitude towards the State of Israel. Each period of pontificate is compared with the preceding one, highlighting its continuity as well as peculiarities with respect to other periods. In addition, each period is introduced by a brief historical outline and concluded with a short synthesis.

Given the complexity of the issues examined, there can be various perspectives or viewpoints on every aspect of the problems. Even the supposedly matters-of-fact data are vulnerable to distinct, if not opposing, interpretations. Naturally, the thesis adopts the point of view of the Holy See as manifested in its policy statements. However, other ways of viewing a concrete issue (e.g., the Jewish and the Arab standpoints) are occasionally mentioned — generally in the footnotes — for the purpose of giving a more balanced presentation and in order to facilitate the reader alternative reference material.

To undertake the research work, numerous journals, periodicals and books dealing directly with the topic have been used as main references, as well as the principal documents of the Holy See. Since diplomatic relations between the Holy See and the State of Israel continue to evolve, there have been recent developments, such as the on-going negotiations on property, economic and fiscal matters, concerning which there is yet relatively few articles published. The lack of written material on this concrete aspect has been compensated with data gathered through interviews conducted by the author in Israel and in Rome with persons directly or indirectly involved in the negotiations between the Holy See and the State of Israel. Moreover, while documents of the Holy See are readily available in Rome, the historical documents (Israeli, Arab and United Nations) related to the Palestine and Jerusalem questions were obtained in Israel.
CHAPTER 1 HISTORICAL ANTECEDENTS

1.1 THE FIRST CENTURIES

The Holy Land is the cradle of Christianity, for which the interest of the Catholic Church in the region is as old as the Church herself. The New Testament records that after the death of Christ, His disciples visited His Tomb, gathered at the Cenacle, held the “Council of Jerusalem” and preached all over Judaea and Samaria and, soon after, beyond the confines of Palestine to reach the pagan world. When Titus lay siege on the City of Jerusalem in the year 70, the Christians fled to neighboring areas such as Jordan and Pella, but soon returned and re-established themselves in Jerusalem around the year 73. Early on Christians (among the known ones were Melito of Sardis, St. Justine and Origen) came from various places to visit, venerate or study the sacred places. "By the beginning of the fourth century the custom of visiting Jerusalem for the sake of information and devotion had become so frequent that Eusebius wrote, that Christians «flocked together from all parts of the earth».”

Within the geographical area of the Holy Land, Christianity flourished and acquired a firm foundation especially in areas of Greek or Roman character such as Caesarea and Ptolemais (Acre). Although later most of the adherents to the Christian faith were of gentile origin, small groups of Hebrew-Christians also remained.

1.2 BYZANTINE PERIOD (313-636)

The ascendancy of Constantine as Emperor of Rome marked the beginning of the Byzantine period in the Holy Land. The Edict of Milan in 313, which officially installed a regime of religious freedom, reached the Empire’s eastern provinces and was published in Caesarea in the year 324. With the subsequent establish-

---

9 The Edict of Milan marked a transition from mere religious tolerance (instituted through the Edict of Galerius in 311) to full religious freedom whereby "legislation discriminating against Christians was removed from the statute book, and the Church, now recognized by the civil authorities, was able to recover places of worship and other property previously confiscated" (J. Orlandis, A Short History of the Catholic Church, Dublin 1985, p. 30).
ment of Constantinople as the new political and administrative center of the Roman Empire, the emerging metropolis also became the heart of Eastern Christianity which implied its growing influence on the fate of Palestine. It was during this period that the Holy Land was divided into three parts: *Palaestina Prima*, including Judaea and Samaria; *Palaestina Secunda*, including Galilee and Decapolis and *Palaestina Tertia* or Arabia Petraea. It was also Emperor Constantine who, on the prompting of Macarius, then Bishop of Jerusalem, built the Basilica of the Holy Sepulcher in Jerusalem and the Basilica of the Nativity in Bethlehem to mark and safeguard the Holy Places of Christendom. These undertakings signaled the beginning of the history of Christian Holy Places, properly speaking. Jerusalem was soon transformed from a peripheral Roman City with scarce political and economic interests to an important center in the history of the Byzantine Empire. Following a brief interlude during the reign of Emperor Julian (361-363) who sought to restore pagan influence, Christianity became the official religion of the Roman Empire under Theodosius the Great (379-395). Christians soon dominated the Holy Land. Monasteries were set up; monks (the most illustrious was St. Jerome) carried out missionary activities; people from Europe brought in money; more sanctuaries and churches were constructed and the cult of the relics became popular. Pilgrimages to the Holy Land became more frequent, as testified by the account of the Latin-speaking pilgrim from Bordeaux in Gaul who arrived in the Holy Land in the year 333 and the account of the Spanish aristocratic woman Egeria who visited the Holy City around the year 400.

After three hundred years of domination in the Holy Land the Christians were overthrown when the Persians invaded Palestine in 614. Churches were destroyed, the entire City pillaged, and relics were taken to Persia as loot of war. The intruders were reinforced by the Jews, who nurtured hopes of messianic deliverance. However, the Persian triumph did not last long and the Byzantines, re-armed, recovered the Holy Land in the year 629.

---


11 "On peut considérer qu’il s’agit là de la première manifestation concrète et officielle de l’intérêt que porte le monde chrétien à ces sanctuaires de Jérusalem et de Palestine qui, depuis lors, répondront au vocable de «Lieux Saints»" (J.D. MONTOISY, *Le Vatican et le problème des Lieux Saints*, op. cit., p. 15).


13 Cfr. Ibid., pp. 109 and 111.

1.3 MUSLIM ARAB PERIOD (636-1099)

The whole landscape of the Holy Land changed with the rise of Islam in the seventh century. Debilitated by their fight against the Persians, the Byzantines easily succumbed to the military might of the Arabs who conquered Jerusalem in the year 636, barely four years after the death of Muhammad, the founder of Islam. Shortly afterwards, Caesarea, the ultimate bastion of the Byzantines, also fell into the hands of Muslim invaders. For the next four centuries, the caliphs ruled over Palestine, exercising their authority first from Damascus, then from Baghdad and later on from Egypt.

In principle the Christian (and other non-Christian) communities were allowed certain liberty, although they were regarded as second-class citizens called dhimmis or protégés. They could practice Christian worship, observe their own laws and customs with a certain autonomy in religious and personal status matters under the so-called millet system. Christian pilgrimages to the Holy Land were not interrupted. However, the caliphs in the succeeding years imposed more and more repressive measures such as the prohibition on building new churches and the public display of Christian liturgy. Thanks to Emperor Charlemagne, who maintained amicable relations with Haroun el-Rashid (Abbasid caliph, 786-809), the Christian communities could enjoy once again certain autonomy and religious sanctuaries could be built anew. A pact between the emperor and the caliph conferred on the former the jurisdiction over Christian subjects and establishments.

The concessions obtained by Charlemagne constituted the first intervention of the West in favor of Christian sanctuaries and communities in the Holy Land, substituting the Byzantine Empire as the new protector of Christian interests in the region. However, the succeeding Muslim dynasties under the Fatimids of Egypt (969-1171) proved more hostile each time. For example, Christians and Jews were obliged to bear distinctive marks, religious symbols were banned and places of worship were desecrated and destroyed under the reign of caliph al-Hakim (996-1021). After the death of al-Hakim, the Christians enjoyed relative calm as the Byzantine Emperors negotiated with the caliphs Daker and Mustansir to secure the special status of Byzantium as the protector of the Holy Places. But a new intruder set foot in the Holy Land in the second half of the eleventh century, the Seljuk Turks, who terrorized the inhabitants and desecrated the Holy Places and seized most of the Byzantine territories in Asia Minor. The resulting

---

15 This is discussed with more details in Chapter 5.

16 For example, under the Patronage of Charlemagne, the Benedictine monastery Sancta Maria Latina was established on the Mount of Olives, with a library and a hospice for Western European pilgrims. Cfr. S. COLBI, A Short History of Christianity in the Holy Land, op. cit., p. 18.


closure of the landward access to the Holy Places from Europe motivated the subsequent Christian military campaigns in the Holy Land.  

1.4 THE CRUSADES (1099-1291)

From the eleventh to the thirteenth century, the Holy Land witnessed the resurgence of Christian power with the advent of the Crusaders. This period is significant in that it marked the awakening of the Roman Pontiffs to the special interest of the Holy Land, the need to secure the Christian Holy Places and keep them free from hostile control. Thus, to aid the suffering Christians and support the staggering Byzantine Empire, the knights of the First Crusade, heeding the call of Pope Urban II, traversed the Balkans, Asia Minor, Syria and Lebanon, and moved through the Holy Land to capture the City of Jerusalem (15 July 1099). Soon after, works began on the reconstruction of the Holy Places, such as the Basilica of the Holy Sepulcher, which was expanded to cover both Calvary and the Tomb of Jesus. Military Orders (e.g., Order of the Hospitallers, Order of the Templars and Order of the Teutonic Knights) were constituted, financed by European monarchs and charged with the mission to protect the Holy Land, help the sick and offer hospitality and shelter to the pilgrims.

The Second Crusade, led by Emperor Conrad II and Louis of France, was a failure and did not have significant impact on the Holy Land. Their military losses in Asia Minor and Syria depleted their forces before reaching the Holy Land, prompting the troops to return home. Neither did the Third Crusade (1189-1192) succeed in its attempt to recover Jerusalem which had fallen into the hands of the Muslims under Saladin (1187).

The Fourth Crusade (1202-1204), initiated by Innocent III, had important repercussions on the Holy Land to the extent that it reflected the widening rift between the West and the East. What began as an anti-Islamic campaign turned out to be an attack against Constantinople, followed by the displacement of the Byzantine Empire and the establishment of the Latin Empire of the East (1204-1261). Innocent III took advantage of the newly found political unity to try to put

---

22 The original basilica built by Constantine was burned during the Persian invasion under Chosroes II. Reconstructed in 626 with the help of the Patriarch of Alexandria, the new edifice was destroyed again by the Muslims in 1010. From what had remained the Crusaders built a magnificent basilica which was completed in 1168. Cfr. A. McMAHON, Holy Sepulchre, op. cit., p. 426.
an end to the eastern schism, but to no avail. The goal of recovering the Holy Land was a principal concern of the Roman Pontiff, as can be gleaned from the fact that the issue was one of the priorities considered by the Fourth Lateran Council held in Rome in the year 1215. Meanwhile, the sad experience of Constantinople, coupled with the implantation of the Latin hierarchy in Jerusalem and Antioch, became a source of tensions between the “Latins” and the Eastern Christians in the Holy Land during the next centuries.

Several other Crusades were launched with varying degrees of success. Although they managed to recover the Holy Land after the death of Saladin in 1193, their presence was confined to a network of fortified castles. In general, their objective to secure the Christian Holy Places and protect the Christian communities in the Holy Land was attained, but in an ephemeral way, for, after roughly two centuries of Christian domination, the Muslims regained power over Jerusalem in a more stable way with the rise of the Mamelukes. As it were, the Crusades were attempts by the Christians to restore temporal sovereignty, but with limited success and without enduring effects on the juridical condition of the Church and the Christians in the Holy Land. The recapture of Palestine by the Muhammedans implied that old conditions of the Christians resumed.

1.5 MAMELUKE PERIOD (1291-1516)

The Mamelukes (of Turkish or Circassian stock) ruled the Holy Land for more than two hundred years, dividing it into three districts, each under the authority of a governor. Jerusalem was directly under Damascus for a time. Acre, Jaffa and other ports were destroyed to preclude the return of the Crusaders. In general, the Holy Land became abandoned and neglected since the main economic and cultural centers of the Mamelukes were found in Egypt. The number of Christian pilgrims plunged down due to, among other reasons, heavy tolls extracted in ex-

---

23 The theological controversies at the Council of Ephesus (431) and Chalcedon (451) divided the Christian communities in Jerusalem into various Churches (e.g., Armenian, Syrian, Coptic and Ethiopian), each with its own bishop. Further divisions were created with the schism of 1054. A brief description of the eastern schism can be found in J. ORLANDIS, A Short History of the Catholic Church, op. cit., pp. 59-62.


25 "The religious basis of the Crusades had been the conviction that the Holy Places of Christendom could not be left in the hands of a non-Christian Power, and therefore had to be restored by force to Christendom" (W. ZANDER, Israel and the Holy Places of Christendom, op. cit., p. 19).


change for access to the Christian sites. Life of the Christian communities was made almost impossible and highly dangerous. Many churches built by the Crusaders were brought down or converted into mosques and houses were sacked. Nevertheless, Christians tried to secure their positions the best they could under the Mameluke rule. The Nestorian, Jacobite, Armenian and Coptic Churches managed to preserve and even better their privileges. On the interventions of Byzantine emperors, the Greeks also recovered their old possessions. The “Latins” likewise made significant headway, led by the Franciscan Order which was founded in the thirteenth century. Pope Clement VI issued a Papal Bull in 1342 naming the Franciscan Order as the official guardian of the Holy Land, specifically charged «to preserve the holy shrines of our religion and to keep alive the faith in these places which were hallowed by the life and death of the Redeemer.» "28 Although they were expelled from the Holy Land by the Muslim conquest of Acre, the Franciscans managed to return in the year 1335 and established themselves in Jerusalem. Difficulties were surmounted with the help of the king of Naples and influential merchants from Venice and Genoa.29

1.6 OTTOMAN PERIOD (1517-1917)

During the next four hundred years, the Ottoman Turks reigned in the Holy Land which was soon divided into four districts that depended administratively on the governor of Damascus. The legal condition of the Christians remained invariably the same. On the one hand, they were kept in their lower social status: denied public offices, systematically disqualified as witnesses, forced to dress differently from the Muslims and forbidden to ride on horseback in towns.30 On the other hand, they continued to enjoy a certain autonomy in religious and personal status matters under the old *millet* system.

However, a new era began concerning the Holy Places due to certain political developments. The fall of Constantinople into the hands of the Turks in 1453 had significant impact on the Holy Land. More concretely, the Patriarch of Constantin-


ople acquired greater importance within the Turkish territories that embraced the old patriarchates of Alexandria and Antioch. The Greeks subsequently obtained a privileged position in the Holy Places.

Meanwhile, France emerged as the new protector of the Latin interests in the Holy Land. In 1535 the French King Francis I forged an agreement with the sultan Suleiman the Magnificent known as the «Capitulations» (from the seventeen capituli or chapters that comprised the treaty). Although it was basically of a commercial nature, the said Capitulations had favorable effects on the Holy Places and strengthened the position of the “Latins”, particularly the Franciscan Fathers. Beyond that, the Capitulations bridged the gap between the East and the West and served as an instrument with which the Christian world maintained amicable relations with the Muslim countries, securing legal guarantees for the rights of the Christian communities found in Islamic states. The Capitulations, whose effects were prolonged until the twentieth century, certainly had far more positive results than the Crusades in the task of safeguarding a Christian stake in the Holy Land. Also with the Capitulations, the intra-Christian conflicts, hitherto arbitrated by the Ottoman authorities, acquired an international character. The treaty, in fact, constituted the first attempt of the European powers to use the religious element to promote national interests. Other countries would soon follow the lead of France and intervene in favor of one religious community or another.

Several other sets of Capitulations were signed successively between France and the Ottoman Empire. The Capitulations of 1604 contained articles that granted French subjects the right of free access to the Holy Places. Another set of Capitulations in 1673 granted to Louis XIV offered protection not only to French citizens but to all Catholics. Even more important were the Capitulations

31 The Capitulations were friendship treaties between various Christian powers and the Ottomans aimed at regulating the status of the foreign subjects (European nationals found in the Holy Land) in what refers to individual freedom, commercial rights, fiscal and jurisdictional privileges. Cfr. B. COLLIN, Jérusalem et les lieux saints, op. cit., pp. 37-38.

32 Sixteen of the seventeen articles of the Capitulations of 1535 dealt with commercial matters. However, Article 6 guaranteed the religious freedom of the merchants, their agents and servants and all other subjects of the King. Cfr. W. ZANDER, Israel and the Holy Places of Christendom, op. cit., p. 23.


34 Cfr. B. COLLIN, Jérusalem et les lieux saints, op. cit., p. 38.


36 "It is our wish and command that the subjects of the Emperor of France and those of the Princes who are his friends or allies may visit under his protection the Holy Places of Jerusalem without any hindrance being put in their way" (Text in W. ZANDER, Israel and the Holy Places of Christendom, op. cit., p. 24).
in 1740 signed between Louis XV and Mahmoud I. These Capitulations granted the Latin Catholics the right to administer and control the sanctuaries. More significantly, the new agreement was the first international treaty that considered explicitly the question of the Holy Places, with the unique characteristic that it bound not only the signatories but also their successors. As a matter of fact, the said Capitulations were to remain in force up until the Treaty of Laussane in 1923.\[37\]

On their part, the Greek Orthodox did not remain passive in the face of the growing influence of the Latin Catholics.\[38\] As mentioned earlier, the patriarch of Constantinople enjoyed the favor of the sultan, who, in turn, needed the former's support to be able to control millions of Greeks living within the Ottoman territories. Hence, it was natural that the Greek Orthodox wielded power and managed to obtain a series of firmans\[39\] from the Ottomans that gave them rights and privileges over the Holy Places. In 1757 a firman obtained from sultan Osman authorized the transfer of many important holy sites (e.g., Tomb of the Virgin and the Basilica of the Nativity in Bethlehem) in favor of the Greek Orthodox.\[40\] This decree was important in that it became the principal basis of the diverse treaties in the nineteenth and twentieth centuries. This was reconfirmed by another firman dispatched by sultan Abdul Medjid to the governor of Jerusalem in 1852, which determined the rights of the various communities. This firman differed from the previous ones because of its definitive and permanent character.\[41\]

The preponderant role of France as the European protector of the Holy Places was tempered with the appearance of Austria which obtained the juridical right to intervene in the Holy Places and protect the sanctuaries by virtue of the Treaty of Carlowitz in 1699. The French ambassador in Istanbul was obliged to share with his counterpart from Ausburg the responsibility over the Catholic rights in the Holy Land.

In 1761, Frederick II of Prussia also obtained Capitulations from the Ottoman Empire. Likewise, Spain managed to secure important Capitulations in the succeeding years and established a consular office in Jaffa. For a time, the Spanish


\[38\] The rivalries and competing interests were not limited to “Latins” and Greeks. Other important communities such as the Armenians were also vying for a favorable position in the Holy Places.

\[39\] Imperial decrees that determined the power and rights of the various communities over the Holy Places.

\[40\] A more systematic description of the changing situations in the Holy Places, especially in what refers to control and transfer of ownership of specific sanctuaries, can be found in S. SAYEGH, Le Statu Quo des Lieux Saints, Nature Juridique et Portée Internationale, op. cit., pp. 104-107.

\[41\] Cfr. P. PIERACCINI, Gerusalemme, luoghi santi e comunità religiose nella politica internazionale, op. cit., p. 129.
consul in the Holy Land was the only reliable diplomatic support of the “Latins”, since France faltered in the aftermath of the French Revolution of 1789. Nonetheless, the French protectorate was reinforced by the Holy See, which asked the Catholic communities in the Holy Land to seek protection from this nation. The intervention of the Holy See enabled France to extend its protection not only to French nationals but also to Catholics of other countries.42

In the late eighteenth and most of the nineteenth century, another European power — Russia — pursued a policy of expansionism in the Mediterranean, initiated by Peter the Great and later consolidated by Catherine II.43 On the pretext of protecting the Slav Christians in the style of the French interventions in favor of the “Latins”, Russia tried to build a hegemony in favor of the Orthodox.44 Its military triumph against Turkey led to the Treaty of Kuchuk Kainardy in 1774, which contained guarantees to protect the Christian subjects of the Ottoman Empire and safeguard the interests of the Christian Orthodox in the Holy Places. This Treaty was later consolidated through the Treaty of Ainali Kawak in 1779, by virtue of which the Russian protectorate obtained official recognition.45 Hence, whereas France was the official protector of the Catholics, Russia became the protector of the Orthodox Christians.

Conflicting claims and interests over the Holy Places continually produced tensions and provoked armed confrontations such as the Crimean War (1853-1856) between Russia and Turkey.46 The Treaty of Paris (1856), which concluded the hostilities, confirmed the firman of 1852 which applied to five Holy Places: the Church of the Holy Sepulcher and its dependencies, the Convent of Deir al-Sultan, the Sanctuary of the Ascension on the Mount of Olives, the Tomb of the Virgin Mary (near Gethsemane) and the Church of the Nativity in Bethlehem. In 1878 the Treaty of Berlin reconfirmed the firman of 1852 and used for the first

42 Cfr. Ibid., pp. 78-79.
43 Cfr. B. COLLIN, Jérusalem et les lieux saints, op. cit., p. 23.
46 The Crimean War broke out when the Ottoman Empire (Sublime Port) granted the abovementioned firman of 1852 that guaranteed Latin rights over the Holy Places. The Russian Tzar reacted by demanding its hegemony over all Orthodox interests in the Holy Land. The Sultan, backed up by France, denied such petition. Subsequently, Constantinople broke diplomatic relations with St. Petersburg. This event was one of the causes of the Crimean War. Cfr. J.D. MONTOISY, Le Vatican et le problème des Lieux Saints, op. cit., p. 22.
time the term status quo, henceforth a key expression to describe the situation of the Holy Places.

Meanwhile, amidst the proliferation of the Anglicans and Protestant confessions in the Holy Land, Pius IX (1846-1878) issued in 1847 the Apostolic Letter Nulla Celebrior which re-established the Latin Patriarchate of Jerusalem as a residential see after an interruption of over five hundred years. Although the Holy See could have intervened long before (the Capitulations of 1535 made possible the involvement of the Holy See), the Roman Pontiffs had opted not to intervene directly on the question of the Holy Places and had preferred to delegate this matter to France.

On 1 July 1798 Napoleon Bonaparte invaded Egypt and subjugated Gaza, Jaffa, Haifa and Acre. But his military campaign was launched for political (cut off Britain’s main commercial access to India) rather than religious motives and hence, Jerusalem was rid of devastation. However, Napoleon’s occupation of Egypt and Palestine soured the three centuries of good relations between France and the Ottoman Empire. The latter then turned to Russia and England to establish an alliance against France. Meanwhile the Greek War of Independence (1821-1830), in which many religious Orthodox were involved, tainted the image of the Greeks as traitors in the eyes of the Ottoman Empire. The insurrection brought about, as a consequence, the rapid decline of the Greek-Orthodox influence in the Holy Land.

After the withdrawal of French army, Muhammed Ali (1805-1849) gained power in Egypt. Conflict between Ali and the Ottoman sultan led the former to in-

47 The term status quo refers to the distribution of rights over the sanctuaries among the diverse Christian communities. This shall be tackled with more details in Chapter 2.


49 Until the first decades of the nineteenth century, the Protestant confessions had few contacts with the Holy Land. But soon afterwards the first Protestant missions were established such as the American Board of Foreign Missions and the Church of England through the London Society for Promoting Christian Unity among the Jews. German and Swiss missionaries also followed suit. Cfr. S. COLBI, A Short History of Christianity in the Holy Land, op. cit., p. 44.

50 When the period of Crusaders in the Holy Land came to an end (the fall of St. John of Acre in 1291), the Latin patriarchs in Jerusalem appointed in Europe bore the title but had no jurisdiction. For a brief history of the Latin patriarchate in Jerusalem, see J. MITCHELL, Jerusalén (Patriarcado), op. cit., 410.

51 Cfr. P. PIERACCINI, Gerusalemme, luoghi santi e comunità religiose nella politica internazionale, op. cit., p. 103.


vade Syria and threaten Istanbul. Subsequently, the two parties signed an accord, whereby the Holy Land came under Egyptian control (1832-1840). During this period, the Christians enjoyed maximum religious freedom as the occupying power wanted to maintain good relations with the European nations and thereby keep its control over Syria.54

1.7 ZIONISM

During a period spanning twenty centuries the Jewish people of the diaspora in North Africa, Asia and Europe have maintained their religious-cultural identity and have constantly nurtured the aspiration to return to the land of their forefathers. In Palestine, Jewish communities have always thrived, to a greater or lesser degree, since the destruction of Jerusalem (including the Temple) by Titus in the year 70. In 132 Shimon Bar Kokhba led a revolt that was immediately crushed by the Romans. Deprived of their most important place of worship, the Jewish religious life evolved around the figure of the rabbis who replaced the priests, and synagogue became the center of Jewish settlement. Throughout the centuries, the Jews of Palestine experienced intermittently periods of relative calm and times of persecution in the hands of the occupying power. Around the middle of the nineteenth century, the number of Jews increased, especially with the influx from Eastern Europe. Since 1830 Jerusalem had a Jewish majority (initially a relative majority, later an absolute majority). They purchased lands to till, established rural settlements and revived the Hebrew language beyond the ambitions of liturgy and literature.55

Towards the end of the nineteenth century, a movement of national liberation of the Jewish people began to emerge. Zionism, as it is called, arose "in response to continued oppression and persecution of Jews in Eastern Europe and increasing disillusionment with the emancipation in Western Europe, which had neither put an end to discrimination nor led to the integration of Jews into local societies. It found formal expression in the establishment of the Zionist organization (1897) at the First Zionist Congress, convened by Theodor Herzl in Basel, Switzerland. The Zionist movement's program contained both ideological and practical elements aimed at promoting the return of Jews to the Land, facilitating the social, cultural, economic and political revival of Jewish national life; and attaining an internationally recognized, legally secured home for the Jewish people..."56

54 Cfr. P. PIERACCINI, Gerusalemme, luoghi santi e comunità religiose nella politica internazionale, op. cit., p. 95.
1.8 BRITISH PERIOD (1917-1948)

The Ottoman period in the Holy Land drew to a close during the First World War (1914-1918), even as France and Great Britain established their zones of influence in the Middle East. On 11 December 1917 the British troops led by General Allenby occupied Jerusalem. At the San Remo Conference on 24 April 1920, the League of Nations considered to entrust to Great Britain the Mandate over Palestine, to be administered by a High Commissioner. The Terms of the Mandate were formally established on 24 July 1922, including the proposals of the Balfour Declaration concerning the creation of a Jewish national home.

In effect, on 2 November 1917, Arthur James Balfour, then British Foreign Affairs Secretary, had written a letter to Lord Rothschild, leader of the Zionist movement in England, which expressed the British Government's approval of the creation in Palestine of a Jewish national home.

With the Balfour Declaration and the Terms of the British Mandate, the Zionist aspirations to found a nation in the Land found legal support at the international level. Waves of Jewish immigrants successively arrived in Palestine between 1919 and 1939. The pioneers came mainly from Russia during the period 1919-1923 and established unique communal forms of rural settlement — the kibbutz and moshav. Between 1924 and 1932, a new batch of immigrants came from Poland and tended to develop urban life mainly in Tel Aviv, Haifa and Jerusalem.

But the Jewish campaign soon turned out to be extremely complicated. The Arabs, who constituted 92 percent of the total population in Palestine and possessed 98 percent of the territory when Britain assumed the Mandate, vehemently opposed the Jewish immigration and the proposal of the Balfour Declaration to establish a Jewish national home in the region. Despite assurances on the part of the Jews — the Zionist Congress at Carlsbad in September 1921 issued a Declaration that expressed the Jewish intent to coexist in harmony with the Arab population — violent clashes between Jews and the Palestinians took place in the years 1920, 1921, 1929 and 1936-39.

57 After the War, France exercised Mandatory Power over Syria and Lebanon; Britain did the same in Iraq and Palestine.
58 Article 2 of the Terms of the Mandate states that the Mandatory Power shall be responsible to create in Palestine such political, administrative and economic conditions as to guarantee the establishment of a Jewish national home, without detriment to the civil and religious rights of all the inhabitants of the country. Article 4 recognizes the need to set up a Jewish organization for this purpose. Cfr. D. SOLAR, El Laberinto de Palestina, op. cit., p. 69.
Subsequently, the British Government issued the famous White Papers that manifested its intention to curb the influx the Jewish immigrants and avoid the formation of a Jewish majority in Palestine. In 1936, the Arabs held a general strike that lasted six months, the Jewish-Arab conflict was intensified and violence was soon transformed into guerilla operations. Britain issued another White Paper in May 1939 designed to limit the formation of the Jewish national home to what had been achieved up to that moment, while at the same time it proposed the immigration of 75,000 Jews over a period of five years, after which the process would be stopped.61

In the light of the Nazi persecution against the Jews during the Second World War, millions of Jews ended up in exile, concentration camps or gas chambers. News of the horrors of the holocaust shocked the whole world and drew sympathetic sentiments towards the Zionist cause. Amidst the chaos reigning in Europe, the Jewish Agency led by David Ben Gurion organized an extraordinary conference of Zionism in New York on 11 May 1942 with the aim of re-formulating the Zionist program and to repel the White Papers. What came out was the so-called Baltimore Programme containing an urgent petition that Palestine be opened to Jewish immigration under the management of the Jewish Agency, which should be vested with the authority necessary for the construction of a Jewish national home. The Baltimore Programme did not reverse the British policy, but the number of clandestine Jewish immigrants superseded the level sanctioned.62 The need to carry out the Zionist project against all odds was soon reinforced by the formation of military organizations such as Haganah, Palmach and Etzel and extremist groups like Irgun, Zvaei Leumi and Stern.63 Heightened violence between the Jews and the Arabs made Palestine practically ungovernable by the British Mandate, right up to 1948 when Britain left Palestine, when the Jews proclaimed the State of Israel and the first full-scale Israeli-Arab war broke out.

A. The Question of the Holy Places

The commitment of Balfour Declaration to assist the establishment of a Jewish national home in Palestine gave rise to certain apprehensions in the international community regarding the adverse consequences the plan might have on the Christian and Muslim communities and their corresponding rights over the Holy Places.

For example, on the instigation of US President Wilson, the Supreme Council of the Allied Powers appointed at the 1919 Paris Peace Conference the King-Crane

---

Commission (named after Henry King and Charles Crane), charged with the task to study the situation of Palestine and present a report. The King-Crane Commission expressed certain apprehensions on the plan of establishing a Jewish State in Palestine, given its pluralistic character. In its report dated 30 August 1919, the Commission stated that "millions of Christians and Muslims all over the world are quite as much concerned as the Jews with conditions in Palestine" especially in what "touched upon religious feelings and rights...With the best possible intentions it may be doubted whether the Jews could possibly seem to either Christians or Muslims proper guardians of the Holy Places, or custodians of the Holy Land as a whole."64

The League of Nations certainly did not ignore the delicate question of the Holy Places. In fact, the Terms of the British Mandate, which incorporated the proposal of a Jewish national home, contained at the same time a series of articles defining the authority and responsibilities of the Mandatory Power over the Holy Places, including the preservation of existing rights, the maintenance of public order and the protection of the right to religious freedom.65 Moreover, Britain issued the so-called Palestine Order-in-Council of 1924 that placed in the hands of the High Commissioner all disputes concerning the Holy Places, religious buildings and sites or communal rights and claims.66

64 Documents on Jerusalem, Jerusalem 1996, p. 293.

65 The texts of the relevant articles are as follows:

Article 13: "All responsibility in connection with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights and of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who shall be responsible solely to the League of Nations..."

Article 14: "A special Commission shall be appointed by the Mandatory to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine."

Article 15: "The Mandatory shall see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, are ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the Administration may impose, shall not be denied or impaired" (Ibid.).

B. The Voice of the Holy See

The major political changes affecting the Holy Land after the First World War were being followed closely by the Holy See. If the Christian interests in the Holy Land had been more or less secured through the treaties between the European nations and the Ottoman Empire during the past many centuries, the radical changes at the beginning of the last century required a specific response on the part of the Holy See. More concretely, the institutionalization of the British Mandate over Palestine — with concrete responsibilities on the question of the Holy Places — marked the moment in which the question formally became an object of interest on the part of the international community. The novelty of the situation lay in the fact that, for the first time after centuries, Palestine or the Holy Land ceased to become part of a sovereign state in favor of an international overseer, represented by the League of Nations, which in turn delegated its authority to a Mandatory Power.67

Initially the Holy See advocated for the revision of the *status quo* as the most likely to favor the interests of the Catholic communities.68 However, after the approval of the Mandate, the difficulty of setting up a Commission (Commission for the Holy Places) with a Catholic majority led the Holy See to support the only acceptable alternative: the use of the British juridical system that offered certain impartiality. The Holy See manifested thus a policy posture well attuned to the circumstances affecting the Holy Places, as would be confirmed by posterior events. In particular, the Treaty of Lausanne on 24 July 1923 abolished definitively the Capitulations. This implied that the role played by France during four centuries in defense of Catholic rights in the Ottoman Empire came to an end. Henceforth, this function was assumed by Britain precisely through the exercise of Mandatory Power on behalf of the League of Nations.69

The first major public intervention of the Holy See came when Benedict XV pronounced his Allocution *Antequam Ordinem* on 10 March 1919.70 In this docu-
ment, the Pope expressed his deep concerns for the Holy Places in Palestine, which had been defended valiantly by Christians in the past and had been recovered recently from a non-Christian power. Referring himself to the upcoming Peace Conference in Paris, the Pope manifested his preoccupation that non-Christians would acquire a privileged position in the Holy Land and that the Christian Holy Places would end up in their hands.71 Benedict XV certainly reacted to the abovementioned *Balfour Declaration* that favored the creation of a Jewish national home in Palestine. At the same time, the Allocution indicated the emerging tendency of the Holy See to put in the hands of the international community the matter of juridical guarantees for the Christian rights.

Antequam Ordinem echoed through Catholic circles and gave rise to initiatives such as the Association of Friends of the Holy Land. The Association had the aim of opposing energetically any constitution of a confessional Jewish State in Palestine, proposing for this region at least a charter of autonomy whose vigilance would be entrusted to a power free of Zionist influence. For similar purposes the International Catholic Congress for Palestine was organized in Einsiedeln on 12-16 July 1920.72

Two years after his first intervention, the Roman Pontiff issued yet a clearer and more extensive policy pronouncement through his Allocution *Causa Nobis* on 13 June 1921. This document deplored the fact that the recent events in Palestine had worsened the conditions of Christians. The laws and institutions being put in place, the Pope said, tended to marginalize the Christians in favor of the Jewish people.73 The Pope added that the political organization of Palestine should be such that the rights of the Catholics and Christians in general be safeguarded and kept intact. In this respect, the Holy See did not want to prejudice the rights of the Jews. However, they should not prevail over the inalienable

\[\text{numenta supersunt, ea qua possunt religione ac reverentia custodiantur atque serventur (Acta Sanctae Sedis XX(1887), p. 419). Recalling the long tradition of his predecessors to watch over these sacred places, the Roman Pontiff appealed especially to Catholic Patriarchs, Archbishops and Bishops to see to the protection and good maintenance of the sanctuaries. Cfr. Ibid., pp. 421-422.}\]

71 Nunc vero cum ea nuper, ingenti cum laetitia bonorum omnium, rursus in Christianorum potestatem cesserint, summpere nimirum anxii sumus de is quae in hac re Parisiense de pace Concilium proxime constituex: nam acerbus propecto Nobis et Christifidelibus, quotquot sunt, inureretur dolor, si infideles in Palaestina meliori potiorique in conditione ponerentur, multque magis si illa christianae Religionis augustissima monumenta eis traderentur qui christiani non sunt (AAS XI(1919), p. 100).


73 Christianorum enim in Terra Sancta non modo non meliorem factam esse condicionem apparet, verum deteriorem etiam, quam antea, scilicet propter novas civitatis leges et instituta, quae — non dicimus, voluntate auctorum, sed certe re — huc pertinent, ut christianum nomen de eo statu, quem semper usque adhuc ibi obtinuit, deiicient, in gratiam hebraeorum (AAS XIII(1921), p. 282).
rights of Christians. As it were, the international community had the responsibility to make sure that the juridical protection of Christian interests were not left to the internal juridical order of any one state or similar entity (at least not to one that is not formally Christian). The Pope then appealed to the governments of all Christian nations to intervene firmly in the League of Nations for this purpose.

The convenience of the multilateral or international solution (against the exclusive domain of a particular state) to the problem of the Holy Places became more evident as a policy option of the Holy See. Unlike the old regime when the Christian interests were secured through the treaties between European nations and the Ottoman Empire (a bilateral way that favored the Holy See), the emerging multilateral trend promised a more balanced and equitable solution to the question of the Holy Places. But this was something yet to be consolidated amidst uncertainties.

As a matter of fact, the charge of the Mandatory Power to constitute the aforementioned Commission for the Holy Places did not get through because of disagreements among the concerned States as to its composition and powers. By October 1922, the plan of creating a Commission was practically shelved.

The Roman Pontiff, this time Pius XI, came out with the Allocution *Vehementer Gratum* on 11 December 1922 to reaffirm the policy posture of his predecessor.

---

74 Quoniam vero res Palaestinenses nondum ad perpetuitatem constitutae sunt, iam nunc edicimus, Nos velle ut, cum maturitas Palaestinae ordinandae venerit, Ecclesiae catholicae christianaque universis sua ibi salva et incolustria iura sint; de iuribus quidem hebraei generis quicum deminui Nos sane nolumus, sed iidem contendimus sacrosancta christianorum iura iis opprimi omnino non debere (Ibid., p. 283).


76 In an Aide-Memoire issued by Cardinal Gasparri, then Secretary of State of the Holy See, on 15 May 1922, he suggested to modify some points of the Balfour Declaration with the end view of ensuring that the Jews would not have a preponderant position over the other nationalities and religious confessions, in general, and the Catholics, in particular. The Mandate, whose mission was to help the development of peoples, should not become an instrument of subordination of Catholics and the indigenous populations in favor of another nationality or confession. Cfr. B. COLLIN, *Jérusalem et les lieux saints*, op. cit., p. 66. For this reason, the Cardinal made specific proposals as regards the composition and powers of the Commission for the Holy Places in a Memorandum to the Secretary General of the League of Nations dated 10 August 1922. For the full text of the Memorandum, see *Nota del Cardinal Gasparri al Segretario Generale dell Società delle Nazioni*, in E. FARHAT (a cura di), *Gerusalemme nei documenti pontifici*, op. cit., pp. 211-213. The idea of setting up a Commission in the first place came up in part to meet the exigencies of the Holy See. Cfr. P. PIERACCINI, *Gerusalemme, luoghi santi e comunità religiose nella politica internazionale*, op. cit., p. 247.

While it respected the proper competence of the political community (through its proper organs) to find a solution to the political and territorial questions in Palestine, the Holy See — in the abovementioned policy statements — laid down a basic principle that whatever be the concrete form of such a solution, the rights of the Church must be duly safeguarded. Among other things, this implied that although it had the legitimate authority to determine the juridical status of the Holy Places, the League of Nations (or any representative organ of the international community for that matter) should not appropriate to itself the function of determining the ownership of the sanctuaries which had been in Catholic possession during the past many centuries. In other words, the political authorities could decide on the form of the solution to the question of the Holy Places, but not on its specific contents.

The active and direct interventions made by the Holy See in the international forums were but the start of a battle that was to last for decades and indicated the enormous importance the problem had in the scale of priorities of the Roman Pontiffs. For a while, the eruption of the Second World War (coinciding with the start of the Pontificate of Pius XII) put in suspension the question of the Holy Places. But the world attention would soon shift to Palestine and the Holy See would resume with greater vigor its corresponding role on two fundamental issues: the Palestine and Jerusalem questions.

---

78 The corresponding text states:...quantum in tuendis Terrae Sanctae rationibus decessor Noster elaboraverit, cuius studiosae sollicitudinis praeclarum exstat monomentum oratio illa, quam, die XIII mensis Iunii anno superiore, in Consistorio habuit. Iamvero cum Nationum Societas proximae, ut audimus, in sollemni conventu de Palaestinae rebus denuo actura sit, decessoris Nostrum cum expostulationem tum propositum Nostra facimus, «ut, cum maturitas Palaestinae ordinandae venerit, Ecclesiae catholicae christianisque universis sua ibi salva et incolumia iura sint». Quin etiam hoc addimus, velle Nos, pro conscientia apostolici officii, Ecclesiae catholicae ibidem iura — quando ceterorum rationibus tam manifesto praestant — sarta tectaque esse non solum prae hebraeis atque infidelibus, sed etiam prae acatholicis sectis, ciusvis illae gentis nationisque sint (AAS XIV(1922), pp. 610-611).

CHAPTER 2 PIUS XII: PERIOD OF CONSOLIDATION

2.1 THE FIRST MAJOR POLICY STATEMENTS

2.1.1 Historical Context

In the aftermath of the Second World War, the balance of power in the Middle East was radically altered as Western powers such as Great Britain and France began to consider giving up their Mandates in the region. Accordingly, Syria received its independence in 1945. Lebanon followed in 1946, Egypt (a British Protectorate) in 1947 and Transjordan in 1948.80

In February 1947, the British Government announced its intention to cede its Mandate over Palestine to the United Nations and asked the latter to consider the problem of the future of Palestine. In May, the UN General Assembly constituted the United Nations Special Commission on Palestine (UNSCOP), composed of representatives of eleven countries, with the specific task of studying the matter and making a draft policy proposal for the future government in Palestine. The said Commission recommended on 31 August 1947 the end of the British Mandate and the partition of Palestine into two states (a Jewish State and a Palestine State), while the City of Jerusalem was to be placed under international trusteeship.81

The separate plan for Jerusalem was conceived as the surest way to maintain peace among the diverse religious communities — a necessary condition to ensure the harmonious coexistence between the Jews and the Arabs.82 Consequently, the UN General Assembly voted for the proposed partition on 29 November 1947 by virtue of UN Resolution 181, constituting the City of Jerusalem as a corpus separatum (a separate entity).83

81 "The International Trusteeship System is proposed as the most suitable instrument for meeting the specific problems presented by Jerusalem" because "it affords a convenient and effective means for ensuring both the desired international supervision and the political, economic and social well-being of the population of Jerusalem" (Proposals by the UN Special Committee on Palestine (UNSCOP), 31 August 1947. Text in Documents on Jerusalem, op. cit., p. 225).
82 "Religious peace in Jerusalem is necessary for the maintenance of peace in the Arab and in the Jewish States. Disturbances in the Holy City would have far-reaching consequences, extending perhaps beyond the frontiers of Palestine" (Ibid.).
83 The votation on the UN Resolution 181 of 29 November 1947 was as follows: 33 nations in favor including the US, USSR and its allies; 13 voted against — the Muslim countries plus Greece
As a **corpus separatum**, Jerusalem would be placed under a special international regime, to be administered by the United Nations. The Trusteeship Council would be designated to discharge the responsibilities of the Administering Authority on behalf of the United Nations. The boundaries of the City would include the surrounding towns and villages, the most eastern of which would be Abu Dis; the most southern, Bethlehem; the most western Ein Karim (including also the built up area of Motsa); and the most northern, Shu’fat.\(^4\)

To implement the UN Resolution 181, the Trusteeship Council was to elaborate a statute for the City of Jerusalem to be enforced not later than 1 October 1948. The said statute would be enforced for a period of ten years, after which the Trusteeship Council would re-examine its functioning and would submit it to a public referendum for possible changes in the regime of the City.\(^5\)

Initially, the Jews were not totally pleased with the UN plan of partition especially since most of the Jewish religious monuments were found in the Old City. However, they finally accepted and supported the UN plan since it officially sanctioned the establishment of a Jewish State, giving the Zionist movement a political victory beyond what the *Balfour Declaration*\(^6\) had envisioned.\(^7\) On the other hand, the Arabs opposed the internationalization of Jerusalem on the grounds that in the UN plan of partition, the population of the future "Jewish State" was to be 50 percent Arab and 50 percent Jewish (with the Jews owning less than 10 percent of the total land area) yet they were to be established as the ruling body. This, according to the Arabs, violated the provisions of the UN Charter which gives a people the right to decide its own destiny.\(^8\)

Meanwhile, the territorial dispute between the Jews and the Arabs was creating a tense atmosphere in Palestine and the two peoples were just waiting for the British exit to upscale the skirmishes that had long begun between them. The former affirmed their historical rights to establish a State in Palestine, the latter fought for a Palestine State (with Jerusalem as capital) where the Jews could find a home but could not create a Jewish State.\(^9\)

---


\(^5\) Cfr. Ibid., p. 230.

\(^6\) See Chapter 1.


\(^9\) Cfr. Statement of the Ad Hoc Committee on the Palestinian Question by the Representative of the Arab Higher Committee, 29 September 1947. Text in R. LAPIDOTH, M. HIRSCH, The Jeru-
On 14 May 1948, the eve of the official termination of the British Mandate, the Jews proclaimed the establishment of the State of Israel. The event was immediately followed by sharp escalation of hostilities. What was hitherto limited to guerilla actions carried out by irregular bands was converted into fierce war when the armed forces of Transjordan, Egypt, Syria, Iraq and Lebanon simultaneously attacked Israel on the grounds of protecting the Palestinians from the Jews and of restoring law and order.90

2.1.2 Encyclical Letter Auspicia Quaedam, 1 May 194891

Two weeks before the outbreak of open hostilities, Pius XII had issued the Encyclical Letter Auspicia Quaedam in which he appealed for an end to dissensions and the strengthening of international relations. At the same time, the Roman Pontiff expressed keen anxiety for the fate of the Holy Places in Palestine — the very place where Christ had died on the Cross to save all mankind and where He had outstretched His arms to invite all nations to fraternal harmony.92

Although the events in Palestine had become out of control and had paralyzed the implementation of the UN Resolution 181, the Holy See did not yet propose concrete measures but limited itself to express its serious concerns for peace. However, its fundamental concerns can already be seen in its appeal for respect to religious liberty and human justice.93 As it would turn out, Auspicia Quaedam was just a prelude to two major Encyclicals that would deal more extensively with the issues arising from the political developments in Palestine, laying down the basis of the Holy See's policy line for the next four decades.

2.1.3 Encyclical Letter In Multiplicibus Curis, 24 October 194894


92 Cfr. Ibid., pp. 308-309.

93 "Cessino le discordie,...si compongano secondo giustizia le contese,...abbia la Religione...la libertà che le è dovuta; ed il pacifico lavoro umano, sotto gli auspici della giustizia ed il soffio divino della carità, produca per il bene di tutti i frutti più abbondanti" (Ibid., p. 308).

94 AAS XL(1948), pp. 431-436. Succeeding references to the document are based on the Italian version taken from PIO XII, Lettera Enciclica In Multiplicibus Curis, in L'Attività della Santa Sede nel 1948, Città del Vaticano 1948, pp. 311-313.
A. Contents

1. The Palestine Question

The Encyclical begins by saying that among the multiple preoccupations that beset the Church at that time, Palestine occupied a particular place on account of the war which harassed it. Men continued to fight and to increase the distress of the unfortunate and the fear of the terrorized, while thousands of refugees, homeless and driven, wandered from their fatherland in search of shelter and food.\textsuperscript{95} The Holy See faced early on the so-called Palestine\textsuperscript{96} question — the problem of a population, refugee or settled, in areas occupied or administered by Israel, which overtime has acquired the consciousness of a people or a nation.\textsuperscript{97}

This problem arose even before the establishment of the State of Israel\textsuperscript{98} but was aggravated when the armed conflict escalated. The Arabs who fled from Palestine during the 1948 War, totally about half a million,\textsuperscript{99} spread throughout the neighboring countries such as Transjordan, Syria and Lebanon. The sudden influx of great masses of people caught these countries unprepared and created a series of difficulties involving basic needs such as food, medicine and shelter.\textsuperscript{100}

\textsuperscript{95} "Tra le molteplici preoccupazioni che Ci assillano in questo periodo di tempo...occupa un posto particolare quella che Ci è causata dalla guerra che sconvolge la Palestina....si continua a combattere, si accresce la miseria dei miseri e il terrore degli atterrati, mentre migliaia di profugi, smarriti ed incalzati, vagano lontano dalla patria in cerca di un ricovero e di un pane" (Ibid., p. 311).

\textsuperscript{96} Although the Encyclical did not use the term "Palestinian" nor "Palestine" to qualify the term "refugees", the mention of their condition of being driven out of their fatherland was an implicit reference to the Palestinian people.

\textsuperscript{97} Cfr. A. MACCHI, Santa Sede e Israel: Passato, Presente e Futuro, in «La Civiltà Cattolica» I, 1995, p. 82.


\textsuperscript{99} There are conflicting figures. Low estimates give around 450,000. Cfr. P. GINIEWSKI, The Arab Exodus from Palestine (1947-1948): Whose Responsibility?, in «Midstream», February-March 2000, pp. 22-23. High estimates are in the order of 800,000-900,000. Cfr. La Croce Rossa e i refugiati Palestinesi, in «L'Osservatore Romano», 23-24 maggio 1949, p. 3. Beyond the statistics, there is understandably a total disagreement on who was responsible for the refugees. Israel does not consider itself responsible since, according to it, the flight of the Palestinians was a consequence of the Arab invasion of Israel. In addition, the Arab leadership encouraged their people to leave. Cfr. P. GINIEWSKI, The Arab Exodus from Palestine (1947-1948): Whose Responsibility? op. cit., pp. 22-23. For the Arabs, however, their military intervention had the sole purpose of restoring peace and order, fill the vacuum created by the termination of the British Mandate and protect the Palestinian Arabs pouring across the borders into adjacent Arab countries. Cfr. S. HADAWI, Palestine in Focus, op. cit., p. 49.

\textsuperscript{100} Cfr. La Croce Rossa e i refugiati Palestinesi, op. cit., pp. 3-4.
From the start, the Holy See expressed its deep concern for the plight of this people especially since many of the Christians in Palestine were and are Palestinians. The Palestine question is not just a political issue of equilibrium between peoples wrangling over territorial control. It has also a religious dimension for which the entire Christendom especially the Catholic Church has a high stake on the issue, not only for the presence of Christian communities in the region but also for their great sacrifices in the past to defend and preserve the Holy Places. In this regard, Pius XII simply echoed the preoccupation that had been manifested more than two decades earlier by Benedict XV and later by Pius XI. However, beyond the immediate interest of protecting the Christians, the Holy See intervened this time in the name of everyone who suffered injustice and were deprived of fundamental human rights — a task the Catholic Church was committed to uphold as part of her moral teaching office. In this spirit Pius XII expressed his hope that leaders would strive to attain peace and security whereby the moral and physical conditions of life conducive to spiritual and material well-being were guaranteed to each of the parties in conflict. The Pope's appeal to guarantee moral and physical conditions was grounded on hard facts. When the fighting was at its peak, the people in Jerusalem were menaced not only by gunfire's but also by the lack of basic needs as the main supply routes to the city were cut off. Only when the truce was reached on 16 June 1948 could essential supplies be sent to the area through UN-supervised convoys. At the same time, he declared that peace could only be realized in truth and justice — that is to say, by respecting the rights of acquired traditions especially in the religious field, as well as by the strict fulfillment of the duties and obligations of each group of inhabitants. Hence, notwithstanding its keen interest for the sufferings of the Palestinians and especially the Christian Palestinians, the Holy See proposed a solution based on justice and equity in the interest of all peoples.

The Holy See did not just limit itself to lament the critical situation in Palestine but carried out concrete initiatives within its reach both in the "frontlines" as well as in the diplomatic arena. Pius XII emphasized that the Church had not with-
drawn into sorrow, but had done all in her power to remedy the problems. Even before the conflict began, speaking to a delegation of Arab dignitaries, the Pope had manifested his solicitude for peace in Palestine and had condemned any recourse to violence.  

The Roman Pontiff further assured that the Church had come to the aid of the unhappy victims of the war, sending the means at her disposal through her representatives in Palestine, Lebanon and Egypt for this purpose, and encouraging the formation among Catholics in various countries of undertakings organized for the same purpose.

2. The Jerusalem Question

a) The Problem

Together with the problem of mass evacuation of people, the Encyclical called attention to the destruction and damage of sacred buildings and charitable places built around the Holy Places. The Pope expressed the fear that this inspired in the Church for the fate of the Holy Places themselves scattered throughout Palestine, and more especially within the Holy City. Here was the equally important question of Jerusalem — the whole problem of the protection and preservation of the historical and religious configuration of the Holy City — and the Holy Places of Palestine.

A glimpse at Jerusalem during the 1948 siege reveals that some holy shrines (e.g., the Church of the Holy Sepulcher and the Church of Dormition) suffered from bombardments and artillery fires, especially since many religious monuments are located in areas where heavy fighting took place. In addition, military authorities had requisitioned many hospitals, hospices and schools belonging to religious orders. Needless to say, the Christian properties were not the only ones

---

*Cfr. PIO XII, Lettera Enciclica *In Multiplicibus Curis*, op. cit., p. 311. In August 1946, the Roman Pontiff had stressed that "Mais il est clair que cette impartialité, que Nous impose Notre Ministère Apostolique, qui Nous place au-dessus des conflits, dont la société humaine est agitée...ne peut signifier indifférence" (*Discourse of the Roman Pontiff to the Delegates of the Arab High Committee on Palestine*, 3 August 1946, in «L'Osservatore Romano», 15 agosto 1946, p. 1).

*Cfr. PIO XII, Lettera Enciclica *In Multiplicibus Curis*, op. cit., p. 312.

"A rendere più cocente questo Nostro dolore contribuiscono non solo le notizie...di distruzioni e di danni causati agli edifici sacri e di beneficenza sorti attorno ai Luoghi Santi, ma anche il timore ch'esse Ci ispirano per la sorte di questi stessi Luoghi, disseminati su tutta la Palestina e in maggior copia sul suolo della Città Santa..." (Ibid., p. 311).
affected. Synagogues had been demolished in the Jewish quarter of the Old City while the Dome of the Rock mosque has been hit by shelling. 111

From the start of the conflict, the Holy Father closely followed the events in the beleaguered region and showed keen anxiety for the fate of the sacred monuments. Speaking to the members of the Sacred College of Cardinals on 2 June 1948, Pius XII said that the Christian world could not contemplate indifferently, or in a sterile indignation, the spectacle of the sacred land trampled over again by troops and stricken by aerial bombardments. The Church could not permit the devastation of the Holy Places, the destruction of the great sepulcher of Christ. 112

b) A Special International Regime

After describing in broad strokes the state of affairs in Palestine and the efforts done by the Church to help remedy the problems, the Encyclical proceeds to outline a fundamental proposition. The Holy Father expressed his hope that the international community would be convinced that opportunum nempe omnino esse ut Hierosolymae ac vicinitati...regimen tribuatur «internazionali» iure statutum ac solidatum 113 which, given the circumstances, seemed to offer a better guarantee of the protection of the sanctuaries. 114

In this statement Pius XII formally consolidated the multilateral framework broadly outlined by Benedict XV and Pius XI, thereby laying down the blueprint of the Holy See’s policy stand on the question of Jerusalem for the next half a century. The idea to grant the City of Jerusalem a special international regime was not originally hatched in the Vatican. The mention of high quarters in which problems of peace were discussed alluded to the fact that, as mentioned earlier, the

111 The United Nations, through the Truce Commission, intervened to prevent further attacks against or military occupation and use of religious buildings in the front lines and recommended the demilitarization of Jerusalem as the only sure way to ensure the safety of the Holy Places. Cfr. Progress Report of the United Nations Mediator on Palestine, 16 September 1948. Text in Documents on Jerusalem, op. cit., p. 232.

112 "Come potrebbe il mondo cristiano contemplare indifferente o in una sterile indignazione quella Terra sacra...calpestata ancora da truppe in guerra e colpita da bombardamenti aerei? lasciar consumare la devastazione dei Luoghi Santi, sconvolgere il «gran Sepolcro di Cristo»?". (Allocation of the Supreme Pontiff Pius XII to the Sacred College on the Occasion of the Feast of St. Eugene, 2 June 1948, in «L’Osservatore Romano», 3 giugno 1948, p. 1).


114 "Noi siamo pieni di fiducia che queste suppliche e queste aspirazioni...rafforzino negli alti con-sessi nei quali si discutono i problemi della pace, la persuasione della opportunità di dare a Gerusalemme e dintorni...un carattere internazionale che, nelle presenti circostanze, sembra me-glio garantire la tutela dei Santuari" (PIO XII, Lettera Enciclica In Multiplicibus Curis, op. cit., p. 313).
UN had been debating on the issue already for quite sometime. At the same, the allusion was an indirect call on the international community to see through the task they had rightly begun.

The decision of the Holy See to throw its weight behind the hypothesis of a corpus separatum was a well-calculated move based on the fact that, as the Pope himself had put it, this solution seemed to offer a better guarantee for the protection of the sanctuaries under the present circumstances. The phrase in praesentibus rerum adiunctis underscored the transitory character of the solution proposed and hence, the flexibility of the Holy See's position — demanded by the highly volatile situation in the Holy Land.

It may be noted that the Encyclical came almost a year after the UN launched the project of granting an international status to Jerusalem and three months after the Israeli-Arab armed feud effectively polarized Jerusalem into two areas of influence. The time lag was indicative of the wait-and-see attitude of the Holy See as it searched for the most adequate approach to the problem. It was only after having realized the difficulty of putting the entire Palestine under a fiduciary administration that the Holy See decided to adopt the UN plan as the only solution that would adequately protect the Holy Places.

The difficulty of putting into effect the UN Resolution 181 in the aftermath of the summer 1948 hostilities led UN Mediator Count Bernadotte to propose the in-præsentibus rerum adiunctis underscored the transitory character of the solution proposed and hence, the flexibility of the Holy See's position — demanded by the highly volatile situation in the Holy Land.

It may be noted that the Encyclical came almost a year after the UN launched the project of granting an international status to Jerusalem and three months after the Israeli-Arab armed feud effectively polarized Jerusalem into two areas of influence. The time lag was indicative of the wait-and-see attitude of the Holy See as it searched for the most adequate approach to the problem. It was only after having realized the difficulty of putting the entire Palestine under a fiduciary administration that the Holy See decided to adopt the UN plan as the only solution that would adequately protect the Holy Places.

The bid to grant Jerusalem an international status did not appear as one more item in the Holy See's agenda. It constituted a policy framework for most of the

---

119 "The provisions of the UN resolution regarding the protection of and free access to the Holy Places could not be successfully implemented" due mainly to the fact that "access to most of the Holy Places involved the crossing and recrossing of front lines" (Progress Report of the United Nations Mediator on Palestine, 16 September 1948. Text in Documents on Jerusalem, op. cit., p. 233).
related issues raised in the Encyclical. An international character was to provide a better protection of the sanctuaries and assure free access to Holy Places, freedom of worship and respect of customs and traditions. The contents of the Encyclical are very much in keeping with the spirit and vision of UN Resolution 181 that sought, among other things, the freedom of conscience and of worship, the protection of the existing rights concerning the Holy Places and religious buildings or sites, their preservation, the liberty of access thereto, and the maintenance of the status quo in fiscal and property matters.

The Holy See did not limit its petition to the area of Jerusalem and its outskirts, but affirmed that it would also be necessary to assure, with international guarantees, both free access to Holy Places scattered throughout Palestine, and the freedom of worship and the respect of customs and religious traditions.

The precision made by the Encyclical in this regard points to the fact that, based on UN Resolution 181, many Christian sites would be found within the Israeli territory and outside the area covered by the corpus separatum. These were concentrated in Galilee: Nazareth, Mount Tabor, the lake of Tiberias with the Mount of Beatitudes, and Tabgha. All of these Holy Places, together with those to be found in the Palestine territory (the tombs of the patriarchs in Hebron and the tomb of Moses in Jericho) and all the minor sites, would be accorded juridical protection with a legal force equivalent to the fundamental laws or constitutions of either Israel or Palestine. In practical terms, the UN provisions implied that

---

120 "Così pure occorrerà assicurare con garanzie internazionali sia il libero accesso ai Luoghi Santi disseminati nella Palestina, che la libertà di culto e il rispetto delle costumanze e delle tradizioni religiose" (PIO XII, Lettera Enciclica In Multiplicibus Curis, op. cit., p. 313).

121 "Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired."

"In so far as Holy Places are concerned, the liberty of access, visit and transit shall be guaranteed, in conformity with existing rights, to all residents or citizens of the other State and of the City of Jerusalem, as well as to aliens, without distinction as to nationality, subject to requirements of national security, public order and decorum."

"Holy Places and religious buildings or sites shall be preserved. No act shall be permitted which may in any way impair their sacred character..."

"No taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the creation of the State."

"Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all."

"No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex" (UN General Assembly Resolution 181, 29 November 1947. Text in Documents on Jerusalem, op. cit., p. 227).

122 "The Governor of the City of Jerusalem shall have the right to determine whether the provisions of the Constitution of the State [Israel or Palestine] in relation to the Holy Places, religious buildings and sites within the border of the State and the religious rights appertaining..."
both Israel and Palestine were bound not only to preserve the solid structures but also to allow the free entry to their respective territories and the free transit to the corpus separatum of anyone who wished to pray or do pilgrimage to the Holy Places. At the same time, the two States could not impose onerous fiscal burdens on the various religious communities as these would violate their fiscal immunity and prevent them to fully and freely enjoy their existing rights. Hence, the hypothesis of a corpus separatum plus the juridical guarantees for the Holy Places outside Jerusalem would serve as an all-embracing legal niche guaranteeing long-held Christian rights in the Holy land. For the Holy See, this solution appeared to be the best given the complexity of the problems involved and the lack of more satisfactory and feasible alternative solutions.

c) A Rough Road for the Holy See

By supporting the UN scheme the Holy See had taken a course that was uphill from the outset. In the first place, Israel reversed its earlier disposition favoring the internationalization of Jerusalem, when it gained control over the Western part of the City in July 1948. Its growing military strength, the importance of the City for the Jewish people, a certain mistrust towards the UN (Bernadotte's proposal for an Arab control of Jerusalem was considered by Israel as an affront and it cost him his life in the hands of Jewish activists) and towards the Christian Churches (accused by Israel of not having helped to defend Jerusalem against the Arabs) were all factors that led Israel to reject the idea of

thereto, are being applied and respected..." This stipulation was to be "recognized as fundamental laws of the State..." (UN General Assembly Resolution 181, 29 November 1947. Text in Documents on Jerusalem, op. cit., p. 226).


125 President Weizmann justified Israel's hold on Jerusalem (Western part) on the grounds of the "historical unbroken chain of Jewish settlement in this city, the fact of our numerical preponderance among its inhabitants," and the "historic defense of Jerusalem in the past year" (Address of Chaim Weizmann, President of Israel's Provisional State Council, to Jerusalem's Advisory Council, 1 December 1948. Text in Documents on Jerusalem, op. cit., p. 81). Israeli Foreign Minister Moshe Shertok also stressed that "Jerusalem is second to none" among the "vital interests of the Jewish people in Palestine" (Letter from Israel Foreign Minister Moshe Shertok in Reply to Count Bernadotte's Proposal. Text in Documents on Jerusalem, op. cit., p. 80).

126 "[There can] be no question of the Jews ever agreeing that Jerusalem should come under Arab domination" (Ibid.). On this matter, see D. NEFF, Struggle Over Jerusalem, in «American-Arab Affairs», Winter 1987-1988, p. 18.


128 Shertok criticized the alleged Christian apathy: "The Christian world abandoned the Holy City
of corpus separatum. To firm up its new policy stand, the Israeli Government declared that it no longer felt morally obliged to comply with the UN Resolution\textsuperscript{129} and subsequently named a military governor for Jerusalem.\textsuperscript{130}

As mentioned earlier, the Arabs also opposed the partition plan that included the internationalization of Jerusalem on the ground that it violated the right of the Palestinian people to self-determination in a territory where they formed a two-thirds majority. The UN plan, according to the Arabs, violated its own Charter.\textsuperscript{131}

But the Holy See stood firm on its posture despite the serious obstacles. In a radio message on the Christmas eve of 1948, Pius XII reiterated the Holy See's demand for the protection of the Holy Places in Palestine and the free access thereto through the constitution of Jerusalem as international regime, at the same time that he called for a lasting and morally just solution to the problem of thousands of refugees.\textsuperscript{132} The radio message was addressed to the whole world, but the Holy Father made a special appeal to political leaders and, in general, to those who were in a position to influence public opinion.

2.2 A RENEWED CALL OF THE ROMAN PONTIFF

2.2.1 Historical Context

Following the publication of the Encyclical \textit{In Multiplicibus Curis} in October 1948, a series of events took place that were significant for the Holy See especially in reference to the question of Jerusalem. First of all, on 11 December 1948 the UN General Assembly passed Resolution 194 whereby it established a Con-

---

\textsuperscript{129} "...we can no longer regard the UN resolution of 29th November as having any moral force. After the UN failed to implement its own resolutions, we regard the resolution of the 29th November concerning Jerusalem to be null and void" (\textit{Statements on Jerusalem and the Holy Places made by Israel's Prime Minister, David Ben-Gurion, in the Knesset, 5 and 13 December 1949}. Text in \textit{R. LAPIDOTH, M. HIRSCH, The Jerusalem Question and its Resolution: Selected Documents}, op. cit., pp. 82-83).

\textsuperscript{130} Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 469.

\textsuperscript{131} Cfr. S. HADAWI, \textit{Palestine in Focus}, op. cit., 40.

ciliation Commission charged, among other functions, to present to the UN General Assembly "detailed proposals for a permanent international regime for the Jerusalem area which will provide for maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area." On the one hand, the statement reaffirming the UN intention to internationalize Jerusalem was a welcome idea for the Holy See in so far as it reinforced In Multiplicibus Curis. On the other hand, the idea of making compatible local autonomy with an international status betrayed the hard reality the United Nations and, for that matter, the Holy See, had to grapple with — the fact that the City of Jerusalem had been cut across the middle by an "iron curtain."

Moreover, from February to July 1949 armistice agreements were successively signed between Israel and each of the contending Arab countries, effectively putting an end to the present dispute. Thanks to the suspension of hostilities, a period of relative calm dawned on Palestine. But the armistice agreement between Israel and Jordan had the contrary effect of consolidating the de facto partition of Jerusalem (even though the agreement established only provisional demarcation lines and not stable political boundaries), making difficult more and more the implementation of a special regime for the Holy City. The de facto division of Jerusalem was soon followed by concrete efforts of Israel and Jordan each to consolidate its hold on the City. Israel established its Supreme Court in Jerusalem in September 1948, the government institutions in December 1948 and Knesset (Israeli Parliament) held its first session in Jerusalem in February 1949. On its part, Transjordan soon had its parliament approved the annexation of West Bank to the country, renaming the new political territory as the Hashemite Kingdom of Jordan — a move recognized only by Britain and Pakistan. The armistice agreement between Israel and Jordan and the correspond-


134 The de facto division of Jerusalem between Israel and Jordan led the Holy See to try bilateral negotiations with each government. Hence, Msgr. McMahon went to Palestine in December 1948 with the specific mission to discuss with the Israeli and Jordanian authorities the principal concerns of the Holy See: the repatriation of the Christian-Arab refugees and the internationalization of Jerusalem. There was an intimate connection between the two issues since the Holy See was convinced that only through a special international regime of the Holy City could the return of the Christian population be guaranteed. Unfortunately, the mission of McMahon failed in the face of Israel's refusal to give assurances on the two issues as well as Jordan's continued opposition to the internationalization of East Jerusalem. Cfr. S. FERRARI, Vaticano e Israele. Dal secondo conflitto mondiale alla guerra del Golfo, op. cit., pp. 126-127.

135 Israel concluded armistice agreements separately with Egypt, 24 February; with Lebanon, 23 March; with Jordan, 3 April and with Syria, 20 July. Cfr. S. HADAWI, Palestine in Focus, op. cit., p. 52.


137 Other Arab leaders opposed the move of Jordan as a violation of the principles of Islam. Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale,
ing measures they have taken practically rendered the UN Resolution 181 a "dead letter." As it were, the implementation process of the UN plan had been too sluggish as to prevent the force of arms to determine the course of events.138

In the diplomatic level, a crucial political realignment occurred when the Arab countries (with the exception of Transjordan)139 turned around on the issue of Jerusalem and supported the hypothesis of a corpus separatum, making known its decision to the Conciliation Commission. Such a sudden policy reversal might have been a concerted effort to counter-act Transjordan’s annexation of the West Bank and at the same time isolate Israel140 who now possessed 78 percent of Palestine, compared to the 56 percent envisioned in the UN plan of partition.141 In any case, the policy shift of the Arab countries in favor of the corpus separatum helped to strengthen the rather weak position of the Holy See.

Furthermore, tensions arising from the question of Jerusalem were heightened during the first quarter of 1949 owing to the fact that in the halls of the United Nations another battle was being raged. The one-year old State of Israel was busy drumming up support in its campaign to secure membership of the international body. The Holy See did not just remain as a passive spectator but tried to influence the votes of the Catholic countries to indirectly bolster its position on the question of Jerusalem, using it as a leverage to tone down the hard-line posture of Israel in this respect.142 Israel was finally admitted as a UN member on 11 May 1949 by virtue of Resolution 273(III), despite strong Arab diplomatic pressure to block the move.143 To a certain extent, this diplomatic victory of Is-

139 Transjordan continued to oppose any attempt to separate Jerusalem from its territory especially in the wake of the war when it gained control over the eastern part of the City. Cfr. Statement by Jordanian Delegate Fawzi Pasha El-Mukli Before the Special Committee of the UN General Assembly, 26 November, 1949. Text in Documents on Jerusalem, op. cit., p. 144.
142 Catholic countries such as Spain, France, Italy, Portugal and Ireland strongly endorsed the plan of internationalization. The Catholic hierarchies in the United States and Great Britain likewise urged their respective governments to favor the cause. Cfr. S. FERRARI, Vaticano e Israele. Dal secondo conflitto mondiale alla guerra del Golfo, op. cit., pp. 129-130.
rael lessened the chances for the UN to implement the special international regime for Jerusalem.144

2.2.2 Encyclical Letter Redemptoris Nostrri, 15 April 1949145

The confluence of all these factors afforded the Holy See a propitious occasion to reaffirm its stand on the issue of Jerusalem. This was embodied in the Encyclical Redemptoris Nostrri on 15 April 1949 which reiterated the issues raised six months earlier in the Encyclical In Multiplicibus Curis: justice for the displaced population, international status for Jerusalem, respect for acquired rights and traditions, freedom of worship and free access to the Holy Places. The similarity in contents of the two documents is partly explained by the relative proximity between their dates of issuance. However, the new political circumstances in Palestine and the related developments in the diplomatic circles that took place during the interim period have helped the Holy See to consolidate better its position and reformulate its demands. The novelty of Redemptoris Nostrri lies precisely in its more articulate language and the force with which the ideas are enunciated.

A. Contents

1. The Palestine Question

Pius XII starts the Encyclical by describing in bleak and dramatic terms both the fate of the refugees as well as the Holy Places, saying that although the fighting was over, he still received complaints from those who had every right to deplore the profanation of sacred buildings, images, charitable institutions, as well as the destruction of peaceful homes or religious communities. He added that piteous appeals still reached the Holy See from numerous refugees, of every age and condition, who had been forced by the disastrous war to emigrate and even live in exile in concentration camps, the prey to destitution, contagious disease and perils of every sort. The condition of the exiled was so critical and unstable that it could no longer be prolonged.146

146 "Infatti, giungono ancora a Noi i lamenti di chi giustamente deplora danni e profanazione di santuari e di sacre immagini, e distruzione di pacifiche dimore di Comunità religiose. Ci giungono ancora le implorazioni di tanti e tanti profughi, di ogni età e condizione, costretti dalla recente guerra a vivere in esilio, sparsi in campi di concentramento, esposti alla fame, alle epidemie, e a pericoli di ogni genere" (PIO XII, Lettera Enciclica Redemptoris Nostrri, op. cit., pp.
The Holy Father acknowledged the considerable aid extended by public and private agencies for the relief of those suffering, adding that the Church had left nothing undone to meet the more urgent needs through works of charity. The Roman Pontiff then made an earnest appeal to those responsible that justice might be rendered to everyone who had been driven far from his home by the turmoil of war and whose most ardent desire was to lead a peaceful life once more. Certainly the Holy See was not the lone voice demanding redress for war victims. The concerns raised by Redemptoris Nostri on the refugee problem echoed the already cited UN Resolution 194 of 11 December 1948 which declared, among other things, that "the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practical date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property."  

2. The Jerusalem Question

The question of Jerusalem was treated even more extensively, as can be gleaned from the numerous paragraphs dedicated on the issue. Echoing the call he had made in In Multiplicibus Curis, Pius XII said that the time had come when Jerusalem and its vicinity should be accorded and legally guaranteed an international status. This demand was repeated two more times in the same document, couched in similar expressions but with emphasis on certain ideas. In particular, Redemptoris Nostri asked that due immunity and protection be guaranteed to all the Holy Places of Palestine not only in Jerusalem but also in the other cities and villages. Farther down the document the Pope stressed that these places had suffered serious loss and damage owing to the upheaval and devastations...
tion of the war. Since they were objects of veneration to the whole world and a source of nourishment for Christian piety, these places should be suitably protected by definite statute guaranteed by an international agreement.  

The need to grant Jerusalem a special international regime was made more pressing the more the Holy See realized the magnitude of the havoc wreaked by the war not only on the Holy Places but also on the organization of the local Church. During the weeks of intense combat, the Christian churches, monasteries and other institutions were sacked and vandalized, especially those found in the New City. Many ecclesiastics and religious were expelled from their convents and schools while properties were confiscated especially in those areas of Jerusalem controlled by the Israeli troops. These episodes may have been the consequence of the chaos that reigned rather than a conscious design of the Israeli authorities. Nevertheless, the Holy See had reason to feel a certain anxiety not only on the fate of the Holy Places but also on the implications it would have on the Christian presence in the Holy Land. In fact, the parishes lost most of their faithful. Parishes in Tiberias, Lydda and Ein Karem were paralyzed, while the once flourishing catholic communities in Western Jerusalem, Haifa and Jaffa were reduced to their bare minimum. Catholics on the Israeli side lost their contacts with the Holy See's representative on the Jordanian side, where important Christian Holy Places are located such as the Church of the Holy Sepulcher, most of the shrines, the seat of the Latin Patriarchate, the Franciscan Custos and the seat of the Apostolic Delegation.  

a) Universal Patrimony

Both In Multiplicibus Curis and Redemptoris Nostri justified the need to protect the Holy Places mainly for their sacred value for the Christians, as can be gleaned from the terminology used. However, the fact that Holy Land includes places of worship of other religions was not ignored by the Holy See. Phrases such as oportet igitur eadem — cum tam magna religionis monumenta cuique veneranda servent and sed mutua uniusculusque iuris in tuto posita securitate, servatisque consuetudinibus a maioribus acceptis, ad religionem praesertim quod attinet indicated the Holy See's awareness of the universal character of Jerusalem, that it is a City holy for the three great monotheistic religions of the world: Christianity, Islam and Judaism. Indeed, for Christians, Jerusalem was the

---

152 Cfr. Ibid., p. 334.
153 For more details, Cfr. La trêve en Palestine, in «La Documentation Catholique», XLVI(1949), col. 649-652.
155 AAS XXXXI(1949), p. 163.
156 AAS XL(1948), p. 434.
157 The unique character of the City of Jerusalem as a universal patrimony would be emphasized with greater vigor in posterior documents of the Holy See, but this early the Roman Pontiff al-
place of the passion, death and resurrection of Jesus Christ and it was where the Church was born. For Muslims, it is the holiest place after Mecca and Medina. At the heart of the temple stand two mosques: the Dome of the Rock and the Al Aqsa Mosque (the farthest mosque). For the Jews, too, Jerusalem is a spiritual center for it was the site of the first temple built by Salomon to house the Ark of the Covenant. There are found the Wailing Wall and the Temple Mount, among other sacred places.\textsuperscript{158}

\textit{b) Three Aspects of the Jerusalem Question}

\textit{Redemptoris Nostri} goes on to detail out in separate paragraphs aspects of the Jerusalem question which in the previous Encyclical were merely enumerated, indicating once more the greater depth with which the Holy See tackled the multiple questions the second time around. In particular, the issues of free access to the Holy Places, freedom of worship and the respect of religious customs and traditions raised by \textit{In Multiplicibus Curis}\textsuperscript{159} are taken up anew by \textit{Redemptoris Nostri} but expounding on the arguments in three blocks:

\begin{itemize}
  \item[i.] Freedom of Worship and Free Access to the Holy Places
  
  In the first place, the Encyclical affirmed that it would be necessary to make arrangements in such a way that pilgrims could approach freely those sacred edifices, enabling each one to profess his devotion openly and without hindrance, and to remain free from fear and danger.\textsuperscript{160}

  In general, both Israel and Jordan opened their gates to Christians who wished to visit the Holy Places located in areas under their respective control. While opposing the special international regime for Jerusalem envisaged by the UN in 1947, the Government of Israel committed itself to assure religious freedom and free access to the Holy Places and expressed its openness to the idea of an international authority over the Holy Places.\textsuperscript{161} Moreover, Israel tried to repair the religious edifices damaged during the war and returned the buildings occupied by its troops to their original owners.\textsuperscript{162} Jordan likewise committed itself to preserve

\end{itemize}

\textit{ready hinted on this point.}


\textsuperscript{159} Cfr. \textsc{Pio XII}, Lettera Enciclica \textit{In Multiplicibus Curis}, op. cit., p. 313.

\textsuperscript{160} "...bisogna che siano adottate tutte quelle misure, che rendano possibile ai pellegrini di accedere liberamente ai vari Santuari; compiervi senza alcun ostacolo pubbliche manifestazioni di pietà" (\textsc{Pio XII}, Lettera Enciclica \textit{Redemptoris Nostri}, op. cit., p. 334).

\textsuperscript{161} Cfr. Statement by the Ambassador of Israel, Abba Eban, in the UN Trusteeship Council, 20 February 1950. Text in R. \textsc{Lapidoth}, M. \textsc{Hirsch}, The Jerusalem Question and its Resolution: Selected Documents, op. cit., p. 115.

\textsuperscript{162} Cfr. P. \textsc{Pieraccini}, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazio-
and protect the Holy Places located in its territory and allowed the free entry of Christian pilgrims to the sanctuaries situated in the Old City and in Bethlehem.

ii. Unhindered Work of Religious Institutions

In the second place, *Redemptoris Nostri* expressed the desire of the Holy See that Catholic institutions which had been erected in Palestine to help the poor, educate the youth and give hospitality to visitors, might be enabled to carry on unimpeded the work they had laudably done in the past.

One of the negative effects of the Israeli-Arab war on the Christian Churches was the fact that some of these had real-estate properties in Israel, on which various institutions and monasteries located in the Arab zone depended economically. Convents and cultural institutions, such as the Pontifical Biblical Institute, Ratisbonne, the Terra Sancta College, the Greek-Orthodox Monastery of the Cross and the Russian quarters with the Cathedral, remained in Israel. The line of communication having been cut off between the two sides of Jerusalem, the various institutions were hindered from properly carrying out their traditional functions.

In addition, Israel and Jordan soon consolidated their hold on their respective areas in such a way that limited and made difficult the free exercise of religious activities. In the case of Jordan, although it allowed the Christians certain autonomy in educational matters and to have their own religious tribunals, the 1952 Constitution established Islam as the official state religion. This brought with it, among other consequences, the non-recognition of Christian feastdays (some were obliged to work on Sundays and keep Friday as a holiday). In 1953 the Jordan Government promulgated two laws designed to exercise strict control over religious and charitable institutions, many of which were in the hands of Western Christian organizations. These tough measures were eventually toned down in the face of strong Christian pressures. Two years later, other restrictive meas-
ures were imposed when the Government passed a law requiring the Christian schools to adopt Arabic as the medium of instruction (French was used in Catholic schools, German in Lutheran schools and English in Anglican schools) and to orient their curricula towards Arabic culture. Equal time had to be dedicated to the teaching of the Bible and the Koran. Thanks to the pressure of the Christian countries, again the attempt of Jordan to curb Christian influence in its territory failed. A third attempt was made in 1965, but neither did it succeed and the Six-Day War of 1967 changed the whole scenario.\textsuperscript{167}

The State of Israel, on the other hand, avowed to respect religious creeds.\textsuperscript{168} Although the Israeli Government kept its word in general, it exercised its supervisory role over the religious communities through its Ministry of Religious Affairs which was in the hands of Jewish Orthodox. This gave rise to certain bureaucratic difficulties in matters such as the appointment or substitution of religious personnel on the part of various Church institutions. In the field of education, the sharp reduction of the Arab population and the high increase in social services introduced by the Israeli Government led to the Christian schools.\textsuperscript{169}

iii. Christian Status Quo

In the third place, \textit{Redemptoris Nostri} emphasized the need to preserve inviolate \textit{iura omnia... quae catholici a multis eam saeculis in Sacra illa Loca adepti sunt...}\textsuperscript{170} In this phrase \textit{Redemptoris Nostri} reiterated the call of \textit{In Multiplicibus Curis} to respect customs and religious traditions,\textsuperscript{171} which in turn had concretized the demands made in the three Allocutions of Benedict XV and Pius XI. The subject in question is technically called the Christian \textit{status quo} — defined in broad terms as the rights and privileges that have been acquired by the Christian communities over the Holy Places in the past centuries. In a more strict sense, it refers to the factual and juridical situations, consecrated by history, custom and diplomatic treaties, and which are determinants of the juridical condition of the

\begin{itemize}
  \item \textsuperscript{167} Cfr. Ibid., pp. 506-507.
  \item \textsuperscript{168} Israel committed itself to be a State "based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture..." (\textit{The Declaration of the Establishment of the State of Israel}, 14 May 1948. Text in \textit{Documents on Jerusalem}, op. cit., p. 78).
  \item \textsuperscript{169} Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 511.
  \item \textsuperscript{170} AAS XXXXI(1949), p. 164.
  \item \textsuperscript{171} Cfr. PIO XII, Lettera Enciclica \textit{In Multiplicibus Curis}, op. cit., p. 313.
\end{itemize}
Christian Holy Places of Jerusalem and Bethlehem. The Holy See sought assurances on the preservation of the Christian status quo in the Holy Land, affirming its secular rights founded on juridical acts of cession and deeds of sale, stipulated by the political authority at a given time, and therefore based on unquestionable legal titles supported by documents conserved at the Custody of the Holy Land in Jerusalem.

3. Appeal to all Catholics

To make the Church's voice heard and make her campaign more effective, the Holy Father vigorously rallied all the Catholics worldwide to use every legitimate means to persuade the rulers of their respective nations, in particular those whose duty it was to settle the juridical status of Jerusalem. This appeal is repeated at the end of the Encyclical in which Catholics are urged to make their lawful requests known to the rulers of nations in a positive and unequivocal manner.

2.2.3 Apostolic Exhortation *Sollemnibus Documentis*, 8 November 1949

On 8 November 1949, Pius XII issued another document reaffirming the position of the Holy See on the questions of Jerusalem and Palestine, as set forth in the two Encyclicals discussed above. The Apostolic Exhortation makes reference to the various documents and statements issued by the Holy See concerning the Holy Land in the recent past. Its purpose was to launch a new crusade of prayer so that a regime, based on true justice, would finally be instituted in Jerusalem and the entire Palestine region, which would prevent the recurrence of war and violence, conserve the sacred character of the Holy Places and safeguard the

______________________________


175 Cfr. Ibid., pp. 334-335.


177 Cfr. Ibid., p. 336.
rights of the Catholic communities. Addressed to all the Catholic faithful, this renewed appeal of the Holy Father came one month before the approval of another UN Resolution on the Jerusalem and Palestine questions and demonstrated the Roman Pontiff's attentiveness to the developments so as to lose no opportunity to remedy the situation in the Holy Land.

In effect, the United Nations General Assembly passed Resolution 303 on 9 December 1949 in which the international body, referring itself to UN Resolution 181 and UN Resolution 194, re-stated its intention "that Jerusalem should be placed under a permanent international regime, which should envisage appropriate guarantees for the protection of the Holy Places, both within and outside Jerusalem." The Resolution reaffirmed specifically "that the City of Jerusalem...be established as a corpus separatum under a special international regime and shall be administered by the United Nations." Israel and Jordan firmly resisted the new UN Resolution. To firm up its claim on Jerusalem, Israel transferred its parliament and certain government ministries to the Holy City from Tel Aviv, and, in January 1 Knesset declared Jerusalem as the capital of the State of Israel.

2.3 RELATIONS BETWEEN THE HOLY SEE AND THE STATE OF ISRAEL

The relations between the Holy See and the State of Israel based on the Holy See documents just considered can be analyzed on two levels: 1) the attitude of the Holy See towards Israel as a State and 2) the fundamental issues raised by the Holy See as the basis of its relations with Israel.

178 "Noi confidiamo...che...venga finalmente dato a Gerusalemme ed a tutta la Palestina un ordi-namento secondo le norme della vera giustizia, che...conservi, nel loro carattere sacro, quei Luoghi alla venerazione e all'amore dei fedeli; che tuteli tutti i diritte che...tanti figli della Chiesa hanno assicurato al mondo cattolico" (Ibid., p. 337).


180 Ibid.

181 Cfr. D. NEFF, Struggle Over Jerusalem, op. cit., p. 18. This move was considered by the UN as obstructive and incompatible with the plan to implement a special statute for Jerusalem. Cfr. UN Trusteeship Council Resolution 114(S-2) on the Removal to Jerusalem of Certain Israeli Government Departments, 20 December 1949. Text in Documents on Jerusalem, op. cit., pp. 236-237.


183 Both the attitude of the Holy See towards the State of Israel and the fundamental issues would evolve in the succeeding years as the former tried to adopt its policy posture to the
2.3.1 Attitude of the Holy See towards the State of Israel

*In Multiplicibus Curis* and *Redemptoris Nostri* were issued after the proclamation of independence of the State of Israel on 14 May 1948. It could be expected that the newly born State would figure in the said Holy See documents as well as in the other relevant official statements of Pius XII, since it was on the occasion of Israel's establishment that the Jerusalem question and the Palestine question arose. However, nowhere in any policy statement of the Holy See was the State of Israel (nor Jordan for that matter) mentioned. Instead, one finds extensive references to "Palestine" and, in a lesser degree, "Holy Land." "Palestine" is used by the Holy See to refer not to a state — existing or potential — but rather to a geographical region corresponding to the Holy Land, a region that embraced both the State of Israel and the areas occupied by the Palestinians. For this reason, "Palestine" and "Holy Land" are employed indistinctly. In a technical sense, "Holy Land" extends beyond the peripheries of Palestine. It includes the areas covered by the Apostolic Delegation created by the Holy See in February 1948 which comprised Palestine, Transjordan and Cyprus (with the seat in Jerusalem), separating these areas from the Apostolic Delegation in Cairo. Cfr. P. PIERACCINI, *Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale*, op. cit., p. 514.

Moreover, the Holy See aired its appeal for peace mainly to the international community without mentioning the State of Israel which, together with the member countries of the Arab League, were the cause of the conflict and the changing political circumstances, without modifying the substance of the demands raised by Pius XII.

184 "Palestine" is used by the Holy See to refer not to a state — existing or potential — but rather to a geographical region corresponding to the Holy Land, a region that embraced both the State of Israel and the areas occupied by the Palestinians. For this reason, "Palestine" and "Holy Land" are employed indistinctly. In a technical sense, "Holy Land" extends beyond the peripheries of Palestine. It includes the areas covered by the Apostolic Delegation created by the Holy See in February 1948 which comprised Palestine, Transjordan and Cyprus (with the seat in Jerusalem), separating these areas from the Apostolic Delegation in Cairo. Cfr. P. PIERACCINI, *Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale*, op. cit., p. 514.

185 For example, *In Multiplicibus Curis* contains the following phrases (Cfr. PIO XII, Lettera Enciclica *In Multiplicibus Curis*): "... causata dalla guerra che sconvolge la Palestina" (p. 311); "...la sorte di questi stessi Luoghi, disseninati su tutta la Palestina..." (Ibid.); "...Nostri Rappresentanti in Palestina, nel Libano e in Egitto..." (p. 312) and "Noi non crediamo che il mondo cristiano potrebbe contemplare...in una sterile indignazione quella Terra sacra..." (pp. 312-313). On the other hand, one finds in *Redemptoris Nostri* the following phrases (Cfr. PIO XII, Lettera Enciclica *Redemptoris Nostri*): "...per affrettare la cessazione del conflitto, che insanguinava la Terra Santa..." (p. 332); "...si è ancora lunghi dallo stabilire effettivamente in Palestina la tranquillità..." (Ibid.); "Ma è inoltre necessario provvedere alla tutela di tutti i Luoghi Santi...anche in altre città e villaggi della Palestina" (p. 334) and "...le molte istituzioni cattoliche, di cui è ricca la Palestina..." (Ibid.).

186 In *Redemptoris Nostri*, Pius XII urged the Catholics all over the world to persuade the rulers of nations, and those whose duty it was to settle the Jerusalem question. Cfr. PIO XII, Lettera Enciclica *Redemptoris Nostri*, op. cit., p. 333.

187 The Arab League was established in 1945 on the initiative of Egypt backed up by Britain, as an instrument of political cooperation among the various Arab countries with a view of protecting their independence. It was composed of Egypt, Syria, Iraq, Lebanon, Yemen, Transjordan and Saudi Arabia. Cfr. P. PIERACCINI, *Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale*, op. cit., p. 446. See also P. GOMEZ APARICIO, *El Oriente Medio. Encrucijada del Mundo*, Madrid 1952, p. 28.
first ones responsible in the task of restoring peace and stability in the region. If at all, Israel may have been alluded in *Redemptoris Nostri* when it says *vehementer eos appellamus, quorum res est*,188 that justice may be rendered to all those who had been driven far from their homes.

The absence of any direct reference to the State of Israel can also be observed in the Apostolic Exhortation *Sollemnibus Documentis* which used the terms "Holy Land" and "Palestine" to express once more the concerns of the Holy Father with respect to the Palestine and Jerusalem questions.189

Notwithstanding its silence, the Holy See never officially questioned the existence of the State of Israel.190 The decision of the Holy See to withhold any direct public statement on the State of Israel pointed rather to a host of basic problems whose origin and solution were closely linked to the emergence of the Jewish State.

### 2.3.2 Fundamental Issues

The Palestine and Jerusalem questions were contemporaneous with and a direct consequence of the birth of the State of Israel and the Israeli-Arab conflict. However, these issues could not be seen merely in terms of momentary political expediencies. The series of issues laid down by Pius XII in *In Multiplicibus Curis* and *Redemptoris Nostri* were fundamental questions that reflected the precarious position of the Catholic Church in the Holy Land. The problems of the protection of the Holy Places, free access, freedom of worship and the maintenance of the Christian *status quo* were questions that struck at the very roots of Christianity in Palestine. The Holy See was faced, so to speak, with a serious problem of far-reaching consequences: the imminent threat of the Catholic Church being driven out of her birthplace, since the flight of the Christian Arabs from Palestine191 implied the de-Christianization of the Holy Land, and the crumbling down of the sacred monuments could mean the eradication of the ultimate vestiges of Christianity in the region. As it were, Catholicism in the new State of Israel was

---

189 Cfr. PIO XII, Esortazione Apostolica *Sollemnibus Documentis*, op. cit., 336-337.
191 When the war ended in January 1949, some 750,000 of the 900,000 Palestinian Arabs who would have lived in the Israeli territory were all refugees. Around 36,000 of them were Christians, many of whom fled together with the social elite who left during the first wave of exodus. Cfr. P. PIERACCINI, *Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale*, op. cit., p. 479.
jeopardized and debilitated and the local Church had difficulties dealing with the new power holder in the Holy Land. Presented with this bleak scenario the Holy See was concerned about the fate of the Christian Holy Places under a Jewish Government. The situation during the Ottoman Empire might not have been the best but a certain stability was guaranteed by the Islamic tradition and agreements between the Empire itself and the Christian countries.

The seriousness of the problem required a solution of a proportional magnitude. Uppermost in the Holy See's priorities were to arrest the massive emigration of the Christians and to ensure the preservation of the Holy Places. The Church was called, as it were, to provide shelter to her children and keep them safe at home.

At this point, it is important to identify the nature of the problems at hand and the solutions proposed by the Holy See in order to understand better the policy context of its relations with Israel.


As far as the Holy See was concerned, the Palestine question was mainly a political problem with a religious component. The Israeli-Arab war erupted over territorial disputes and questions of sovereignty, but with the consequence that among its many victims were Christians. These Christian Palestinians suffered not so much because they were Christian but by the fact they were Palestinians and their fate was shared by Islamic Palestinians. In view of the highly political nature of the Palestine question, the role played by the Holy See here was mainly that of a conciliator, an advocate of peace in the family of nations. In this respect, it could not do much beyond endorsing the solutions proposed by the international community. In other words, the Holy See could not deal bilaterally with Israel on such questions as the repatriation and compensation of refugees

---


193 “A rendere più cocente questo Nostro dolore contribuiscono...anche il timore...per le sorte di questi stessi Luoghi...” (PIO XII, Lettera Enciclica In Multiplicibus Curis, op. cit., p. 311).


195 Cfr. Ibid., p. 83.


since it was not the Holy See's competence to settle political and territorial quarrels between the warring parties, given its neutral character. Pius XII made this clear in the Encyclical *In Multiplicibus Curis* by saying that the Holy See maintained an attitude of impartiality imposed by its apostolic duty to stay above the conflicts.\textsuperscript{198} This non-partisan stand has also been reflected in the terminology used by the Encyclical\textsuperscript{199} as well as the mainly humanitarian and auxiliary character\textsuperscript{200} of the Holy See's efforts in Palestine such as the provision of relief goods and medical services to war victims.

Hence, even though the Holy See has been constant and fervent in calling for a final settlement of the Palestine question — as is evident in its various policy statements from the outset — the final solution to the problem did not depend on itself but rather on the parties concerned.\textsuperscript{201} To this extent the Holy See demanded the settlement of the Palestine question without making a concrete policy approach to achieve that end.

\textsuperscript{198} Cfr. PIO XII, Lettera Enciclica *In Multiplicibus Curis*, op. cit., p. 312. Two years earlier, the Pope had made clear the same point, saying that the Holy See had always maintained an attitude of absolute impartiality in the most diverse circumstances and that it would continue to do so in the future. (*Discourse of the Roman Pontiff to the Delegates of the Arab High Committee on Palestine*, 3 August 1946, op. cit., p. 1). In his Allocution before the Sacred College on 2 June 1948, the Roman Pontiff said that "...pur senza voler inserire la Chiesa nel groviglio d'interessi puramente terreni..." (*Allocation of the Supreme Pontiff Pius XII to the Sacred College on the Occasion of the Feast of St. Eugene*, 2 June 1948, op. cit., p. 1).

\textsuperscript{199} Thus, we find phrases such as "rispetto dei diritti di ognuno" and "stretto adempimento dei doveri e degli obblighi di ciascun gruppo di abitanti" (PIO XII, Lettera Enciclica *In Multiplicibus Curis*, op. cit., pp. 310-311).


\textsuperscript{201} Cfr. La Santa Sede appoggia il diritto di ebrei e palestinesi ad avere una patria, in «L'Osservatore Romano», 18-19 gennaio 1988, p. 5.

Unlike the Palestine question, the Jerusalem question was mainly a religious problem with a political dimension. The rationale behind the efforts of the international community to grant Jerusalem and its outskirts a special international regime was principally to protect the historical and religious configuration of Jerusalem — a City sacred to the three great monotheistic religions of the world: the Christians, the Muslims and the Jews. The political component of the problem consisted of the political implications and strategic interests involved in the UN plan to constitute a *corpus separatum*: the territorial exclusion of Jerusalem from the future States of Israel and Palestine, the Arab opposition to the idea before the war, the occupation of Jerusalem by Israel and Jordan during and after the war, the opposition of Israel to the plan after the war, and the political motives that might have drawn the support of some western countries.

As far as the Holy See was concerned, the presence of Christian Holy Places and the long-held rights and privileges of the Catholic Church in the Holy Land made it (the Holy See) a key player in the Jerusalem question. In other words, unlike the case of the Palestine question, the role of the Holy See in the Jerusalem question was more than just that of a simple conciliator — it was, in a sense, a party to the conflict. The Holy See could not remain neutral but was bound to make an active intervention to salvage Christian interests and presence in the Holy Land. Towards this end, the Holy See adopted a concrete policy choice on the question of Jerusalem, demanding not just the solution to the problems related to the Holy Places and religious freedom but also the specific form and contents of such solution.

---

203 Redemptoris Nostri specifically mentioned the need to safeguard the freedom of Catholics, the unimpeded work of the Catholic institutions, and the rights which the Catholics had acquired over the Holy Places during the past centuries. Cfr. Pio XII, Lettera Enciclica Redemptoris Nostri, op. cit., p. 334.
206 If the United Nations mediation failed to resolve the Palestine question, the Arab countries would be there to work it out with the Israelis. But if the UN failed to sufficiently protect the Christian Holy Places through an international regime or other means, there would likely be no other entity (with the category of a subject in international law) to stand and defend the immediate collective interests of the Catholic Church in the region.
1. Multilateral and Bilateral Aspects of the Jerusalem Question

In the light of above, the Holy See was faced with the Jerusalem question at two different levels. On the one hand, there was the multilateral level that referred to the question of the status of the Holy City itself — the hypothesis of a corpus separatum propounded by the United Nations. On the other hand, there was the bilateral level that included questions such as free access to the Holy Places, freedom of worship and the maintenance of the Christian status quo. The former was a means or policy approach, the latter were ends to be achieved.207

In principle, the multilateral and the bilateral aspects of the Jerusalem question could be separated. In the first place, this can be gleaned from the fact that the UN, following the de facto partition of Jerusalem, scaled down its earlier demand for a corpus separatum and tended to leave in the hands of Israel and Jordan the ordinary administrative control of their respective areas, while putting the Holy Places under the authority of a UN Commission.208 In effect, UN Resolution 194 inclined to favor functional209 rather than territorial internationalization.210

In the second place, in the original UN plan of partition (UN Resolution 181) the same interests, values and rights in Jerusalem were to be safeguarded in the rest of Palestine through different means. In Jerusalem, the objective of protecting Christian rights were to be within the framework of territorial internationalization, whereas in the rest of Palestine the same rights would be guaranteed through constitutional provisions.211

In the third place, the potential separability between the multilateral and the bilateral issues would be somehow confirmed later by the fact that certain real protection of and free access to the Christian Holy Places were soon observed by Israel212 and Jordan213 (notwithstanding their continued opposition to the inter-

209 Functional internationalization is the application of a permanent international regime without territorial support or basis but limited only to the sanctuaries. Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 490.
212 The Israeli Government declared before UN that Israel committed itself to respect the existing rights over the Holy Places, the free access and freedom of worship and free movement of the clergy. Israel was also open to the possibility for the UN to exercise effective supervision over the Holy Places based on an agreement between Israel and the UN. Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 485. The
nationalization of Jerusalem) in their respective areas of influence, independently of any UN-sponsored multilateral scheme. Israel and Jordan's manifestations of a certain respect towards the sensibilities of the Christian world on the question of the Holy Places made them potential partners of dialogue in this regard. On its part, the Holy See was not totally close to the possibility of dealing with Israel outside the framework of corpus separatum.  

Most important of all, the Holy See itself has underscored both in In Multiplicibus Curis and Redemptoris Nostrri the idea that the proposed special international regime was merely an instrument which, in the present circumstances, seemed to offer the best guarantee for the protection of the Holy Places.

In view of the above considerations, the hypothesis of a corpus separatum was not the only way to protect the Holy Places and safeguard the religious rights. These same goals could be pursued through other means. This would neatly emerge forty five years later when the Holy See eventually tackled the Jerusalem question separating the bilateral from the multilateral aspects.


The distinction between and separability of the multilateral and the bilateral aspects of the Jerusalem question had an important bearing on the Holy See's emerging relations with Israel. Concretely these factors implied the possibility for

---

213 In 1949, Jordan, Egypt, Syria and Lebanon, on the petition of the Palestine Conciliation Commission, presented to the UN General Assembly a formal Declaration that guaranteed the protection of and the free access to the Holy Places that might be found in their territory by virtue of a final settlement of the Palestine problem or, in its absence, by virtue of the armistice agreements. This Declaration became the basis for the administration of the Holy Places by Jordan. Cfr. W. ZANDER, Holy Places and the Christian Presence in Jerusalem, in «New Middle East», July 1971, p. 19.


215 Cfr. PIO XII, Lettera Enciclica In Multiplicibus Curis, op. cit., p. 313.

216 Cfr. PIO XII, Lettera Enciclica Redemptoris Nostrri, op. cit., p. 333.

217 This was clearly stressed by the Holy See following its signing of the Fundamental Agreement with the State of Israel in December 1993. Cfr. Firmato l’Accordo tra la Santa Sede e lo Stato di Israele, in «L'Osservatore Romano», 1 gennaio 1994, p. 1. The circumstances in 1993 were very different from those in 1948. Nevertheless, from the start the Jerusalem question contained a set of issues that were potential objects of bilateral negotiations between the Holy See and the State of Israel.
the Holy See to strike a bilateral accord with Israel (and for that matter, with Jordan) from the beginning. In other words, the hypothesis of a *corpus separatum* was not indispensable for the Holy See to secure juridical guarantees for the Holy Places found in Israel and Jordan. It could have dispensed with the idea of a special international regime and could have directly dealt with Israel and Jordan on a bilateral basis. 218

That history shows just the opposite was a matter of policy choice on the part of the Holy See. This may be traced to a number of reasons. To begin with, the state of belligerency in the region made any serious bilateral relations with Israel and Jordan difficult. The succession of wars in the following decades and the resulting *de facto* changes in the territorial borders between Israel and its Arab neighbors would have rendered practically useless any bilateral treaty of the Holy See with any of these countries concerning the Holy Places. 219

Moreover, any attempt at that time on the part of the Holy See to settle bilaterally with Israel issues related to the question of Jerusalem would tend to isolate the Catholic Church from the general international consensus since the move would pre-empt continuing efforts of the UN to internationalize the Holy City. At the same time, any dealings of the Holy See with Israel with a view of establishing stable bilateral relations would be seen as a highly sensitive political action vulnerable to stern criticism, particularly from the Arab nations, with whose cause the fate of the Christian Palestinians was necessarily linked.

Lastly, the Holy See might not have had as strong a motive to deal directly with Israel in 1948 as was the case twenty years later since most (although not all) of the sacred monuments and Christian population in 1948 were found in the Jordanian side of the green line. 220

The inconvenience and difficulty of pursuing the bilateral course explain the policy approach adopted by the Holy See: the multilateral formula embodied in the hypothesis of a *corpus separatum* conceived by the United Nations. The importance of the *corpus separatum* (the territorial exclusion of Jerusalem and its outskirts from Israel and Jordan) lay in the fact that it served as a juridical framework that would facilitate the realization of the other ends pursued by the Holy See: the preservation of the sacred monuments, the free access to the


219 In 1948 these future changes were not known, but the political vagaries that enveloped Palestine at that time militated against stable bilateral agreements.

same, the freedom of worship and the maintenance of the status quo.\textsuperscript{221} The Holy See, in fact, considered the international or multilateral approach to the question of Jerusalem as the "only" way to assure the stability of the City's juridical status.\textsuperscript{222} Hence, in keeping with the UN scheme for Jerusalem and the rest of Palestine, the Holy See combined the bilateral and multilateral issues under a single multilateral agenda.

### 2.3.3 De Facto and De Jure Relations

*De jure* recognition is the manifestation of the will of a state to establish relations with another sovereign entity — which it recognizes — in accordance with the general norms that traditionally regulate these relations without any condition or time limit.\textsuperscript{223}

*De facto* recognition, on the other hand, should be understood as the manifestation of the willingness of a state to establish relations with an international subject it recognizes only with respect to certain relations or only within a more or less determined time frame, but nevertheless potentially relative, and with the implicit reservation (contained in the same form of *de facto* recognition) based on future events and developments. This recognition does not need a special declaration. In other words, it can be a tacit recognition based on unequivocal acts from which the will of the state entering into relations can be deduced. Because of this, one needs to distinguish between diverse forms of international acts: those acts of a state that merely confirm the situation created by the events and those acts that can manifest its intention to establish certain relations with another entity. Logically, only from the latter can *de facto* recognition be inferred.\textsuperscript{224}

The *de facto* recognition describes perfectly the relations of the Holy See with the State of Israel since 1948, allowing a reasonable degree of divergence be-

---

\textsuperscript{221} As to the Holy Places outside Jerusalem (i.e., Holy Places to be found in the projected Israeli and Palestine states), these were to be formally guaranteed by the respective political authorities of Israel and Palestine, subject to the supervision of the United Nations. Cfr. UN General Assembly Resolution 194, 11 December 1948. Text in Documents on Jerusalem, op. cit., p. 234.

\textsuperscript{222} "...dare alla Città Santa e ai suoi dintorni una conveniente situazione giuridica, la cui stabilità, nelle presenti circostanze, può essere assicurata e garantita soltanto da una comune intesa delle Nazioni amanti della pace e rispettose dei diritti altrui" (PIO XII, Lettera Enciclica Redemptor Nostri, op. cit., p. 333).

\textsuperscript{223} Cfr. Riconoscimento de jure e riconoscimento de facto, in «L'Osservatore Romano», 17-18 maggio 1948, p. 3.

\textsuperscript{224} Cfr. Ibid.
tween facts and principles. 225 The fact that the Holy See has always maintained official contacts with Israeli leaders 226 was an unmistakable sign that, without the benefit of a solemn declaration — which is not customary nor necessary in international practice — the Holy See recognized the existence of Israel as a State. 227

At the same time, these de facto relations were constantly determined and conditioned by a set of issues or factors which were fundamental to the Holy See: the Palestine question and the Jerusalem question. Because of their diverse natures the Palestine and Jerusalem questions determined the relations of the Holy See with Israel in different ways. Whereas, the former affected such relations by virtue of the end desired by the Holy See (justice to the displaced population), the latter affected the same rapport mainly by the means employed (international regime). In other words, in its dealings with the State of Israel, the Holy See wanted the Palestine question resolved by whatever just means; it wanted the Jerusalem question resolved by means of the special international regime.

The silence of the Roman Pontiff with respect to the State of Israel was simply a manifestation of the fact that the Holy See's de facto relations with Israel rested on the abovementioned fundamental issues. On their resolution would greatly depend any progress in such relations, up until these would be elevated eventually to a de jure level.

2.4 SYNTHESIS

The Encyclicals In Multiplicibus Curis and Redemptoris Nostri were basically the same in terms of content, although the latter tackled the issues with greater depth as the new circumstances better enabled the Holy See to consolidate its position. In both documents, Pius XII asked that justice be rendered to war refugees and that the City of Jerusalem be accorded a special international regime, in keeping with the United Nations scheme. In addition, he called for the protection of the Holy Places throughout Palestine, free access to these places, freedom of worship and the maintenance of the status quo.

The relations between the Holy See and the State of Israel as reflected in the said Encyclicals and other official policy statements of Pius XII can be analyzed

225 The next chapters shall permit a more comprehensive exposition and analysis of the evolution of the diplomatic policy of the Holy See. However, the trend was already clear from the Holy See's first major policy statements on Palestine represented by the abovementioned documents.

226 These official contacts of the Holy See with the Israeli Government would become more frequent in the succeeding years.

on two levels: 1) the attitude of the Holy See towards the State of Israel and 2) the basic issues that formed the basis of their relations. With respect to the former, the Holy See opted to remain silent by not mentioning the State of Israel. As regards the latter, the Holy See raised two fundamental issues: the Palestine and Jerusalem questions.

As far as the Holy See was concerned, the Palestine question was mainly a political problem with a religious component. On this question, the role of the Holy See basically assumed the character of a conciliator — in accordance with its neutral stand — since the final settlement of the problem fell outside its proper competence. In view of this, the Holy See demanded the settlement of the Palestine question without proposing means or a concrete policy approach.

On the other hand, the Jerusalem question was basically a religious problem with a political component. It was a problem of safeguarding the Holy Places and of ensuring the rights of the various religious communities in the Holy Land. Here the role of the Holy See went beyond that of a simple conciliator — it did not remain neutral for it was an interested party in the dispute. In view of this, the Holy See demanded not only the solution to the problems (protection of the Holy Places and religious rights) but also the specific form (special international regime for Jerusalem and international guarantees for the Holy Places in the rest of Palestine) and contents of the solution.

As a diplomatic agenda of the Holy See, the Jerusalem question had two levels or aspects: the multilateral (the question of the status of the City of Jerusalem) and the bilateral (the issue of protection of the Holy Places, free access, freedom of worship and the maintenance of status quo). In principle, the multilateral and the bilateral aspects of the Jerusalem question could be treated separately in such a way that the Holy See could settle the bilateral matters directly with the State of Israel. However, for a number of reasons, the Holy See combined the two aspects as a single multilateral agenda by adhering to the idea of a special international regime. In this regard, Pius XII consolidated the multilateral approach to the question of Jerusalem, a policy line whose groundwork had been prepared two decades earlier by Benedict XV and Pius XI.

Given the diverse natures of the Palestine question and the Jerusalem question, each problem determined in a different way the relations of the Holy See with the State of Israel. The Palestine question affected such relations mainly by the end pursued by the Holy See: justice for the Palestinian people. The Jerusalem question, on the other hand, affected the relations mainly by the means adopted by the Holy See: international regime and international guarantees.

Both the Palestine and Jerusalem questions formed the basis of the emerging policy posture of the Holy See towards the Jewish State: de facto relations in which the Holy See, without making a formal declaration nor mentioning the State of Israel, recognized the same by maintaining with it official contacts.
CHAPTER 3  PAUL VI: A NEW THRUST

3.1 HISTORICAL CONTEXT

3.1.1 Cycle of Wars and Palestinian Nationalism

For the State of Israel, the 1948 War implied three things: it enjoyed military superiority, it was under constant threat, and peace could only be obtained through negotiations.228 The Arabs would consider peace only if the Israelis would return to the 1947 borders outlined by the United Nations. This condition being unacceptable on the part of the Israelis, peace was certainly long in coming. For the Arabs, the establishment of the State of Israel was as a usurpation of Palestinian territories and these had to be recovered. Israel, on the other hand, operated on the principle that military superiority was the key to its survival and to defend its hard-won independence.229

The years following the 1948 War were marked by constant tension especially along the demarcation lines established by the Armistice Agreements. Border crossings of the Arabs were frequent in an effort, for example, to retrieve their belongings (according to the Arabs) or to infiltrate (according to the Israelis). Every incursion was met with a tough military response by Israel.230 The Arab countries also imposed an embargo and economic boycott on Israel as a manifestation of the continuing state of belligerency.231

Meanwhile, many of the Arabs who remained or found themselves in Israel's territory became Israeli citizens, subject however, to treatments as though they were "second class citizens."232 Reactions on the part of the Arab countries led some 700,000 Jews to migrate to Israel from Islamic states in the Middle East and North Africa during the period 1948-1956.233

Antagonism between the two worlds produced yet three major wars during the next twenty five years since the outbreak of Israeli-Arab hostilities in 1948: the 1956 Sinai-Suez War, the Six-Day War of 1967 and the Yom Kippur War of 1973. The first war broke out when Egypt nationalized the Suez Canal and closed the waterways to Israeli ships. The second was a result of pent-up tensions along the

Island-Syrian border, Egypt's closure of the Gulf of Akaba and Israel's pre-emptive attack against Egypt. And the third erupted when, three years after a renewed ceasefire along the Suez Canal in 1970, Egypt and Syria launched a co-ordinated attack against Israel in October 1973. In all of these armed confrontations, Israel came out victorious owing mainly to its military tactics and more efficient organization.

The successive defeats of the Arab League meant that the liberation of the Palestinians would not come from their allies. The Palestinians themselves had to lead the battle for their own cause.

In 1965, the Palestinians numbered around 1.7 million, 80 percent of whom lived in exile and 70 percent depended on international aid: auxiliary programs of the Arab countries and the help they received from their host countries. Almost half a million refugees lived in refugee camps administered by UNWRA in clusters of shanties, lacking adequate facilities and basic needs. Family members were separated, they had no work and there was lack of schools and teachers. The refugee camps in Gaza, Amman and Beirut soon became the seedbed of Palestinian resistance movements, such as the Syrian-backed Al-Fatah (founded in 1959) and the Egyptian-backed Palestine Liberation Organization (PLO, founded in 1964).

From the mid-1960's, the Arabs launched guerilla warfare on Israel from Egypt, Syria and Jordan and in the 1970s, from Lebanon. Every terrorist attack drew heavy-handed reprisal intended to show the Arabs their disadvantage in resolving things by the sword.

### 3.1.2 The Jerusalem and Palestine Questions in the Context of the Six-Day War

---


235 Israel was seriously threatened during the first three days of the Yom Kippur War, but managed to reverse the tide when its troops penetrated into Cairo and Damascus.


239 S. BEN AMI, Z. MEDIN, Historia del Estado de Israel, op. cit., p. 207.
A. The Jerusalem Question

1. Public Interventions of the Holy See

Of the three wars, the one of 1967 had the most significant repercussions on the Jerusalem and Palestine questions. Paul VI made numerous public interventions before, during and after the conflict to help re-establish peace and, in particular, ensure the safety of Jerusalem and the Holy Places. For example, on the eve of the war, with heightened military tension in the Middle East, the Holy Father sent a telegram to the UN Secretary General, U Thant, earnestly asking the UN to "make every effort that the United Nations Organization may succeed in halting the conflict...We express in the name of Christianity the fervent hope that, in the unfortunate eventuality that the situation may worsen, Jerusalem may, because of its peculiarly sacred and holy character, be declared an open and inviolable City."240

So that the nations engaged in combat would hear the plea of the Holy See, on June 8 the Pope sent telegrams to the Heads of State of Iraq, Israel, Egypt and Jordan, urging them to pay heed to the UN’s call for ceasefire, so that negotiations might take the place of violence and peace might be re-established.241

The Pope’s direct interventions was reinforced by Cardinal Cicognani, the then Secretary of State of the Holy See, who sent a similar telegram to Msgr. Sepinski, Apostolic Delegate to Jerusalem, asking him to make the necessary representation to the Government of Israel on the status of Jerusalem. In his message, Cardinal Cicognani stated that Holy See was deeply distressed on hearing of the tragic incidents taking place in the Middle East and appealed to the President of United Arab Republic (Syria and Egypt) to prevent another bloody conflict and spare the people from more suffering. The Pope, the Cardinal said, trusted that the leaders would consider it a sacred duty to preserve safely the Holy Places by declaring Jerusalem an «open city». Towards this end, the representatives of the Holy See in Lebanon, Syria, Iraq and Jordan were requested to make similar interventions in their respective governments.242

---

240 Strong Appeals of Paul VI for the Cessation of the Hostilities and the Return of Peace, 4 June 1967, in «L'Osservatore Romano», 5-6 giugno 1967, p. 1. (The title of the article is written in Italian but the text is in English). The Holy Father sent the telegram as the UN Security Council held an emergency session to resolve the crisis. UN Secretary General U Thant received positively the proposal of Paul VI to declare Jerusalem as an «open city». Cfr. G. RULLI, Uno Sguardo alla Storia, op. cit., p. 32.
2. East Jerusalem: the UN and Israel in a Tug of War

The Six-Day War substantially altered the frontiers in Palestine as Israel's resounding victory was soon followed by its military control and occupation of the Arab territories. The wall that divided Jerusalem was immediately leveled in an effort to unite the City.

The gain made by Israel was not to be lost for on June 27 Knesset brought East Jerusalem under Israeli law, jurisdiction and administration and enlarged the area of the City, paving the way for a legal order the next day to dissolve the Municipal Council in al-Quds (Arab Jerusalem). Consequently, the territory of Jerusalem expanded from 30,000 to 70,000 dunam (1 dunam is equivalent to 1,000 square meters). Soon after, the Israeli Government introduced a series of measures to strengthen their hold by the expansion of Jewish neighborhoods and the building of settlements in East Jerusalem. For example, new Jewish residential areas were soon built in Ramat Eshkol, Givat HaMivtar and Givat Shapira. The Jewish Quarter in the Old City was rebuilt while the Hebrew University buildings on Mt. Scopus were expanded. The intent of the Jewish authorities was to strengthen the Jewish character of Jerusalem and create a defensive ring of Jewish settlements around the Arab population.

On 4 July 1967, UN General Assembly approved Resolution 2253 (ES-V) asking Israel to "rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem," adding that such measures were "invalid." However, Israel made clear its intention not to surrender East Jerusalem to the Arabs. The Israeli Government declared that its move to consolidate its position in the areas subjugated was "irreversible and non-negotiable."

---


249 Cfr. G. RULLI, Uno Sguardo alla Storia, op. cit., 34.

Ten days later, the UN body issued a follow up Resolution 2254(ES-V) expressing its "deepest regret and concern of the non-compliance by Israel with Resolution 2253" and reiterating its call for the Israeli Government to refrain from changing the configuration of the City.

In the face of Israel's continuing intransigence, on 22 November 1967 the UN passed the Security Council Resolution 242, declaring as inadmissible the "acquisition of territory by war," and calling for the "withdrawal of Israeli armed forces from territories occupied in the recent conflict" and the termination of all claims or states of belligerency. In addition, the same Resolution affirmed the need to achieve a just settlement of the refugee problem as well as guarantee the territorial inviolability and political independence of every State in the area.

3. Holy Places Law

Simultaneously with its annexation of East Jerusalem, the Israeli Government passed the Protection of Holy Places Law, declaring that "the Holy Places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings with regard to those places." The law also made clear the government's intent not to interfere in the administration of the Holy Places, at the same time that it expressed its readiness to grant the Holy Places a special status of a diplomatic nature to assure its universal character. Moreover, immediately after the war the Israeli Prime Minister ordered that

---

251 UN General Assembly Resolution 2254(ES-V) Following the Enactment of the Laws Concerning the Application of Israel Law, Jurisdiction and Administration to East Jerusalem, 14 July 1967. Text in Documents on Jerusalem, op. cit., p. 247.

252 A Jewish viewpoint is given by Lapidoth who said that the UN Resolution was in the nature of recommendation rather than obligation. This, she said, is clear both from the intent of the drafters as well as the contents of the Resolution itself. R. LAPIKODTH, Security Council Resolution 242 at Twenty Five, in «Israel Law Review» 26(1992), pp. 299-305.


254 Cfr. Ibid.

arrangements with the respective religious authorities be made so that the Holy Places could resume their normal functions.\textsuperscript{256}

On 11 September 1968, Israel reached amicable settlements with various Church institutions concerning the payment of compensation for war damage sustained by thirty one church properties in both East and West Jerusalem. Among the institutions included were the Armenian Patriarchate, the Greek Orthodox Patriarchate, the Custody of Terra Sancta (Franciscan Order), Arch-Episcopal See of Cologne (Dormition) and the Order of Religious Assumptionists (Notre Dame de France).\textsuperscript{257}

\textit{B. The Palestine Question}

The Six-Day War once again led to a massive exodus of Palestinian refugees. However, thanks to the brevity of the conflict, the displacement of civilian population was not as serious as the one in 1948: 70 percent of the population in the West Bank (some 600,000 people) remained and those who fled to Jordan were no more than 200,000.\textsuperscript{258} However, during and after the war many cases of forced evacuation were reported. The homes of 650 Muslims inside the Old City next to the Western Wall were demolished and another 3,000 Arabs were forced to abandon their homes in the Old City with only one to three days of prior notice.\textsuperscript{259}

To help those affected by the war, the UNICEF carried out auxiliary programs such as the distribution of food packages while UNWRA set up ration distribution centers and continued taking care of the refugee camps. Various Catholic organizations in East Jerusalem also provided humanitarian and welfare services.\textsuperscript{260}


\textsuperscript{258} Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 552.


The Pope himself sent a contribution of 50,000 dollars to aid the war victims and sent a letter (through the Secretary of State Cardinal Cicognani) to Monsignor Rodhaim, President of the Caritas Internationalis, thanking the organization for its initiatives to help the needy, especially the displaced population.261

More than the immediate problem of helping the war victims, the big question after 1967 was the fate of the Palestinians who suddenly found themselves under Israel's political authority. The modus vivendi that had governed (with some exceptions) Israeli-Arab relations was defunct and new arrangements were necessary.262 For Israel, integrating into Jewish society a people it had fought against for decades was a tough challenge, especially since most Palestinians refused to apply for the Government-offered Israeli citizenship in their hope of recovering East Jerusalem. Non-Israeli residents of East Jerusalem were required to bear identity cards that classified them as «permanent residents» of Jerusalem and allowed them to live and work in the City. However, the identity cards sometimes were confiscated, if their holders failed to comply to a series of legal requirements, forcing the Palestinians to go into exile. Other restrictions were placed on the Arabs in the areas of education, property, health care and many other aspects of social, political and economic life. These, coupled with the progressive expansion of the Israeli territory to the disadvantage of the Palestinian population, compelled many to emigrate to other countries.263 Among these were many Christians, some 4,000 of whom abandoned Jerusalem only in the year 1968.264 In the final analysis, the bottomline problem was not just a matter of social organization, but was a question of fundamental human rights in which the Palestinians became aliens in the land of their birth.265

3.1.3 Civil War in Lebanon

The Lebanese Civil War that broke out in April 1975 was, in a way, an offshoot of the Israeli-Arab conflict. Already charged with internal tensions, the country bore heavy external pressures in the early 1970's that eventually drove it into chaos. Multitudes of Palestinians expelled from Jordan in 1970 fled to Leba-


265 Cfr. G. MARTIN, One City, Two Peoples, Double Standards, op. cit., p. 11.
non, sharply augmenting the number of refugees who had earlier poured into the country during the Israeli-Arab wars. In addition, it became the new base of PLO operations, converting the country into a frequent target of Israeli gunfire. The influx of Palestinians could hardly be absorbed by Lebanon's fragile economy (the country had no natural resources and merely relied on monetary, commercial and tourism industries) and only heightened the tension between the wealthy and the poor. Moreover, the sudden demographic change widened the rift between the Christians and the Muslims as the former felt threatened by the "law of numbers" whereby the latter, with their Palestinian reinforcement, would eventually take control of the leadership and impose a confessional state. This, together with other factors, polarized Lebanon between the Phalangist or Christians in general and the leftists (marxists, Arab nationalists, young Shiites, lay reformists and nationalist Christians or Christians identified with the left) who joined forces with the Palestinians.

The civil strife rocked Lebanon's socio-political order hitherto characterized by peaceful coexistence among its diverse religious, cultural and ethnic groups (enshrined in the so-called National Covenant of 1943). Indeed, Lebanon had been a model society, a showcase of fraternal harmony between the Christians and the Muslims.

For this reason, throughout the Lebanese crisis the Holy See advocated for the preservation of the country's uniquely multi-religious character and took great pains to avoid the nation's disintegration. Towards this end the Holy See sent three Pontifical Missions to Lebanon during the period 1975-1978 to assess the situation, promote pastoral and humanitarian services and above all, try to restore national unity.

3.2 POLICY STATEMENTS OF PAUL VI

Most of the policy statements of Paul VI are brief references to the situation in the Holy Land, expressed in the form of allocutions. A few others are in the form of letters and messages addressed to certain personalities or institutions. One long exposition, contained in an apostolic exhortation, is dedicated exclusively on the situation of the Church in Palestine.

For purposes of order, the documents are classified into three categories: allocutions, apostolic exhortation and other documents (discourses, declarations and letters). Practically all the policy statements are bi-thematic in the sense that in them, the Roman Pontiff treated together the Palestine and Jerusalem

266 Regarding the Jordan-Palestinian War, see D. SOLAR, *El Laberinto de Palestina*, op. cit., pp. 233-254.
them, the Roman Pontiff treated together the Palestine and Jerusalem questions as two essentially related problems. At the same time, many of the official pronouncements were made in the context of concrete historical circumstances such as the Six-Day War. The political events have served as occasions for the Holy Father to put forward over and over again the Holy See’s policy posture on the fundamental issues.

Short commentaries are provided whenever useful or necessary. A more comprehensive and global analysis of the policy statements is given at the end of the Chapter, using the bilateral-multilateral categories and in the light of the relations of the Holy See with the State of Israel.

3.2.1 Allocutions

A. Ad Christifideles in Vaticana Basilica coram admissos, luctuoso in Medii-Orientis partibus exorto bello sanctique vitae passionis Domini locis armorum strepitu perturbatis, 7 June 1967

During the general audience on Wednesday, 7 June 1967 (the second day of the Six-Day War), the Pope renewed his earnest appeal to political leaders to put an end to the bloody conflict raging in the Holy Land and expressed his apprehension for the safety of human life. The problem, the Holy Father added, should be resolved by the parties concerned through just and reasonable dialogue, trusting in the mediatory efforts of institutions committed to promote peaceful relations among nations. In addition, the Pope repeated his bid to declare Jerusalem an «open city», free of military operations and secure from war damages. He addressed this appeal especially to government leaders and military commanders.

B. Summi Pontificis Pauli VI Allocutio et Novorum Patrum Cardinalium Nuntiatio, 26 June 1967

On the occasion of the appointment of twenty seven new Cardinals (among them Karol Cardinal Wojtyla), Paul VI delivered a long Allocution in which he briefly mentioned the crisis in the Middle East, emphasizing anew the policy posture of the Holy See. He called attention to the serious problems that remained unresolved, such as the condizioni profugorum Palaestinensium...cum aequitate et magnanimitate oportet tandem prospiciatur et remedium afferatur. An

---

270 Cfr. Ibid., p. 634.
271 Cfr. Ibid., p. 635.
273 Ibid., p. 712.
equally important problem was the status of Jerusalem, which should be what it represented: a City of God, a place of encounter among all peoples, and therefore to be accorded *propriis legibus... agnitis ab omnibus nationibus.*

C. *Ad E.mos Patres Cardinales et ad Romanae Curiae Praelatos, per E.mun Sacri Collegii Decanum Summo Pontifici felicia ac fausta omnia-tos, Nativitatis Domini nostri Iesu Christi festo recurrente, 22 December 1967*

The three great monotheistic religions of the world, the Christians, the Jews and the Muslims, had to be assured of their freedom of worship, the conservation of and free access to the Holy Places and their protection with a special immunity through a proper statute. The observance of the said statute should be guaranteed by an international institution with special regard to the historical and religious physiognomy of Jerusalem. In this respect, the Pope explicitly mentioned the United Nations, expressing his hope that the efforts of the international body would be seconded by world leaders and would yield positive results.

He added that on its part, the Holy See, on behalf of all the Christians, had exerted efforts to back up the UN initiatives.

---

274 Ibid.

275 AAS LX(1968), pp. 18-33.

276 The Holy Father used the phrase "i Luoghi Santi propriamente detti...protetti da immunità speciali mediante uno statuto proprio" (Ibid., p. 26). It can be deduced from this statement that the territorial internationalization of Jerusalem was not demanded by the Holy See as a necessary means to secure the Christian interests in the Holy Land, and that it was ready to decouple the religious from the purely politico-territorial aspects of the Jerusalem question.


277 Cfr. AAS LX(1968), p. 26. The insistence of the Holy See in this regard was aimed at preventing measures that would change the physical make up of the Holy Places. In fact, there were reported cases of alteration such as the attempt in 1967 by a group of Jews to dig a tunnel running along the Western Wall. The project was foiled amidst strong protests from the United Nations Educational, Scientific and Cultural Organization (UNESCO) and from some sectors within Israel. Since 1971, UNESCO repeatedly protested against any move to change the configuration of the Old City, invoking the *1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.* Cfr. G. TALHAMI, *Between Development and Preservation: Jerusalem under Three Regimes,* op. cit., p. 105. The Convention provided for the protection of religious monuments against possible damages arising from military operations, assuring the access to places of worship even in times of war. The State of Israel ratified the Hague Convention. Cfr. S. FERRARI, *Vaticano e Israele. Dal secondo conflitto mondiale alla guerra del Golfo,* op. cit., p. 214.

278 "Noi abbiamo ferma fiducia e auspichiamo vivamente che l'iniziativa delle Nazioni Unite abbia il sincero appoggio di tutti i responsabili e possa progredire e portare a fecondi risultati" (AAS LX(1968), p. 27).

279 "...com’è suo dovere nei confronti della cristianità, la Santa Sede non ha mancato di far og-getto di sollecita attenzione le iniziative che, in sede internazionale, potevano referirsi al grave
Another question concerned the free exercise of religious and civil rights that legitimately belonged to persons, edifices and the activities of all the communities in Palestine. Paul VI expressed his sympathy with the old and new refugees, the poor and the helpless, whose problem had worsened the crisis in the Middle East. He further observed that help had been intensified and the work of Catholic charitable organizations in this respect was worthy of commendation. The Pope also made special mention of the difficulties encountered by Catholic educational institutions.\(^{280}\)

The Holy Father emphasized that there was a close link between the question of the Holy Places and religious and civil rights, saying that these were two essential and indispensable elements of the same problem.\(^{281}\)

**D. Eminentissimus Patribus Cardinalibus, Summo Pontifici dei nominali felicia ac fausta ominantibus, 24 June 1968\(^{282}\)**

The Pope recalled his Allocution of the previous December regarding Jerusalem and the Holy Places. After manifesting his deep concern for the unresolved crisis in the Middle East in general, he focused his attention on a specific problem, that of Lebanon. The Holy Father feared that the Israeli-Arab conflict would spill over into Lebanon, a specially important place for the peaceful coexistence of its diverse peoples. He warned against introducing disequilibrium among citizens of diverse races, religions and nationalities,\(^{283}\) adding that the United Nations could hopefully remedy the situation of the refugees.\(^{284}\)

**E. Ad E.mos Patres Cardinales, ad Romanae Curiae Pontificalisque, Domus Praelatos, per E.mum Sacri Collegii Decanum Summo Pontifici**

\(^{280}\) Cfr. Ibid., p. 27.

\(^{281}\) "La questione, vista nei suoi termini generali, offre, ora, a Nostro avviso, due aspetti essenziali e impreteribili" (Ibid., p. 26).

\(^{282}\) AAS LX(1968), pp. 454-463.

\(^{283}\) Paul VI was aware that the Lebanese crisis was part of the Middle East dilemma and so he mentioned the problem many times in the context of a policy statement on the Palestine question. The close relation between the Palestine question and the Lebanese crisis was confirmed by specific incidents such as the Israeli raid on the Beirut International Airport on 28 December 1968, following a Palestinian attack on an Israeli airplane in Athens. Cfr. G. IRANI, *The Papacy and the Middle East. The Role of the Holy See in the Arab-Israeli Conflict, 1962-1984*, op. cit., p. 34.

\(^{284}\) Cfr. AAS LX(1968), p. 460.
felicia ac fausta ominatos, Nativitatis Domini nostri Iesu Christi festo recurrente, 23 December 1968

More than a year after the Six-Day War, the Holy Father still received news of daily encounter, violence, sabotage and reprisal. Moreover, the countries at war were engaged in the arms race and international efforts to disentangle the dilemma were languishing. The Pope warned against the tendency to pay lip service to the urgent problems in the region for egoistic reasons (i.e., designs of supremacy), reminding the nations of their grave responsibility to help millions of people.

The Holy Father then underscored the urgent need for a just and definitive settlement of the problem of old as well as new refugees. Their miserable condition was being prolonged and hope for a peaceful solution was fading away. For the suffering people, the Pope said, the principles of justice and solidarity could not be substituted and were the only guarantees to their rights and legitimate aspirations.

In addition, he asked once more for the institution of an international juridical protection for Jerusalem and the Holy Places, given their importance for a large part of the humanity.

F. Eminentissimus Patribus Cardinalibus, Summo Pontifici dei nominali felicia ac fausta omiantibus, 23 June 1969

The Pope warned that the violent episodes that frequently undermined the fragile truce in the Middle East could degenerate into a large scale conflict and could cause irreparable damages. He hoped that a stable peace accord could soon be reached through the mediation of the UN Security Council. In this regard, the mind of the Roman Pontiff was fixed on the very special interests — which the Catholic world and the entire Christendom affirmed with full right — for the protection of the Holy Places, the institutions and Christian people in the troubled Holy Land, hoping that the common monotheistic religious faith of the


\[286\] This observation came in the light of the fact that towards the end of the 1960's, Palestinian guerilla actions and Israeli military retaliations became almost a daily routine in the region. Cfr. G. IRANI, The Papacy and the Middle East. The Role of the Holy See in the Arab-Israeli Conflict, 1962-1984, op. cit., p. 27.


\[288\] Cfr. Ibid.

\[289\] "Ricordiamo ancora, in questa occasione, le rchieste da Noi pubblicamente fatte per ottenere un regolamento internazionalmente garantito della questione di Gerusalemme e dei Luoghi Santi, alla quale, con le tre religioni monoteistiche colà attestate, è interessata grande parte dell'umanita" (Ibid., p. 43).

peoples in the region would finally lead to the establishment of justice and peace among them.291

**G. Vogliamo tutti Presidiare l'onore della umanità, 31 August 1969**292

The Pope noted that the recent events did not augur well for peace, but on the contrary showed an aspect similar to the period preceding the Second World War. He urged the governments and nations (as did Pius XII whose appeal was unfortunately ignored) to avert the danger of another major conflict. Furthermore, the Holy Father deplored the burning of the *Al Aqsa* Mosque in the Temple esplanade in Jerusalem, right in the heart of the Holy Places. He said that the event had fired up the religious sentiments of the Muslims, but he hoped that the incident would not ignite yet another round of violence.

**H. The Pope Receives Minister Abba Eban, 6 October 1969**293

The Holy Father brought to the attention of Minister Ebban the concerns of the Holy See: the Palestinian refugees, the Holy Places, the unique and sacred character of Jerusalem, and the various communities living in the Holy Land. The Pope explained the position of the Holy See, highlighting the idea that its interventions were solely inspired by religious motives, Christian and human charity and the desire to see a stable and lasting peace in the Middle East in which religious and civil rights were respected.294

While making clear to Israel the Holy See's demands, the Pope underscored at the same time the non-political character of his interventions. In this regard, the Holy Father's call for justice and peace applied to all the peoples in the region, including obviously the Jews (even though the vindication oftentimes was made on behalf of the Palestinians by the mere fact that they occupied the lower end of the balance). Thus, for example, during the prayer of *Angelus* on 29 January 1969, Paul VI lamented the tragic executions that had taken place in Iraq and specifically mentioned that among the victims were Jews, perhaps for their racial identity.295

291 "Sempre è presente nel Nostro animo il pensiero degli interessi specialissimi, che il mondo cattolico e la cristianità intera affermano a buon diritto per la tutela dei Luoghi Santi, delle istituzioni e delle genti cristiane in quella Terra benedetta e tormentata, e non Ci abbandona la segreta speranza che la comune fede religiosa monosteista di quelle popolazioni concorra finalmente a stabilire onorevolmente fra loro la giustizia e la pace" (Ibid., p. 520).


293 «L'Osservatore Romano», 6-7 ottobre 1969, p. 2. Abba Eban was then the Minister of Foreign Affairs of the State of Israel.

294 "Unicamente ispirate a superiori motivi religiosi e di cristiana ed umana carità, e al desiderio di vedere stabilire nel Medio Oriente una pace giusta e durevole e una fraterna e proficua convivenza, nel riconoscimento e nel rispetto dei diritti (religiosi e civili) di tutti" (Ibid).

295 Cfr. *Il Dificile e Sanguinante Cammino della Concordia tra le Genti*, in *Insegnamenti di Paolo*
I. Ad E.mos Patres Cardinales, ad Romanae Curiae et Pontificalis Domus Praefatos, per E.mum Sacri Collegii Decanum Summo Pontifici felicita ac fausta ominatos, Nativitatis Domini nostri Iesu Christi festo adventante, 15 December 1969

On this occasion, Paul VI expressed his Christmas greetings to the people who had suffered owing to the conflict in the Middle East — the refugees who were bereft of their homes and their own land. In a special way the Roman Pontiff remembered the Christian communities in Palestine who were burdened with problems and difficulties of all sorts.

In relation to the hardships of the displaced population often referred to by the Roman Pontiff, the UN General Assembly issued a report on 26 October 1970 prepared by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. The said report concluded that "the Government of Israel is pursuing in the Occupied Territories policies and practices which are in violation of the human rights of the population of these territories." The report recalled that the Fourth Geneva Convention of 1949 expressed the world community’s sense of revulsion for the sufferings of the Jews under the Nazis. It was therefore a great irony that Israel could now be charged of violation of this Convention for the country’s discriminatory treatment of its non-Jewish minorities. These included the expropriation of land, destruction of property, and the forcible relocation of people.

J. Exchange of Messages Between Paul VI and the President of the State of Israel, 31 December 1969

The Pope expressed his special concern for the plight of the suffering refugees and justified the need to recognize their legitimate aspirations — based on justice and humanity — on the part of those who had the responsibility to address such situations.

K. Hope for the Future. The Truce in the Middle East, 9 August 1970


297 "A quanti per il conflitto soffrono quotidianamente, ai profughi rimasti senza casa e senza patria, va il nostro pensiero, il nostro augurio...Uno speciale ricordo vorremmo rivolgere alle comunità cristiane delle antiche regioni della Palestina, i cui problemi e difficoltà di vario genere non possono non toccarci intimamente" (Ibid., p. 47).


Once again the Pope made clear that the Holy See was interested in the situation in Palestine not for political and territorial reasons, but for the religious value of the Holy Land. 302 Referring himself to the three monotheistic religions of the world, the Roman Pontiff said that their belief in the same God should become a basis to build fraternal harmony, peaceful coexistence and mutual respect. 303

Concerning the Palestine question, the Holy Father said that the immediate concern of the Holy See was the well-being of the Palestinian people and peace among the countries implicated in the Middle East dilemma. 304

L. The Sad Situations in the Near East and the Far East, 14 March 1971 305

Paul VI underscored the grave right and duty of the Holy See to obtain recognition or guarantees for the peculiar needs of the Holy Places, the permanence of Christians in Palestine and the status of Jerusalem as a meeting point of multiple historical and religious rights. The Pope further affirmed that the Holy See upheld this right and duty not only in the name of the Catholic Church but on behalf of all Christendom. 306

M. Eminentissimus Sacri Collegii Cardinalium Patribus, Summo Pontifici die Eius nominali felicia ac fausta ominantibus, 24 June 1971 307

The Pope affirmed once again the demand of the Holy See for the protection of the City of Jerusalem through a special statute guaranteed juridically at the international level. This arrangement would free the Holy City from unending contentions and transform it into a center of common understanding. 308

302 "Le sorti della Terra Santa ci stanno sempre sommamente a cuore, non per interessi territoriali o politici, ma per i valori religiosi, che ad essa si riferiscono" (Ibid., p. 776).
303 Cfr. Ibid.
304 "Ma ora l'interesse immediato, anche nostro, è il bene di quelle popolazioni, è la giustizia ed è la pace civile delle Nazioni interessate nel conflitto" (Ibid.).
306 "...sentiamo di avere anche Noi un grave diritto-dovere da tutelare, e non solo in Nostro nome, ma anche di tutta la cristianità, quello del riconoscimento delle peculiari esigenze dei Luoghi Santi nella Palestina, della permanenza dei Cristiani in quell'avventurato paese, e dello statuto di Gerusalemme, dove non si può negare la convergenza specialissima d'un pluralismo di diritti storici e religiosi" (Ibid., p. 180).
307 AAS LXIII (1971), 558-564.
308 "...a noi sembra, ripetiamo, che sia interesse — e quindi dovere di tutti — che questa Città, dai destini unici e misteriosi, sia protetta da uno statuto speciale, garantito da un presidio giuridico internazionale, e che possa così in migliore condizione diventare non più oggetto di impalacabili controversie e di interminabili contese, ma un centro di convergenza, di concordia..." (Ibid., p. 564).
In addition, the Roman Pontiff said that it was the right and duty of the Church to procure the safety of the Holy Places, aware that the entire Christian world and not just Catholics shared this aspiration.\textsuperscript{309}

Besides the Holy Places, the Holy Father was also concerned for the protection of the Christian population as well as other peoples in the region — the Muslims and the Jews.\textsuperscript{310}

\textbf{N. Ad E mos Patres Cardinales, ad Romanae Curiae et Pontificalisque Domus Praelatos, per E.mum Cardinalem Ferdinandum Cento Summo Pontifici felicia ac fausta ominatos, Nativitatis Domini nostri Iesu Christi festo recurrente, 23 December 1971\textsuperscript{311}}

The Pope expressed satisfaction for the truce that had been in place since a year and a half earlier, but observed at the same time the risk of a renewed conflict. Peace accord, the Roman Pontiff stressed, should take into account the rights and legitimate aspirations of all the parties, including the people that had been forced out of their homeland in the past decades.\textsuperscript{312} No one could forget the restrictions on the exercise of political rights and the abuse of power on the part of public authorities against individuals and social groups, even though these were done as preventive measures or for security reasons.\textsuperscript{313}

As regards Jerusalem, the Holy Father confirmed the need of an internationally guaranteed special statute that would render justice to the pluralistic character of

\textsuperscript{309} Cfr. Ibid., pp. 563-564. The Holy See's concern for the interests of non-Catholic Christians was reflected in concrete initiatives. For example, Paul VI explicitly said that the Holy See had coordinated with the Greek Orthodox Church and the Anglican Church regarding the status of the Holy Places and Jerusalem. Cfr. AAS LX(1968), p. 26.

\textsuperscript{310} "A questa tutela (dei Luoghi Santi) si aggiunge quella della popolazione cristiana, e l'interesse anche per quella non cristiana, araba ed ebraica della regione, perché anche così composita vi possa vivere liberamente e normalmente" (Ibid.).

\textsuperscript{311} AAS LXIV(1972), pp. 31-39.

\textsuperscript{312} Cfr. Ibid., pp. 37-38. The Holy Father alluded to the necessity of including the Palestinians in peace negotiations since they were the first ones to be affected by any decision and because they had the right to self-determination. In this respect, it is worth noting the emerging world opinion on the identity of the PLO. Born to wage a guerilla campaign against Israel, the PLO gradually strengthened its cause on the diplomatic level. This helped lead the international community little by little to accept the PLO as the legitimate representative of the Palestinian people. Cfr. G. IRANI, The Papacy and the Middle East. The Role of the Holy See in the Arab-Israeli Conflict, 1962-1984, op. cit., p. 28.

the Holy City and to the rights of the various communities which had established themselves in Jerusalem or simply came to the City as their spiritual center. 314

In its bid for a special statute, the Holy See excluded any solution merely based on extra-territoriality of Jerusalem, whereby the City might be adequately protected but would not be exempt from transformations (demographic, urbanistic, architectural, etc.) that would irreparably alter its sacred character. The point of divergence between Israel and the Holy See in this area can be deduced from the words of Israeli Foreign Affairs Minister Abba Eban clarifying what his government was willing to concede. In his letter addressed to the UN Secretary General, Eban affirmed that the interest of the international community for Jerusalem arose from the presence of the Holy Places in the City. Therefore, according to this argument, the problem was to assure the universal character of the Holy Places through mechanisms that would guarantee their control on the part of the various religious communities. 315

However, this policy of the Israeli Government tended to reduce the Jerusalem question to a matter of free access, something totally unacceptable to the Holy See. In fact, the latter's position as regards the protection of Jerusalem's unique religious character has fundamentally remained the same up to this day. 316

O. Ad E.mos Patres Cardinales, ad Romanae Curiae et Pontificalisque Domus Praelatos, per E.mum Sacri Collegii Decanum Summo Pontifici felicia ac fausta ominatos, Nativitatis Domini nostri Iesu Christi festo recurrente, 22 December 1972 317

For many years the Palestinian people yearned for recognition of their aspirations, not against but in harmony with the rights of other people. The progressive creation of situations — without an internationally recognized and guaranteed juridical basis — would only impede, rather than facilitate, an equal and acceptable

316 During the Symposium on Jerusalem held in the City on 29-27 October 1998, Archbishop Jean-Louis Tauran, the Holy See's Secretary for Relations with the States, reiterated the idea, thus: "E in gioco la questione fondamentale di tutelare e di proteggere l'identità della Città Santa nella sua interezza, sotto tutti gli aspetti. Per esempio, la semplice «extraterritorialità» dei luoghi santi, con la garanzia che i pellegrini possono visitarli senza incontrare ostacoli, non sarebbe sufficiente. L'identità della città possiede un carattere sacro che non appartiene solo ai singoli siti o monumenti, come se questi potessero essere separati l'uno dall'altro o isolati dalle rispettive comunità. Il carattere sacro riguarda Gerusalemme nella sua interezza, i suoi luoghi santi e le sue comunità con le loro scuole, gli ospedali e le attività economiche, sociali e culturali" (La Santa Sede e Gerusalemme, in «L'Osservatore Romano,» 2-3 novembre 1998, p. 8).
composition that took due account of the rights of everyone. This was needed especially in the Holy City of Jerusalem.318

The concerns raised by Paul VI call to mind the controversial urban development program of the Israeli Government in the 1970’s. In particular, the Municipal Council of Jerusalem approved in February 1971 a plan to construct housing units in the City’s suburbs. Consequently, there arose a ring of Jewish settlements on the hills around Jerusalem consisting of some 20,000 rooms destined to house 75,000 Jews. These measures drew sharp criticism owing to their discriminatory character especially against the Muslim and Christian populations. Israel was believed to be intent on pushing through with the Judaization of the City through the politics of fait accompli, gradually suffocating the minorities and forcing them to move out of the City.319 Besides, introducing physical and legal changes in a disputed territory only impeded the peaceful resolution of the problem.320

P. Audience of the Holy Father with Prime Minister Golda Meir, 15 Jan 1973321

Paul VI expressed anew the principal concerns of the Holy See for mainly humanitarian reasons: the problem of the refugees and the situation of the various religious communities in the Holy Land. The Holy Father also raised the issue of the Holy Places and the sacred and universal character of the City of Jerusalem.322

On her part, Golda Meir expressed the Israeli Government’s political will to seek peace through negotiation among the parties at war, the problem of terrorism, and the situation of Jewish communities in various parts of the world.323

Q. Ad E.mos Patres Cardinales, ad Romanae Curiae et Pontificalisque Domus Praelatos, per E.mum Cardinalem Aloisium Traglia, Sacri Collegii Subdecanum Summo Pontifici felicia ac fausta ominatos, Nativitatis Domini nostrri Iesu Christi festo recurrente, 21 December 1973324

318 "...il progressivo affermarsi di situazioni prive d’un chiaro fondamento giuridico, internazionalmente riconosciuto e garantito, non potrà che rendere più difficoltosa poi, anziché facilitarla, una equa ed accettabile composizione, che tenga il dovuto conto dei diritti di tutti: pensiamo qui, in particolare, alla Città Santa, Gerusalemme..." (Ibid., p. 24).
320 Cfr. J. KIFNER, The Holiest City, the Toughest Conflict, the Highest Stakes, op. cit., p. 12.
322 Cfr. Ibid., p. 28.
323 Cfr. Ibid.
The Pope referred to the war that had sparked up again in the Middle East (Yom Kippur War) in October and the Peace Conference that was to be held in Geneva under the auspices of the United Nations. He welcomed the latter as a positive development. The Holy Father added that, as it had always done in the past, the Holy See would closely follow the progress of events and maintain contacts with the protagonists and all those involved in the search for peace.325

The Roman Pontiff singled out the Palestinian question and expressed his preoccupation with the fate of this people who had suffered and continued to suffer since 1947. He was of course referring to the thousands of refugees expelled from their homes, who were reduced to desperate conditions and prevented from pursuing their legitimate aspirations.326

The Holy Father added that sometimes the cause of this people was brought to world attention through means that offended the peoples' civil conscience and that could never be justified.327 However, the cause they were fighting for certainly needed human consideration and a just response.328

In reference to the Jerusalem question, Paul VI insisted on the Holy See's posture: any eventual solution to the status of Jerusalem and of the Holy Places of Palestine should take into account the unique character of the City and the legitimate aspirations of the three great monotheistic religions of the world.329

The Pope observed that the policy stand of the Holy See in this regard — manifested many times to the international community — and the respect shown by the Government of Israel to the Holy See made him confident that the latter's voice would be heard should there be corresponding negotiations.330

325 Cfr. Ibid., p. 22.
326 "All'interesse generale e vivissimo per la pacificazione di quelle regioni, si unisce in noi la particolare preoccupazione...per le sorti di coloro che maggiormente hanno sofferto e soffrono per le vicende succedutesi dal 1947 ad oggi: pensiamo in particolare alle centinaia di migliaia di persone profughe dalla loro terra, ridotte a disperate condizioni di vita, o altrimenti contrastate nelle loro legittime aspirazioni" (Ibid., pp. 22-23).
327 This observation of Paul VI was made against the backdrop of an increasing sense of frustration among the Palestinians and the PLO's more frequent commando operations and terroristic activities carried out to vindicate its quest for a nation. Cfr. G. IRANI, The Papacy and the Middle East. The Role of the Holy See in the Arab-Israeli Conflict, 1962-1984, op. cit., p. 27.
329 Cfr. Ibid.
330 "L'interesse cortese già da tante parti manifestato per conoscere il pensiero della Santa Sede su tali questioni e la deferenza a noi dimostrata dalle Autorità d'Israele, ci fanno sicuri della possibilità di far convenientemente udire la nostra voce quando tali questioni saranno sottoposte a concreta discussione" (Ibid., p. 23).
The mention of possible negotiations corresponded to the fact that on the very same day that Paul VI delivered his Christmas Allocution, the Geneva Conference was opened to consolidate the peace truce that had been initially reached between Israel and Egypt following the Yom Kippur War. Delegates from the US, USSR, Egypt, Jordan, and Israel (Syria boycotted) participated in the Geneva Conference.331

**R. Eminensissimus Sacri Collegii Cardinalium Patribus, Summo Pontifici die Eius nominali felicia ac fausta omnantibus, 22 June 1974**332

The plight of the Palestinian people had to be addressed in a just and dignified way, the Pope said. For this, the Holy See encouraged all the parties concerned.333 However, the interventions of the Holy See were always guided by sentiments of friendship towards all the peoples in the region as it was equally sensible to the rights and legitimate aspirations of each party.

With respect to Jerusalem, the Pope wished that the City would not continue to be a motive of unending rivalries and claims, but would become a sign of peace and concord for the three great spiritual families.334

**S. Ad E.mos Patres Cardinales, ad Romanae Curiae et Pontificalisque Domus Praelatos, per E.mum Sacrii Collegii Decanum Summo Pontifici felicia ac fausta omnatos, Nativitatis Domini nostri Iesu Christi festo recurrente, 22 December 1975**335

In his Christmas message to the College of Cardinals in 1975, Paul VI directed his message to the State of Israel, saying that although the Holy See was conscious of the still very recent tragedies which had led the Jewish people to search for safe protection in a state of its own, sovereign and independent, and in fact precisely because it was aware of this, the Holy See would like to ask the sons of Jewish people to recognize the rights and legitimate aspirations of another people, which had also suffered for a long time, the Palestinian people.336

---

333 "Per parte nostra, non vorremmo mancare di incoraggiare tutti...nella ricerca di un modo giusto e dignitoso per sciogliere il nodo, tanto difficile e tanto doloroso, relativo alle sorti delle popolazioni palestinesi" (Ibid., p. 402).
334 Cfr. Ibid.
335 AAS LXVIII(1976), pp. 128-143.
336 "E benché consapevoli delle tragedie non lontane che hanno spinto il Popolo Ebraico a ricerca-re un sicuro e protetto presidio di un proprio Stato sovrano ed indipendente, anzi proprio perché di ciò siamo consapevoli, vorremmo invitare i figli di questo Popolo a riconoscere i diritti e le legittime aspirazioni di un altro Popolo, che ha anch'esso lungamente sofferto, la gente pale-stinese" (Ibid., p. 134).
In addition, the Holy Father addressed the crisis in Lebanon, saying that the peaceful coexistence during many years among the Christian and Muslim populations of the country was a reality known to everyone. If the crisis broke out, it was surely because of the pressure of external forces.\textsuperscript{337}

\textbf{T. Ad Excellentissimum Virum Mohamed Anwar El-Sadat, Reipublicae Arabicae Aegyptianae Praesidem, 8 April 1976}\textsuperscript{338}

The Pope encouraged the President to help find an equitable solution to the Palestine question, in which the Holy See had always shown humanitarian concern to defend the rights and dignity of the people concerned.\textsuperscript{339}

At the same time, the Roman Pontiff affirmed that any solution to the question of Jerusalem and the Holy Places should take into account the "millions of followers of the three great monotheistic religions."\textsuperscript{340}

Moreover, the Holy Father lamented the Lebanese Civil War saying that the crisis had found "its tragic place in the framework of the problem of peace in the Middle East...In addition to the deplorable destruction of human life, the civil war does incalculable harm to fraternal coexistence, and can have sad effects on Muslim-Christian relations in the entire region."\textsuperscript{341}

\textbf{U. Ad Exc.mum Virum Taofik Smida, Tunatanae Reipublicae apud Sedem Apostolicam liberis cum mandatis Legatum, crediti sibi muneric testes Litteras Summo Pontifici tradentem, 13 December 1976}\textsuperscript{342}

On the occasion of the presentation of credentials of the Ambassador of Tunis to the Holy See, Paul VI expressed his appreciation for the efforts of the Tunis Government to help achieve peace in the Middle East. The Pope also drew attention to the contributions of the Holy See in this respect, especially in what referred to the protection of the legitimate rights of the people and of the status of Jerusalem as a City of the three great monotheistic religions of the world.\textsuperscript{343}

\textbf{V. Ad Patres Cardinales et Romanae Curiae Pontificalisque Domus Praelatos, felicia ac fausta Summo Pontifici ominatos, instante sollemnitate Domini nostri Iesu Christi Nativitatis, 20 December 1976}\textsuperscript{344}

\textsuperscript{337} Cfr. Ibid., p. 135.
\textsuperscript{338} AAS LXVIII(1976), pp. 274-275.
\textsuperscript{339} Cfr. Ibid., p. 274.
\textsuperscript{340} Ibid., p. 275.
\textsuperscript{341} Ibid.
\textsuperscript{342} AAS LXVIII(1976) pp. 734-735.
\textsuperscript{343} Cfr. Ibid.
\textsuperscript{344} AAS LXIX(1977), pp. 37-46.
In the context of the Lebanese War as part of the larger Middle East crisis, the Holy Father reiterated the demand of the Holy See for an adequate solution to the problem of the Holy Places and the status of the City of Jerusalem. This problem had to be resolved as a matter of justice and as a necessary element of a solid peace.\textsuperscript{345}

\textbf{W. Ad Moysen Dayan, Israelis ab Exteris Negotiis virum ad eiusque comites, 12 January 1978}\textsuperscript{346}

In an audience granted to Israeli Prime Minister Moshe Dayan, Paul VI said that, in the context of on-going peace talks, "it is possible to reach solutions that combine the basic demands of both security and justice for all peoples of the area."\textsuperscript{347} The Holy Father wanted to make clear to the Israeli Government that measures designed to protect and defend the State of Israel were not necessarily incompatible with the need to respect the rights of the Palestinian people.

Another issue was the status of Jerusalem and the Holy Places. In this regard, the Pope reiterated the posture of the Holy See in the following words: "As your Excellency well knows, in the complex problem of the Middle East we have particularly at heart the question of Jerusalem and the Holy Places; and we fervently hope for a solution that will not only satisfy the legitimate aspirations of those concerned, but also take into account the pre-eminently religious character of the Holy City. We therefore trust that the proposal several times put forward by the Holy See, in view of the spiritual greatness of Jerusalem, will be seen as a positive contribution to such a solution."\textsuperscript{348}

\textbf{X. Ad Exce.mum Virum Anvarum El-Sadat, Praesidem Reipublicae Arabicae Aegyptianae, coram admissum, 13 February 1978}\textsuperscript{349}

The Roman Pontiff appreciated the President's recent efforts to help build peace in the Middle East. At the same time, however, he affirmed that the solution to the crisis in the region required various elements: the settlement of the Lebanese dilemma, the need to satisfy the legitimate longings of the Palestinian people, and the need to grant Jerusalem a juridical status — in conformity with its vocation as a center of peace where the local communities of the three great monotheistic religions could coexist in a peaceful equality of rights.\textsuperscript{350}

\textsuperscript{345} Cfr. Ibid., p. 39.
\textsuperscript{346} AAS LXX(1978), pp. 166-167.
\textsuperscript{347} Ibid., p. 166.
\textsuperscript{348} Ibid., p. 167.
\textsuperscript{349} AAS LXX(1978), pp. 253-254.
\textsuperscript{350} Cfr. Ibid., pp. 253-254.
Y. Ad Suam Maiestatem Hussein Ibn Tallal, Iordaniae Regem, 29 April 1978\textsuperscript{351}

The Pope recalled his unforgettable pilgrimage to the Holy Land in January 1964. The substance of the Holy Father's message is summarized in the phrase: "we...hope that a just end may be put to the sad situation of the Palestinians, and that Jerusalem, the Holy City for the three great monotheistic religions of Judaism, Christianity and Islam, may really become the «high place» of peace and encounter for peoples."\textsuperscript{352}

3.2.2 Apostolic Exhortation \textit{Nobis In Animo}, 25 March 1974\textsuperscript{353}

A. Christians in the Holy Land

The title of the document — \textit{De auctis Ecclesia e necessitatibus in Terra Sancta} — expressed in a nutshell the principal concern of the Holy See: guarantees for the continued presence of the Christians in the Holy Land. The very place where the Church was born, she could never afford to abandon. The Holy Land is the spiritual patrimony of all Christians, where the great events of human redemption took place. The Christian communities in the Holy Land have suffered numerous trials: internal divisions, external persecutions and emigration have weakened these communities to the point of losing their self-sufficiency. They are the seedbed of the Church extended throughout the world. If these communities disappear, the Christian Holy Places of the Holy Land would become like museums: \textit{Si præsentia ipsorum aliquando penitus deficeret,...Loca Sacra Christianorum sive in urbe Ierusalem sive per totam Terram Sanctam plane fierent museis similia.}\textsuperscript{354} Although Christianity is a universal religion not tied to a certain country, it is based on a historical revelation. \textit{Iuxta «historiam salutis» nimimum constat «geographiam salutis» adesse.}\textsuperscript{355}

The Holy Father then traced the presence of Christians in the Holy Land from the earliest times and the invaluable works of charity they had carried out over the centuries. Unfortunately, the local church had been deprived of material

\begin{itemize}
\item \textsuperscript{351} AAS LXX(1978), pp. 335-336.
\item \textsuperscript{352} Ibid., p. 336.
\item \textsuperscript{353} AAS LXVI(1974), pp. 177-188.
\item \textsuperscript{354} Ibid., pp. 180-181. A singular project showed the importance of this problem in the Holy See's scale of priorities. On 1 October 1973, the Bethlehem University was opened. The idea behind the project was to create a center of educational and cultural formation for the Palestinian youth, thereby preparing the seeds of future leaders and at the same keeping the younger Christian population from leaving their land. This was a long-term investment ultimately aimed at maintaining the Christian presence in the Holy Land. Cfr. G. IRANI, \textit{The Papacy and the Middle East. The Role of the Holy See in the Arab-Israeli Conflict, 1962-1984}, op. cit., pp. 32-33.
\item \textsuperscript{355} AAS LXVI(1974), p. 181.
\end{itemize}
means and had suffered the grave consequences of war that had been raging for decades.356

B. Universal Patrimony

Just as he had done in the past, the Pope highlighted once more the unique value of Jerusalem and the Holy Places as a patrimony of a great part of humanity: ad illum beatissimam Terram, maxime vero Jerusalem, aspiciunt at confluunt tamquam ad suum ciusque spirituale centrum, non solum christianae communitates, acatholicis haud exceptis, sed etiam Hebraeorum atque Muslimorum multitudines.357 The presence of Christians in the Holy Land, together with the Jews and the Muslims, can be a factor of concord and peace.

C. Civil and Human Problem

Beyond the purely religious concerns, the problems in Palestine also assumed a civil and human character, as these put at stake the lives of the diverse communities in the region. In this respect, the document quoted Paul VI's Allocution to the Sacred College of 22 December 1975 in which the Holy Father warned against the politics of fait accompli, whereby measures without internationally-sanctioned juridical basis were taken, thereby hindering any solution respectful of the due rights of all the parties concerned.358 The Holy See hoped that a just peace be achieved in the region, whereby the rights and legitimate aspirations of the people concerned were recognized.359

D. Non-Political Motives

The Holy See's initiatives (on the Palestine question) was motivated purely by religious and auxiliary considerations. However, it could not desist from pointing out the importance of the question of Jerusalem and the Holy Places — matters that had been taken up in other solemn pontifical documents.360

3.2.3 Other Documents: Discourses, Declarations and Letters

A. Summi Pontificis Peregrinatio in Palaestinam, 4-6 January 1964 361

The visit of Paul VI to the Holy Land was of a spiritual character; it was a pilgrimage362 to the Holy Places found in the territories of Israel and Jordan. How-

356 Ibid., pp. 181-186.
357 Ibid., p. 183.
358 Cfr. Ibid., p. 177.
359 Cfr. Ibid., p. 185.
360 Cfr. Ibid., p. 186.
362 "Nous ne sommes guidé dans cette visite par aucune considération qui ne soit d'ordre purement spirituel. Nous venons en pèlerin; Nous venons vénérer les Lieux Saints; Nous venons
ever, the Pope's brief stay in Israel was significant especially since he was officially received on June 5 at Megiddo by the State President, Zalman Shazar and Prime Minister Levi Eshkol, along with other Israeli dignitaries. In his address to the President, Paul VI expressed his hope for peace in the Middle East region and the reconciliation among peoples. More importantly, he talked of the need to respect religious freedom during his farewell address at the Mandelbaum Gate, wishing that the Catholics who lived in the Holy Land would continue to enjoy the rights and liberties that were normally recognized in all peoples.364 The next day, the Roman Pontiff continued his pilgrimage to Bethlehem (then a Jordanian territory), where he delivered a message addressed to the whole world. Religious freedom and the peaceful coexistence of Christians with other religions in the Holy Land were given special emphasis. If the world felt itself a stranger to Christianity, the Pope said, Christianity did not feel itself a stranger to the world, no matter under what aspect the world presented itself to Christianity and regardless of its attitude to this religion.365 He added that the Church asked nothing more than the freedom to profess the Christian religion and to propose this belief to those who were ready to accept it freely.366

B. Message, Ad Maiestatim Suam Hassan II, Mauritaniae Regem, nun-tio accepto, cum in urbe Rabat principes Mahumeda- nurom gentium coetum haberent, 21 September 1969367

The Pope acknowledged the letter he had received from King Hassan on the occasion of the Pan-Islamic Conference. The event afforded the Holy Father an opportunity to express once again the position of the Holy See: the need to safeguard the unique and sacred character of the Holy Places and of Jerusalem through an agreement among the representatives of the three monotheistic relig-

363 The only passageway that linked Israel and Jordan during the period 1948-1967, opened mainly to allow border crossing of international officials and Christian clergy. Cfr. J. KIFNER, The Holiest City, the Toughest Conflict, the Highest Stakes, op. cit., p. 9.

364 "Nous formons les meilleurs vœux pour vous...Nous plaissant à penser que Nos fils catholiques, qui vivent sur cette terre, continueront à y jouir des droits et des libertés aujourd’hui habituellement reconnus à tous” (AAS LVI(1964), p. 171). The Holy Father expressed a similar idea to King Hussein of Jordan the day before, manifesting his trust that Catholics in that country would be free to exercise their religious freedom. Cfr. AAS LVI(1964), pp. 446-447.

365 "Si le monde se sent étranger au christianisme, le christianisme ne se sent pas étranger au monde, quel que soit l’aspect sous lequel ce dernier se présente et quelle que soit l’attitude qu’il adopte à son égard” (AAS LVI(1964), p. 177).

366 "Nous ne demandons rien, sinon la liberté de professer et de proposer à qui veut bien, en toute liberté, l’accueillir, cette religion, ce lien nouveau instauré entre les hommes et Dieu par Jésus-Christ, notre Seigneur” (Ibid., pp. 176-177).

ions. The sad episode of the Al Aqsa Mosque engulfed in flames only highlighted the urgent need to take action towards this end.\textsuperscript{368}

The Holy See explored ways of strengthening its relations with the Arab-Islamic countries especially in view of the presence of Christian populations in these regions. Channels of dialogue were opened such as the Commission for Religious Relations with Islam (established in October 1974),\textsuperscript{369} fruit of Nostra Aetate, which states that the Church has also a high regard for the Muslims who worship the one God, strive to submit themselves to His hidden decrees, link their own faith to that of Abraham, venerate Jesus as a prophet, honor His Virgin Mother and await the day of judgement and the reward of God following the resurrection of the dead. The document further states that, in the interest of peace and justice, the Second Vatican Council invited all to forget dissensions between the Christians and the Muslims in the past centuries and work to achieve mutual understanding.\textsuperscript{370} In addition, the Holy See has established diplomatic relations with such Arab-Islamic countries as Sudan, Iran, Kuwait, Morocco, Pakistan, Syria, Tunisia, Iraq, Egypt, Lebanon and Turkey.\textsuperscript{371}

C. Common Declaration, A Summo Pontifice Paolo VI et a S.S. Shenouda III, Patriarcha Sedis Sancti Marci Alexandrianae, subscripta, 10 May 1973 \textsuperscript{372}

The relevant part of the Common Declaration states: "Our thoughts reach out to the thousands of suffering and homeless Palestinian people. We deplore any misuse of religious arguments for political purposes in this area. We earnestly desire and look for a just solution for the Middle East crisis so that true peace with justice should prevail."\textsuperscript{373}

On the occasion of the 25th anniversary of the Universal Declaration of Human Rights, Paul VI sent a message to Leopoldo Benites, President of the 28th General Assembly of the United Nations. The message can be summarized as follows: The Holy Father had great confidence in the initiatives of the United Nations to defend human rights and promote world peace. Human rights are related to peace as a cause is related to its effect. The Church would never fall indifferent to the rights of men and so the Holy See gave its full moral support to the common ideal contained in the Universal Declaration.

Sometimes international collaboration to promote human rights was interpreted as an encroachment on the internal affairs of a state. However, common international effort was the best means for a state to defend itself against external pressures and guarantee its fundamental rights. But it would be sad if the Universal Declaration on Human Rights would remain as an abstract body of doctrine, unable to face contemporary problems such as racial and ethnic discrimination, the obstacle to self-determination of a people, the violation of religious freedom and the lack of international consensus to sustain it, etc.375

Although the Message of the Pope did not single out a specific problem such as the Palestine question, it served as a doctrinal umbrella to all his interventions on this issue. Indeed, the same demand for respect for the Palestinian people's fundamental rights constituted the common thread of his policy statements on the question.


On the occasion of the 25th anniversary of the Pontifical Mission for Palestine, the Pope wanted to express words of gratitude for its activities in the past years "on behalf of the peoples of Palestine."377 For this reason, he sent a letter to the President of the Mission, Monsignor John G. Nolan, in which the Roman Pontiff recalled the motive behind the existence of the Pontifical Mission — that of ensuring the welfare of the Palestinians, many of whom were followers of Christ and

375 Together with the Message of Paul VI, the Pontifical Commission on Justice and Peace issued a Joint Communiqué on 7 December 1973 to commemorate the same event. The contents of the Communiqué are very much in line with the message of the Holy Father. Cfr. *Un Comunicato Congiunto delle «Iustitia et Pax» e del Consiglio Ecumenico delle Chiese*, in «L'Osservatore Romano», 8 dicembre 1973, pp. 1 and 3.
377 Ibid., p. 441.
continued to suffer hard trials. The Pope expressed his support for their legitimate aspirations, especially those of the refugees who had been living under inhuman conditions for years.\textsuperscript{378}

The Pope went on to say that the difficult situation of Palestinians had caused frustration and had led many of them to resort to violent acts of protests that the Holy See could not but deplore. Here he expressed once again his disapproval of acts of violence perpetrated by Palestinian activists as a manifestation of their quest for a nation. At the same time, however, the Pope encouraged them to "look to the future with a constructive, like-minded and responsible attitude, as the hope becomes ever stronger that their particular problems will be discussed and that a solution to them will be found during the current general negotiations for peace in the Middle East."\textsuperscript{379}

The letter continued saying that the Pontifical Mission for Palestine would continue to help those who had suffered from the conflicts, regardless of their nationality or religion. The Mission should continue to collaborate in programs of help, rehabilitation and development of the Palestinian people.\textsuperscript{380}

3.3 Attitude of the Holy See towards the State of Israel

3.3.1 Declaration \textit{Nostra Aetate}, 28 October 1965: A New Era in Christian-Jewish Relations

In the course of the Second Vatican Council, Paul VI officially announced his decision to make a pilgrimage to the Holy Land. The specific context of the Pope's spiritual journey points to the enormous importance of the Ecumenical Council in the evolving attitude of the Holy See towards the State of Israel.\textsuperscript{381}

\begin{flushleft}
\textsuperscript{378} "The action of the Pontifical Mission for Palestine has been a clear sign of the concern of the Holy See for the plight of the Palestinians, particularly dear to us because they are a people of the Holy Land, they include followers of Christ and they have been and are tried tragically. We express again our heartfelt sharing in their sufferings and our support for their legitimate aspirations" (Ibid.).

\textsuperscript{379} Ibid.

\textsuperscript{380} Cfr. Ibid., p. 442.

\end{flushleft}
In effect, on 28 October 1965, the Second Vatican Council issued the Declaration *Nostra Aetate*, which is considered a milestone in the history of Christian-Jewish relations. The document clarified definitively the official teachings of the Catholic Church on the Jews. In particular, *Nostra Aetate* recalled the origin of the Church in the patriarchs, Moses and the prophets; the reconciliation of the Jews and the gentiles in Christ and the Jewish descent of the Apostles. Conscious of the common spiritual heritage of Christians and Jews, the Council affirmed that "even though the Jewish authorities and those who followed their lead pressed for the death of Christ (cf. John 19, 6), neither all the Jews indiscriminately at that time, nor the Jews today, can be charged with the crimes committed during his passion." The Declaration further states that while "it is true that the Church is the new People of God, yet the Jews should not be spoken of as rejected or accursed as if this followed from holy Scripture." *Nostra Aetate* certainly represented a positive development in the orientation of the Catholic Church towards the Jews and served as the principal basis to build mutual understanding and rapport in later years. To flesh out this new orientation, the Holy See and the Holy Father himself constantly reached out to the Jewish community and made the Catholic community aware of the consequences of *Nostra Aetate*. Moreover, the Commission for Religious Relations with the Jews published an important document in January 1975 called *Guidelines and Suggestions for Implementing the Conciliar Declaration Nostra Aetate (no. 4)* which, as its title suggests, had the aim of concretizing and implementing the broad indications of the Second Vatican Council regarding the correct teachings of the Church regarding the Jews.

### 3.3.2 A Theological Document

---

382 Declaration *Nostra Aetate*, no. 4.

383 Ibid. A supporting text can be found in the Dogmatic Constitution *Lumen Gentium* (no. 16) which affirms the continuing validity of God's covenant with the Jews. The document states that "those who have not yet received the Gospel are related to the People of God in various ways: There is, first, that people (the Jewish people) to which the covenants and promises were made, and from which Christ was born according to the flesh (cf. Rom. 9:4-5): in view of the divine choice, they are a people most dear for the sake of the fathers, for the gifts of God are without repentance (cf. Rom. 11:28-29)."

384 The "new mind" of the Church is fundamental in that, henceforth, the Holy See, as the organ of government of the Catholic Church and subject of international law, would be seen with a "new face" by the State of Israel.


387 Cfr. AAS LXVII(1975), p. 73.
The Jews welcomed *Nostra Aetate* as a great step forward and considered it as a turning point in Christian-Jewish relations after centuries of cold indifference.\textsuperscript{388} Understandably, many Jews expected that with the giant step made by the Catholic Church to improve Christian-Jewish relations, the Holy See would soon exchange ambassadors with the State of Israel. However, this did not happen until almost thirty years later.\textsuperscript{389}

The key to understanding the apparent delay lies in the distinction that exists between the theological and the juridico-political — a necessary premise to grasp well the policy of the Holy See with respect to the State of Israel. On the theological plane, the Catholic Church deals with the Jewish authorities on questions of theological nature (i.e., questions concerning Christian-Jewish relations, the bond between Judaism and Christianity, etc). On the juridico-political level, it is the Holy See, in its capacity as the organ of government of the Catholic Church and subject of international law\textsuperscript{390} that deals with the State or Government of Israel as another subject of international law, on legal and political matters.

The itinerary of the Conciliar text that ended up as *Nostrae Aetate* might have been fraught with tensions owing to the political underpinnings of the sub-


\textsuperscript{389} The delay brought a certain disillusionment among many Jews and has been taken to mean sometimes as a lack of seriousness on the part of the Catholic Church to "shake hands" with them. Cfr. M. PESCE, L’"Accordo Fondamentale tra la Santa Sede e lo Stato di Israele" del 30 Dicembre 1993 e la Questione di Gerusalemme, in «Humanitas» I, febbraio 1994, p. 22. and J. MARITAIN, Antisemitism, New York 1939, p. 20.

\textsuperscript{390} For a brief synthesis on the topic of international juridical personality of the Catholic Church and the Holy See, see L. CHIAPPETTA, *Prontuario di Diritto Canonico e Concordatario*, Roma 1994, p. 898.
The very contents of *Nostra Aetate* (no. 4) reveal its strictly theological character in the following words: "Remembering then her (the Church's) common heritage with the Jews and moved not by any political consideration, but solely by the religious motivation of Christian charity, she deplores all hatreds, persecutions, displays of antisemitism leveled at any time or from any source against the Jews."

In addition, this same idea has been emphasized unequivocally by Cardinal Bea, then Secretary of the Secretariat for Christian Unity, in his Address to the Council Fathers in November 1963: "Before all else let us say what we are not talking about. There is no national or political question here. In particular, there is no question of recognition of the State of Israel by the Holy See. None of such questions are dealt with or even touched upon. The schema treats exclusively of a purely religious question."

It is precisely in the light of the theological character of *Nostra Aetate* that the document, for all its merits in the interest of Jewish-Christian dialogue, was not immediately accompanied by equally bold political overtures on the part of the Holy See. The latter was a completely different matter involving a host of convoluted issues. The Holy See underscored this point by saying that, while it deeply respected the State of Israel and understood the particular attachment of the Jews to the Land of their forefathers, it believed at the same time that religious dialogue should be considered as distinct from the sphere of politics.


Cfr. Dichiarazione del Direttore della Sala Stampa della Santa Sede, Dr. Joaquín Navarro-
3.3.3 Impact of Nostra Aetate

Despite its strictly theological nature, Nostrae Aetate helped prepare the ground for the progress — at its proper pace — of the relations between the Holy See and the State of Israel in two ways: indirectly, through religious dialogue that run parallel to (though distinct from) political contact, and more directly, in terms of the language or terminology used by the Holy See in reference to Israel. The former falls beyond the scope of this study, the latter is reflected in the policy statements of the Holy See.

In particular, the existence of Israel as a State has been acknowledged more and more in the public interventions of the Roman Pontiffs since the mid-1970's. However, such policy statements have been expressed in the context of the fundamental issues that had always formed the basis of the de facto relations of the Holy See with Israel. As it were, the recognition of the right of the Jews to found a State was always accompanied by a parallel call for Israel to recognize, as a matter of human justice, the legitimate aspirations of the Palestinian people.

Thus, in the already cited Allocution of Paul VI to the College of Cardinals on 22 December 1975, he directed himself to the State of Israel, saying that precisely because the Holy See was conscious of the still very recent tragedies (i.e., the Holocaust of the Jews under the Nazis) which had led the Jewish people to search for safe protection in a state of its own, sovereign and independent, it would like to ask this people to recognize the rights and legitimate aspirations of another people, which had also suffered for a long time — the Palestinian people.395

The importance of this statement rested on the fact that Jewish aspirations to found the State of Israel was publicly acknowledged for the first time by the Holy See. The use of the terms «sovereign» and «independent» to qualify the «State of Israel» was, by far, the clearest public pronouncement of the Roman Pontiff in this respect. However, the same reasons that justified the Jewish cause to build a nation — security and justice — were invoked by the Holy Father to uphold the rightful demands of the Palestinians. Peaceful coexistence between the two peoples was required by human justice and was the cornerstone of a stable peace in the Middle East.

Moreover, the various official contacts between the Holy See and the Israeli Government — in the context of which many policy statements of the Holy Father

---

were pronounced — constituted an implicit recognition on the part of the Holy See that it was dealing with State representatives. The same contacts, though, were occasions for the Holy See to formally ask the State of Israel to pay heed to the just demands of the Palestinian people.

The significance of these developments can be better understood in the light of the fact that, whereas Pius XII opted to remain silent on the existence of Israel as a State and limited his public interventions to the questions of Jerusalem and Palestine, Paul VI explicitly mentioned Israel as a Jewish State and in a way linked to the Palestine question. The emerging trend was clear: the attitude of the Holy See towards the State of Israel evolved in the context of the fundamental issues.

3.4 FUNDAMENTAL ISSUES

3.4.1 The Palestine Question

The numerous interventions of Paul VI on the Palestine question were symptomatic of the weight this problem had in the Holy See's diplomatic agenda, decades after the issue first arose. The Pope's explicit and repeated appeals to the United Nations and the Middle East leaders, the clarity with which he expressed the policy posture of the Holy See to Israeli officials, his visit to the Holy Land, his promptness to endorse positive developments such as the Geneva Conference or to react to new crises like the Lebanese Civil War — were more than sufficient indications that the Holy See sought the just and definitive settlement of the Palestine question.

Paul VI was categorical in saying that the aspirations of the Palestinian people was a just cause and should therefore be heard and taken into consideration (without this implying a justification of their recourse sometimes to violent means to promote such cause). In this respect, Paul VI went a step farther than Pius XII, in whose time the political circumstances did not permit an articu-
lation of the Holy See's posture beyond a call for repatriation of Palestinian refugees. In other words, the policy statements of the Holy See during the Pontificate of Paul VI presented the Palestine question not so much as a humanitarian problem but as a fundamental right of a people to self-determination.

This policy posture was not a show of partisanship on the part of the Holy See. Its active interventions on this mainly political question were rather a sign of an awareness that the right vindicated by the Palestinian people was a requirement of human justice and the basis of an enduring peace. In consonance with the Holy See's non-political stance, the role it played on the Palestine question continued to be one of conciliator — that of serving as a bridge of amicable contacts between the Israelis and the Arabs. At the same time, this implied that the solution to the Palestine question would have to come from the parties in conflict through negotiations (hence, the appeal to Israeli and Arab leaders), aided perhaps by the mediatory efforts of international organizations such as the United Nations (hence, the appeal to the international community). Therefore, like Pius XII, Paul VI called for a just settlement of the problem without specifying the means to solve it, this being the task of the political authorities concerned.

3.4.2 The Jerusalem Question

A. New Policy Formulation

Paul VI placed more emphasis on the multilateral policy framework than the bilateral components of the Jerusalem question. Issues itemized in *In Multiplicibus Curis* and *Redemptoris Nostri* such as free access to the Holy Places, freedom of worship and maintenance of the Christian status quo were certainly expressed in one way or another in the policy statements of Paul VI, but in a way overshadowed by a strong accent on the need for international guarantees. The Pope's main preoccupation was the protection of Jerusalem and the Holy Places in their integrity as the patrimony of the three great monotheistic religions of the world. Free access and freedom of worship (problems that, in principle, could be dealt bilaterally with Israel) would have little sense if the Holy Places themselves were not adequately safeguarded — precisely through the multilateral legal scheme.

A slight modification with respect to Pius XII may be observed in the specific form of the multilateral solution proposed by Paul VI. The latter did not insist on the need for a corpus separatum or the territorial internationalization of Jerusalem and its outskirts, the way it had been formulated in *In Multiplicibus Curis* and *Redemptoris Nostri*. Instead, Paul VI called for a functional internationalization (See Chapter 2) — a special juridical statute for Jerusalem and the Holy Places guaranteed at the international level.

---

399 For the same reason, the Pope's interventions were made not only on behalf of Christian but also of Islamic Palestinians.

400 Under the new circumstances, functional internationalization accompanied by international
The new policy formulation of the Holy See in this regard is significant for two reasons. In the first place, Paul VI sought to adapt the demands of the Holy See to the changing historical circumstances without departing from the original multilateral course. Indeed, territorial internationalization and functional internationalization were two variants within the same multilateral policy framework.\textsuperscript{401} To this extent, Paul VI continued the road taken by Pius XII.

In the second place, the same change in policy formulation points to the fact that the multilateral framework followed by the Holy See allowed for a certain flexibility. The original intent to protect the Holy Places and the rights of the communities through a corpus separatum could give way to alternative formulas to achieve the same goals. As it were, the Holy See showed an attitude of openness to solutions which, distinct as it might be from the hypothesis of a corpus separatum, would equally serve the purpose of safeguarding the Christian interests in the Holy Land.\textsuperscript{402} Just as Pius XII knew that the territorial internationalization of Jerusalem was the best way to protect the Holy Places in praesentibus rerum adiunctis,\textsuperscript{403} so also Paul VI was aware that functional internationalization was the best means to achieve the same end at this historical juncture of his Pontificate. In the ultimate analysis, the policy modification implied that the Holy See’s multilateral policy approach (both in its original form of corpus separatum and its new form of special statute) was but a means adopted to pursue a set of ends.

\textbf{B. Against the Current}

The firm steps of the Holy See along the multilateral direction appeared in stark contrast to the emerging trends with respect to the Jerusalem question both in the international as well as local political ambits.

---


In the 1950's and 1960's, the international community gradually set aside its claim for a corpus separatum as many countries began to consider it unnecessary in the face of new political developments such as Israel's foothold in East Jerusalem following the Six-Day War of 1967. The question of Jerusalem was viewed more and more as an internal matter within the broader issue of the Israeli-Arab conflict. Less accent was given to the City's religious character in favor of a more political consideration such as Israel's territorial occupation of Arab areas. "Between 1953 and 1967 Jerusalem was discussed only rarely at the UN. Up to 1967, then, the legal formulations of the international community through the UN were being disregarded in the face of the political realities of the divided land and the divided City." Thus, the UN rejected on 4 July 1967 a proposal to reaffirm the internationalization of Jerusalem and approved instead Pakistan's proposed resolution which merely asked Israel to repeal all measures taken and to abstain from undertaking new projects that would alter the status of the Holy City.

With the exception of France and Belgium, European countries paid scant attention to the hypothesis of corpus separatum, rallying themselves behind the United States which limited its petition to ask Israel to recognize the special interest of the three great religions regarding the Holy Places of Jerusalem, without making any reference to its internationalization.

The shift in focus of the international community was not just from corpus separatum to another type of multilateral solution, as in the case of the Holy See. Rather, it was a case of setting aside the multilateral scheme itself in so far as the religious character of Jerusalem and the Holy Places was concerned.

---


408 The policy of the United States after 1967 is described in S. ADLER, the United States and the Jerusalem Issue, in «Middle East Review», Summer 1985, pp. 45-53.

409 It is important to clarify that, although there was a diminishing international support for the question of Jerusalem the way it was originally conceived (i.e., a problem of protection of the religious character of Jerusalem and the Holy Places as well as the rights of the religious minorities), international interest for the political status of Jerusalem was vibrant especially after the Six-Day War. Cfr. D. JAEGER, Paul VI in Defence of Christian Rights in the Holy Land, op.
emerging trend was to find solutions that were acceptable to the conflicting parties but not necessarily favorable to Christian interests.\footnote{410} The silence of the UN with respect to the legal status of Jerusalem and the Holy Places betrayed its eroding will to continue its original objective.\footnote{411}

In non-Catholic religious circles, the question of Jerusalem was viewed in different ways. In general, Protestant confessions were not very keen on pushing the cause of the internationalization of Jerusalem as they saw little chances of success. They were prepared to go no farther than to seek a solution similar to the functional internationalization proposed by the Israeli government since 1950. The National Council of the Churches of Christ called for an international presence at Jerusalem. The Ecumenical Council of Churches (ECC), the World Council of Churches (WCC) and the Federation of Protestant Churches in France all limited their petitions to international guarantees for free access to the Holy Places. The Anglican Church remained silent, while the majority of the Orthodox Churches opposed the internationalization of Jerusalem.\footnote{412}

2. Local Scene

The waning support for a multilateral scheme in diplomatic circles was compounded by unfavorable changes taking place swiftly in Israel and the Palestinian territories. As discussed earlier, the State of Israel amplified its territory to include East Jerusalem right after its military triumph in 1967. To tighten the country’s grip on this area, military occupation was soon followed by the construction of Jewish settlements and a series of legislation designed to integrate the Arab sector into the Israeli political order. Despite the barrage of protests from the UN and the Holy See, the annexation of East Jerusalem was a \textit{fait accompli} that was to remain up to this day.

The Arab countries have likewise scrapped the hypothesis of \textit{corpus separatum} and demanded instead a return to \textit{status quo ante bellum}, when they had control over East Jerusalem, Judaea, Samaria, Gaza, the Sinai Peninsula and the Golan heights — areas all conquered by Israel.\footnote{414} In a conference in Lahore in February 1974, the Islamic States determined to recover all the territories of the Palestinian people and restore the Arab sovereignty over Jerusalem,\footnote{415} excluding the

\begin{footnotesize}
\begin{enumerate}
\item \footnote{410} \textit{Cfr. S. FERRARI, Vaticano e Israele. Dal secondo conflitto mondiale alla guerra del Golfo, op. cit., p. 192.}
\item \footnote{411} \textit{Cfr. D. JAEGGER, Paul VI in Defence of Christian Rights in the Holy Land, op. cit., p. 13.}
\item \footnote{412} \textit{Cfr. S. FERRARI, Vaticano e Israele. Dal secondo conflitto mondiale alla guerra del Golfo, op. cit., p. 193-194.}
\item \footnote{413} \textit{Cfr. B. COLLIN, Rome, Jerusalem et les Lieux Saints, op. cit., p. 124.}
\item \footnote{414} \textit{Cfr. E. HIRSCH (ed.), Facts About Israel, op. cit., p. 38.}
\item \footnote{415} Four years later, in a historic visit to Israel, Egyptian President Anwar Sadat spoke to the Knesset: “There are Arab territories which Israel has occupied and still occupies by armed for-
\end{enumerate}
\end{footnotesize}
status of the City from any bargaining or concession. 416 Hence, if the Arab States (except Jordan) supported the internationalization of Jerusalem after the 1948 War in the hope of preventing Israel's hold on any part of the City, they now opposed the same idea in the hope of recovering the eastern part of the City (and the rest of the West Bank) which they had lost altogether in the 1967 War.

C. Lone Voice

Therefore, in its bid to settle the Jerusalem question through the multilateral scheme, the Holy See found itself sailing alone and against the current. Nevertheless, neither the lack of international support nor the opposition of Israel and the Arab countries veered the Holy See off its multilateral policy course. On the contrary, it took a more active role by re-proposing to the international community the complex problems of the Holy Land in a way that appeared feasible as a solution. 417

In this regard, Israel's annexation of East Jerusalem was particularly significant in that it constituted an attempt to resolve the Jerusalem question in a unilateral way, excluding the annexed areas from any future discussion and peace negotiations. 418 The Israeli formula of unification of Jerusalem turned out to be an exercise of its sovereignty over an Arab territory, accompanied by legislative, economic, fiscal and urbanistic measures that impressed more and more a «particularistic» character on an otherwise universal City. 419 This solution could not be farther from the Holy See's steadfast efforts to settle the matter by way of international consensus. 420 This explained the constant appeal of Paul VI to world leaders and Israeli officials so that Jerusalem and the Holy Places might be accorded an internationally guaranteed special juridical statute in keeping with the City's pluralistic religious character. In other words, Paul VI underscored the importance of the multilateral solution in the face of Israel's tendency to impose a unilateral solution.

3.4.3 The Fundamental Issues and De Facto Relations

During the Pontificate of Paul VI, de facto relations between the Holy See and the State of Israel were notably increased. To begin with, there were numerous visits to the Vatican of high-ranking Israeli government officials such as Foreign Minister Abba Eban (1969), Prime Minister Golda Meir (1973), Tourism Minister Moshe Kol (1975) and Foreign Minister Moshe Dayan (1978). The Israeli Government likewise sent official delegation to the funeral of Pius XII, the opening and the closure of the Second Vatican Council and the funeral of John XXIII.421

Moreover, apart from the meeting of the Holy Father with the Israeli President and other officials during the Pope's 1964 pilgrimage, the Holy See established direct contacts with Israel such as the mission in 1967 of Monsignor Angelo Felici, the then Sub-Secretary of the Sacred Congregation for Extraordinary External Affairs, to get first-hand information on the situation in the Holy Land and find out the position of the local civil authority.422

These official contacts afforded the Holy See fitting occasions to express its policy posture on the Palestine and Jerusalem questions to the Israeli Government.

A. The Palestine Question

The demand of the Holy See for a final settlement of the Palestine question weighed upon the world leaders, but especially the Israeli Government. The insistence of the Holy Father in this respect can be explained in the light of the continuing migration of Palestinians and the reported expansion of Israeli territories by way of settlements.423 Specific rights guaranteed by the Jewish State, such as the right to freedom of worship, would be senseless without people to worship in the first place.424 The emergence of Israel as an imposing power-holder in Palestine especially after 1967 gave the Holy See all the more reason to make Israel bear the «consequences» of its military conquests. However, as noted earlier, the Holy See demanded a solution to the Palestine question without proposing a con-

423 Cfr. Historical Context of this Chapter.
crete policy approach since this was incumbent upon political leaders, particularly the Israeli Government. Hence, as was in the case of Pius XII, the relations of the Holy See with the State of Israel under Paul VI were affected by the Palestine question mainly by the end pursued by the Holy See: justice to the Palestinian people, concretized in the effective recognition of their right to self-determination.

B. The Jerusalem Question

Unlike the Palestine question, the Jerusalem question affected the relations of the Holy See with the State of Israel mainly by virtue of the means proposed: the multilateral scheme.

As can be verified in the above policy statements, Paul VI expressed in clear terms to the Israeli leaders that the only way to preserve satisfactorily the religious and historical physiognomy of Jerusalem and the Holy Places was through a juridical statute sanctioned at international level. Here appeared an interesting paradox that highlighted the unswerving stand of the Holy See in favor of the multilateral approach to the Jerusalem question. On the one hand, the increasing contacts between the Holy See and the State of Israel helped strengthen their relations on the bilateral level. On the other hand, these same bilateral contacts were opportunities for the Holy See to reaffirm its bid for a multilateral solution to the Jerusalem question.

As it were, the Holy See made use of bilateral channels not with the end view of establishing full diplomatic relations with Israel (i.e., elevating to de jure level their de facto relations), but rather to strengthen the former's multilateral policy approach. Hence, as in the case of Pius XII, the Jerusalem question affected the relations of the Holy See with the State of Israel basically by virtue of the means adopted by the former: multilateral scheme and, more specifically under Paul VI, a functional internationalization or, in the language of the Holy See, an internationally guaranteed special juridical statute for Jerusalem and the Holy Places.
3.5 **SYNTHESIS**

The Pontificate of Paul VI was characterized by a policy line in continuity with that adopted by Pius XII on the Palestine and Jerusalem questions. However, Paul VI introduced slight changes and reformulated the policy statements to adapt to new historical circumstances.

As regards the Palestine question, Paul VI vigorously called for justice to the Palestinian people, understanding «justice» not only as repatriation of refugees but as a fundamental right to self-determination and coexist peacefully with the State of Israel. True to its impartiality, the Holy See's interventions in such a mainly political question were not motivated by political considerations. Rather, these were manifestations of its awareness that the Palestine question was fundamentally a matter of human justice which the Apostolic See was bound to uphold as her moral duty. For this reason, the Pope defended the rights of not only Christians but all the peoples discriminated in the region.

The settlement of the Palestine question was not to come from the Holy See — notwithstanding its active interventions — but from the parties concerned. Hence, the Roman Pontiff did not propose a concrete policy approach to the problem, this being the proper competence of the political authorities. Consequently, as a diplomatic agenda of the Holy See with the State of Israel, the Palestine question affected the relations between the two parties mainly by the end pursued by the former: «justice» concretized in the effective recognition of the legitimate aspirations of the Palestinian people.

With respect to the Jerusalem question, Paul VI gave more emphasis on the multilateral framework than the bilateral components of the problem. His main preoccupation was the protection of the Holy Places in their integrity as a necessary condition for the effective exercise of specific rights such as freedom of worship and the maintenance of the *status quo*. Only in this way could Jerusalem and the Holy Places become truly a patrimony of the three great monotheistic religions of the world. Efforts towards this end stood in sharp contrast to the declining support for a multilateral scheme in the international community, the opposition of the Arab countries and above all, the tendency of Israel to impose a unilateral solution to the Jerusalem question.

There was a slight modification in the Holy See's policy formulation in the sense that it no longer insisted on the territorial internationalization of Jerusalem originally proposed by Pius XII. Instead, Paul VI asked for functional internationalization by means of an internationally guaranteed special juridical statute that would safeguard the unique character of Jerusalem and the Holy Places. However, the change did not imply a departure from the multilateral approach of Pius XII since *corpus separatum* and special statute were variants within the same multilateral framework. The slight change manifested the flexibility of the Holy See's approach. In the last analysis, it showed the instrumental character of the multilateral scheme adopted to achieve a set of ends. Hence, as a diplomatic agenda of the Holy See with the State of Israel, the Jerusalem question conditioned their relations mainly by the means proposed by the former: a multilateral solution in the form of an internationally guaranteed special juridical statute.
Paul VI put forward his policy proposals on the Palestine and Jerusalem questions in the context of increasing bilateral contacts between the Holy See and the State of Israel. As it were, the de facto relations between the two parties were an occasion for the Holy See not so much to stabilize such relations through bilateral channels (i.e., establishment of de jure diplomatic relations) as to reaffirm its policy stand on the fundamental issues — strongly pro-multilateral in the case of the Jerusalem question.

Concerning the attitude of the Holy See towards Israel as a State, the Pontificate of Paul VI also showed significant progress. After the Second Vatican Council’s Declaration Nostra Aetate, the Holy See began to mention explicitly the State of Israel in its policy statements, acknowledging the right of the Jewish people to a sovereign and independent State. However, this aperture is accompanied by a parallel call for Israel to recognize the legitimate aspirations of the Palestinian people. Indeed, the evolving attitude of the Holy See towards the Jewish State has been closely linked to the status of the fundamental issues.
CHAPTER 4  JOHN PAUL II: TOWARDS A POLICY SHIFT

4.1 HISTORICAL CONTEXT

4.1.1 Camp David Accord

On 9 November 1977, Egyptian President Anwar El Sadat began to take bold steps towards peace as he made public his intention to visit Israel and address the Israeli Parliament. The announcement came in the context of improving relations between Egypt and Israel, thanks to the reopening of the Suez Canal in June 1975 and the Agreement on Sinai the following September. Sadat's announcement was welcomed positively by Israel's Prime Minister Menachem Begin who officially invited the former on November 15. What ensued was the historic visit on 19-21 November 1977, the first ever by an Arab leader since the establishment of the State of Israel.

This unprecedented turn of events drew mixed reactions. Within the Arab world, countries such as Jordan, Sudan, Morocco and Oman approved Egypt's move. Saudi Arabia kept silent while the PLO, Syria, Iraq, Libya, Algeria and South Yemen condemned it as an act of betrayal. A meeting in Tripoli on December 2-4 gave rise to a resistance front comprising Libya, South Yemen, Algeria, Syria and Iraq. Subsequently, Egypt broke diplomatic relations with these Arab States and its consular ties with members of the Communist block: the now defunct USSR, the erstwhile Democratic Republic of Germany, Hungary, Czechoslovakia and Poland.

Meanwhile, on December 14-26 another Conference took place that brought together representatives of Egypt, Israel, the United States and the UN. This prepared the way for negotiations between Egyptian President Anwar El Sadat and Israeli Prime Minister Menachem Begin with the mediation of US President Jimmy Carter — leading to the signing of the Camp David Accord on 18 September 1978. The Camp David Accord had two components: the first was a framework of a comprehensive peace treaty between Israel and Egypt that defined the terms of the withdrawal of Israel from Sinai and the reduction of armed forces; the second was a framework of negotiations concerning the autonomy of the Palestinians. The first was achieved in five months with the signing of the peace treaty be-

427 Egypt was subsequently expelled from the Arab League and Sadat was assassinated on 6 October 1981. Cfr. G. RULLI, Uno Sguardo alla Storia, op. cit., p. 42.
tween Israel and Egypt on 26 March 1979 in Washington; the latter proved to be more difficult since Egypt had demanded a Palestinian State\textsuperscript{428} while Israel was only disposed to grant a limited administrative autonomy of the Palestinians in the West Bank and the Gaza Strip under Israeli sovereignty.\textsuperscript{429}

The international community followed the progress of the talks with keen interest. Pressures were exerted on Israel to moderate its hard-line posture. For example, the member countries of the European Council held a comprehensive exchange of views on the situation in the Middle East, which concluded with the so-called \textit{Venice Declaration} on 13 June 1980. The document affirmed that the Palestinian question "is not simply one of refugees...The Palestinian people must be placed in a position...to exercise fully their right to self-determination." Hence, "the PLO...will have to be associated with the negotiations." In addition, the Council members "recognize the special importance of the role played by the question of Jerusalem for all the parties concerned...; they will not accept any unilateral initiative designed to change the status of Jerusalem and that any agreement on the City’s status should guarantee freedom of access for everyone to the Holy Places."\textsuperscript{430}

\textbf{4.1.2 The Basic Law of 1980}

The peace progress gained by the Camp David Accord regressed when on 30 July 1980 the \textit{Knesset} passed a Basic Law declaring that "Jerusalem, complete and united, is the capital of Israel" and that the City is also "the seat of the President of the State, the \textit{Knesset}, the Government and the Supreme Court."\textsuperscript{431} Since territorial boundaries were the bone of contention between the Israelis and the Palestinians, the latest move of Israel precluded a possible amicable settlement to the question. In effect, Sadat decided to suspend \textit{sine die} the negotiations on the Palestine question which were already deadlocked.

\textsuperscript{428} At the conclusion of the Camp David Accord, Egyptian President Anwar El Sadat wrote a letter to US President Jimmy Carter dated 17 September 1978 stating the Arab position: Arab Jerusalem is an integral part of the West Bank and should be under Arab sovereignty; UN Resolutions 242 and 267 must be applied in this respect; and all peoples must have free access to the City and the free exercise of religious rights. Cfr. \textit{Letter of the President of Egypt, Mohammed Anwar El Sadat, stating his position on the status of Jerusalem, 17 September 1978.}

\textsuperscript{429} Cfr. S. BEN AMI, Z. MEDIN, \textit{Historia del Estado de Israel}, op. cit., p. 244.


Meanwhile, on 20 August 1980 the UN Security Council passed Resolution 478 which reaffirmed the inadmissibility of the acquisition of territory by force, "censures in the strongest terms the enactment by Israel of the Basic Law on Jerusalem," considering it as a "violation of international law" and was therefore "null and void." The document added that this action, which sought to "alter the character and status of Jerusalem...constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East." For this reason, the UN "calls upon...those States that have established diplomatic missions at Jerusalem to withdraw such missions from the Holy City."432

In this connection, a controversial bill was proposed in the US Congress to transfer the US Embassy from Tel Aviv to Jerusalem on the assumption that the latter was the capital of Israel. The move caused tensions in diplomatic circles since its approval could be construed as contradicting the UN Resolution 478 and could constitute Washington's greenlight to the measures taken by Israel. However, President Reagan vetoed the bill saying that "if we are to have a negotiated peace that will end once and for all...the hostility between the Arab world and Israel..., the United States cannot put itself in a position of trying to lean one way or the other on those areas for negotiations."434

4.1.3 Israel Invades Lebanon

Since the outbreak of Lebanese Civil War, the task of preserving Lebanon's national unity implied dealing with both internal and external forces.435 Among the


435 Within the country, the Holy See met difficulties working with some Maronite Christians led by Bashir Gemayel, commander of the Christian-dominated Lebanese Front, who expected the Church's backing in their fight against the Muslims. Cfr. G. IRANI, The Papacy and the Middle
outside forces, the PLO, Syria and Israel stood out as the key players. The PLO was there even before the Lebanese Civil War began (See Chapter 3, Historical Context). Then, Syria sent 40,000 troops to support the PLO cause and counterbalance the presence of Israeli forces in Lebanon. Meanwhile, as early as 1975 Israel assisted in the formation of the Southern Lebanese Army (SLA) and provided it with arms, money and military training. The crisis reached a climax when Israeli troops, having occupied Lebanon in 1978, bombarded Beirut on 6 June 1982 (the so-called "Operation Peace for Galilee") to strike a final blow to the Syrian-backed fedayn fighters and dismantle the PLO military infrastructure in the area. Thus, the country became the battlefield of an international conflict that took heavy tolls in terms of human casualties and economic losses. The Israeli siege drew sharp criticisms both from within Israel and from the international community. The UN Security Council called on Israel's immediate and unconditional withdrawal from Lebanon.

The Israeli invasion of Lebanon illustrated the fact that the Lebanese Crisis, right from the start, was closely linked to the Israeli-Arab conflict and the Palestine question. The Madrid Peace Conference in October 1991, which brought together the Israelis and the Palestinians face to face, did not bring about the Israeli withdrawal from Lebanese soil until nine years later. It was not until 24 May 2000, under the leadership of Prime Minister Ehud Barak, that Israel's Defense Forces (IDF) finally pulled its troops out of Southern Lebanon, ending its 22-year occupation and paving the way for the 4,500-strong UN peacekeeping force, the UN Interim Force in Lebanon (UNIFIL), to carry out its mission which had been pending for over two decades.

The withdrawal of Israel brought fresh hopes for a more enduring peace in this part of the Middle East. However, a year later renewed tensions arose between Israel on the one hand, and Lebanon and Syria on the other hand, when in May 2001 the Israeli air force bombarded Syrian installations in Lebanon as reprisal for terroristic activities of Hizbullah. The incident immediately roused diplomatic reactions from various countries urging the conflicting parties to observe moderation and avoid the recourse to arms.

4.1.4 The Intifada and the Palestine State


On 9 December 1987, an incident in Gaza involving the death of four Palestinians ignited anti-Jewish sentiments in the Occupied Territories and gave rise to *Intifada* (an Arab word that literally means *to rise up with energy*). Soon after children took to the streets armed with stones to face Israeli soldiers. The phenomenon spread like wild fire across Cisjordan and Jerusalem. Almost a year later, on 15 November 1988, the Palestine National Council gathered in Algiers and proclaimed the establishment of the Palestine State[442] under the following terms: unconditional acceptance of the UN Resolution 242; formation of a Government in exile; and negotiation with Israel on territorial questions.[443]

Barred from entering the US, PLO Chairman Yasser Arafat publicly laid down his peace proposal with Israel in a speech before the UN General Assembly gathered in Geneva on 13 December 1988. The cause of the PLO gained support in the international community.[444]

Meanwhile, beginning in the Spring of 1990, the Soviet Union, under the leadership of Mikhail Gorbachev, allowed the acceleration of the emigration of Jews to Israel, a process which had begun in the 1970's but at a much slower pace. Within two years, around half a million Jews entered Israel. The influx, which implied social and economic burden on Israel, had its impact on the Israeli-Palestinian conflict as the new entrants were accommodated in settlements in the Occupied Territories. With Yitzhak Shamir as Prime Minister, Israel requested financial assistance from the US. This was granted in exchange for some concessions on the Palestine question. On its part, the USSR threatened to terminate the Jewish emigration program if Israel would not consider the demands of the Palestinians.[445]

If the Western world expressed sympathy to the aspirations of the Palestinians,[446] the Arab world openly supported the uprising. Thus, shortly after the out-

---


[444] For an analysis of the Palestinian cause, the diplomacy of Israel and the reaction of the international community during the months following the rise of the *Intifada*, see L. CREMONESI, *La diplomazia delle pietre. Israele e la sommossa palestinese*, in «Vita e Pensiero» 6(1989), pp. 406-414.


[446] During the 1980's the Arab countries in general became increasingly important partly due to the dependence of the industrialized nations on the former's oil production. This allowed the
outbreak of the *Intifada*, the *Al-Quds* Committee, under the chairmanship of King Hassan of Morocco, convened to consider and express its solidarity with the Palestinian cause. The Committee declared that "neither *Al-Quds*, nor the other Occupied Territories or the Middle Eastern region at large would ever know peace and stability as long as the question of Palestine remained unresolved." This question required, among other elements, "the right to establish an independent and sovereign state in Palestine, with the city of Jerusalem as its capital, led by their sole legitimate representative, the PLO."  

4.2 POLICY STATEMENTS OF THE HOLY SEE

**4.2.1 John Paul I**

During his very short Pontificate, John Paul I reiterated the policy posture of the Holy See, just at the point where it was left behind by Paul VI and would soon be continued by John Paul II. For purposes of cohesion in the presentation of materials, the only two policy statements of John Paul I on the Palestine and Jerusalem questions are included in this chapter.

**A. General Audience, *Just and Complete Peace in the Middle East, 6 September 1978***

During his first General Audience on 6 September 1978, the very day that the Camp David Talks commenced, John Paul I asked the people to pray that the negotiations would finally bring about peace in the Middle East, a peace that was both just and complete. Just, in the sense that all the parties in the conflict should be satisfied; complete, in the sense that the negotiations should not leave unsettled any of the questions: the Palestine problem, the security of Israel and the status of the Holy City of Jerusalem. In addition, the Pope mentioned the crisis in Lebanon, a victim of the Israeli-Arab conflict.
B. Allocution, *Nella Preghiera la speranza di Pace*, 10 September 1978

While the summit at Camp David was taking place, John Paul I intervened for the second time in an Allocution on the occasion of the prayer of the *Angelus*. He urged the people to pray earnestly that God would help the positive efforts of the political leaders. The Roman Pontiff said that he was impressed that President Sadat, Prime Minister Begin and President Carter each publicly prayed for the success of the negotiations.

4.2.2 John Paul II

A. Allocutions

1. *Ad Praesides et Legatos Consociationum Hebraicarum de dialogo inter Christianos et Hebraeos ad universorum hominun utilitatem fovendo, 12 March 1979*

Following the example of Paul VI, John Paul II said that he would favor spiritual dialogue and do everything that was in his hands to achieve peace in the Holy Land, "with the hope that the City of Jerusalem will be effectively guaranteed as a centre of harmony for the followers of the three great monotheistic religions of Judaism, Islam and Christianity."  

The Holy Father observed that relations on the religious level would be strengthened by initiatives initiated by *Nostra Aetate*: "now you have also decided to come to Rome, to greet the new Pope, to meet with members of the Commission for Religious Relations with the Jews, and thus to renew and give a fresh impulse to the dialogue which for the past years you have had with authorized representatives of the Catholic Church. This is indeed, therefore, an important moment in the history of our relations...It was the Second Vatican Council with its Declaration *Nostra Aetate* that provided the starting point for this new and promising phase in the relationship between the Catholic Church and the Jewish religious community."  

_________________________

450 Insegnamenti di Giovanni Paolo I, 1979, pp. 61-62.  
452 Ibid., p. 437.  
453 Ibid., p. 435. Right from the start, John Paul II maintained close relations with the Jewish community in the context of the religious dialogues initiated by *Nostra Aetate*. These contacts on the religious plane would have significant impact on relations between the Holy See and the State of Israel. In this regard, it is worth noting the fact that the State of Israel sent an official delegation to the funeral of John Paul I and, very soon after, another delegation to the inauguration of the Pontificate of John Paul II. Cfr. H. TINCQ, *L'Étoile et la Croix. Jean-Paul II-Israel: L'Explication*, op. cit., p. 244.
2. The Pope Announces a Trip to Poland, 25 March 1979

On the Feast of the Annunciation, the Holy Father announced his forthcoming trip to Poland on the occasion of the prayer of the Angelus. In the same Allocution, he called attention to the peace treaty that was to be signed the next day in Washington between Israel and Egypt. He exhorted the people to pray hard so that the agreement would augur for peace after decades of tensions and wars in the Middle East, and that the rights of all the peoples be respected in the interest of fraternity and concord in the region.

3. Palatium deinde adiit Nationum Unitarium; in quod ingressus, ad ea-rundem Nationum Legatos, 2 October 1979

John Paul II said that the formal reason for his intervention at the UN was the special bond of cooperation that linked the Apostolic See with the United Nations, a bond attested by the Holy See's Permanent Observer to the UN and grounded on the sovereignty with which the Apostolic See had been endowed for many centuries. However, the real reason for his intervention was the fact that the Roman Catholic Church was "deeply interested in the existence and activity of the Organization whose very name tells us that it unites and associates nations and States," rather than "divide and oppose." The invitation extended by the UN to the Holy Father showed that it had accepted and respected the religious and moral dimension of those human problems that the Church attended to. In a cogent and clear manner, the Pope then exposed his vision of the world problems, making clear the idea that the key to justice and peace was the dignity of the human person, that the spiritual prevailed over the political, and that war sprang up where the inalienable rights of man were violated. For this, the UN had a guiding role that should be based on the Universal Declaration of Human Rights.

The message of the Holy Father reminded the international body of its raison d'être, and the same time that it served as a call to confront the contemporary world problems. In the context of this global vision, the Pope singled out specific problems that included the Palestine question, the Jerusalem question and the problem of Lebanon — problems which formed the crucial elements to build a lasting peace in the Middle East region.

The Palestine question appeared as a classic example of unending war due to lack of respect for fundamental human rights. The relevant words of the Pope run as follows: "It is my fervent hope that a solution to the Middle East crisis may

---

454 Insegnamenti di Giovanni Paolo II II(1979), pp. 712-714.
455 See Historical Context of this chapter.
456 AAS LXXI(1979), pp. 1144-1160.
457 Cfr. Ibid., p. 1145.
458 Ibid., p. 1146.
draw nearer. While being prepared to recognize the value of any concrete step or attempt made to settle the conflict, I want to recall that it would have no value if it did not truly represent the «first stone» of a general overall peace in the area, a peace that, being necessarily based on equitable recognition of the rights of all, cannot fail to include the consideration and just settlement of the Palestinian question." 459

With respect to the Jerusalem question, the Holy Father said "I also hope for a special statute that, under international guarantees — as my predecessor Paul VI indicated — would respect the particular nature of Jerusalem, a heritage sacred to the veneration of millions of believers of the three great monotheistic religions, Judaism, Christianity and Islam." 460

"Connected with this question is that of the tranquility, independence and territorial integrity of Lebanon within the formula that has made it an example of peaceful and mutually fruitful coexistence between distinct communities..." 461


John Paul II said that the visit of the US President to the Vatican was an indication of the country’s profound respect and esteem for ethical and religious values, and the Holy See was aware of a worldwide respect of the responsibility that fell on the United States of America. Among other world problems, the Holy Father pointed out the Middle East crisis and repeated the policy stand of the Holy See, thus: "the question of Jerusalem, which during these very days attracts the attention of the world in a special way, is pivotal to a just peace in those parts of the world, since this Holy City embodies interests and aspirations that are shared by different peoples in different ways. It is my hope that a common monotheistic tradition of faith will help to promote harmony among all those who call upon God. I would renew my earnest plea that just attention be given to the issues affecting Lebanon and to the whole Palestinian problem." 463

459 Ibid., p. 1150.
460 Ibid. This was not the first nor the last time that John Paul II expressly highlighted the continuity of his policy line with that of Paul VI. In other occasions, he made reference to the fact that he was reaffirming what the Roman Pontiffs before him had said about the question of Jerusalem. However, this did not mean that he limited himself to merely repeat past policy statements. Soon after he occupied the See of Peter a new orientation can be observed from his public interventions in such a way that the Holy See could adapt its policy course better to new historical challenges.
461 Ibid., p. 1150.
463 Ibid., pp. 636-637.
Two years later, the US Government, this time led by President Ronald Reagan, laid down a peace program that underscored the need to confront the Lebanese crisis in the broader context of the Israeli-Arab stalemate. In particular, Reagan proposed a series of "talking points" (shortly after the PLO troops evacuated Beirut) with the idea that the Lebanese war proved two things: first, that the PLO's military losses did not diminish the yearning of the Palestinian people for a just solution of their claims; and second, that Israel alone could not bring just and lasting peace for herself and her neighbors, despite her military successes in Lebanon.464

5. Private Audience with PLO Chairman Yasser Arafat, 15 September 1982.465

PLO Chairman Yasser Arafat came to Rome to participate in a conference of «Unione Interparlamentare». During his stay in the Eternal City, Arafat was received by John Paul II in a private audience at the Vatican. The Roman Pontiff manifested his solicitude for the Palestinian people and his sympathy for their sufferings, expressing his desire that the Middle East conflict would be resolved in the earliest time possible. Peace efforts, the Pope stressed, should exclude all forms of violence especially terrorism and reprisals, in the hope that the rights of all the peoples would be recognized, in particular, the right of the Palestinian people to establish a nation and the right of Israel to security.466

In addition, the Holy Father called attention to the drama in Lebanon where many Palestinians were living. The situation was aggravated with the recent assassination of President-elect Bashir Gemayel.467


466 "...si giunga quanto prima ad una soluzione equa e duratura del conflitto mediorientale, la quale, escludendo il ricorso alle armi ed alla violenza, in ogni forma, e anzitutto al terrorismo e alla rappresaglia, porti al riconoscimento dei diritti di tutti i popoli, e in particolare di quello del Popolo Palestinese ad una propria patria e di Israele alla sua sicurezza" (Ibid.). Despite the well-known policy line of the Holy See defending equally the rights of the Palestinians and the Israelis to a nation, the announcement of the Pope's meeting with Arafat expectedly drew negative reactions from Israel. Cfr. G. IRANI, The Papacy and the Middle East. The Role of the Holy See in the Arab-Israeli Conflict, 1962-1984, op. cit., p. 42.

467 Gemayel, leader of the Christian-dominated Lebanese Forces and elected President of Leba-
6. *Il Signore dia Pace a Gerusalemme, Città Santa per Eccellenza, 29 April 1990*\(^468\)

On the occasion of the prayer of the *Regina Coeli*, the Holy Father manifested to the faithful gathered at St. Peter’s Square his deep preoccupation with the situation in Jerusalem. He urged the people to pray for the Christians in East Jerusalem in the wake of a sad incident involving the closure of the Holy Places, particularly the Basilica of the Holy Sepulcher.\(^469\) He expressed his hope that a solution to the question of Jerusalem could be found, based on justice and the respect for the rights of everyone.

7. *Chiedo che vengano abbreviate le grandi sofferenze della guerra, 23 January 1991*\(^470\)

The Holy Father deplored the state of war in the Gulf and Baltic countries and invited everyone to implore God so that the afflictions of the war victims might end and peace might reign. He expressed his solidarity with those who suffered from bombardments in the State of Israel, as well as the people of Iraq and the other countries involved in the Gulf War.
B. Apostolic Letter Redemptionis Anno, 20 April 1984

This Apostolic Letter was issued on the occasion of the culmination of the Jubilee Year of Redemption and the 20th anniversary of the pilgrimage of Paul VI to the Holy Land. Pope John Paul II took the occasion as an opportunity to expose in a more complete and systematic manner his vision of the Holy Land especially the Holy City of Jerusalem.

1. The Jerusalem Question

a) Universal Patrimony

Jerusalem was the historical place of the biblical revelation of God before it became the City of Jesus the Savior. *Terra est, quam sanctam appellantus, quippe quae terrestra patria fuerit Christi.* 472 In this City, God entered into a dialogue with man. It was also where the drama of human redemption unfolded — the passion, death and resurrection of Jesus Christ. It was the cradle of the first Christian communities and in it, the Church has been present throughout the centuries.

For the Jews, Jerusalem is rich in memories since the time of David, who chose the City to establish his capital, and Solomon, who built there the temple. The Jews fix their eyes on Jerusalem everyday and they consider it as a symbol of their nation.

The Muslims, too, consider Jerusalem as «holy», a City to which they are deeply attached since the beginning of Islam. A privileged place of worship, Jerusalem has been home to the Muslims who occupied the City almost uninterruptedly for over a thousand years.

Hence, the City of Jerusalem is close to the heart of all the descendants of Abraham, a spiritual patrimony and a sign of peace for the whole world. Unfortunately, Jerusalem continued to spark violence and rivalries and had been a motive of exclusive claims. 473

b) Internationally Guaranteed Special Statute

The Holy Father then observed that many of his predecessors, especially those of the present (20th) century, had earnestly followed the tragic events in Jerusalem during decades and had been attentive to the pronouncements of international institutions that showed interest for the Holy City. He added that on many

472 Ibid., p. 625.
473 Cfr. Ibid., p. 626.
occasions, the Holy See had called for an adequate solution to the problem in the interest of peace as well as for religious, historical and cultural reasons.474

The entire humanity, but especially those who had brothers in faith in Jerusalem (Christians, Jews and Muslims), had reasons to get involved and to do everything possible in order to preserve the sacred, unique and unrepeatable character of the City. The whole of historical Jerusalem or the Old City (not only the monuments and the Holy Places) and the religious communities were a shared interest and a common concern of all.

There are two significant affirmations in the above text. In the first place, the Holy Father warned against any solution to the Jerusalem question that did not take into account the legitimate rights of the various communities. In other words, the Holy See could not accept a unilateral solution. In the second place, it was not a matter of safeguarding the monuments and the Holy Places as isolated establishments, as though the problem could be reduced to a mere question of political sovereignty in utter disregard of their integrally religious character; the special statute ought to protect in a global manner the unique historico-religious physiognomy of the City itself, at least the Old City.475

Therefore, the City should be adequately and effectively protected by a special statute internationally guaranteed in such a way that no single party could lay discriminatory claim on it: *Re vera, inveniatur oportet, voluntate bona atque in longitudinem consulenti, ratio solida et equa, qua dissimilia studia atque appetitio congreunter firmiterque componantur atque in tuto collocentur modo consentaneo et efficaci, per peculiare Statutum cui iure internationali ac gentium consortione caveatur, ita ut nulla pars valeant eam ad discrimen adducere.*476 The question of Jerusalem, the Pope stressed, was fundamental to achieving just peace in the Middle East.

474 Cfr. Ibid., p. 627.
475 "Le tre Comunità cristiana, ebraica e musulmana formano la popolazione della Città Santa e sono strettamente legate alla sua vita e al suo carattere sacro. Esse sono «custodi» dei rispettivi Santuari e Luoghi Santi. Esiste a Gerusalemme una rete di istituzioni, di centri per l’accoglienza dei pellegrini, di scuole e istituti di educazione e di ricerca scientifica, di opere assistenziali e sociali; tali istituzioni hanno grande importanza per le rispettive Comunità ed anche, come riverbero, per i fedeli delle stesse religioni, sparsi in tutto il mondo" (Gerusalemme, in «L'Osservatore Romano», 30 giugno-1 luglio 1980, p. 1). See also G. RULLI, Uno Sguardo alla Storia, op. cit., p. 43.
2. The Palestine Question

In this context, the Holy Father called attention to the fact that two peoples, the Israelis and the Arabs, have had antagonistic relations in the past decades. The Church invoked peace and reconciliation in the Holy Land, which could only be achieved if there was respect of each other's rights: Pro populo Hebraico qui vitam degit in Natione Israelitica quique eadem in regione custodit tam pretiosa testimonia suae historiae suaeque fidel, imploramus optatam securitatem atque iustam tranquillitatem quae est praecipua uniuscuiusque nationis atque vitae profectusque condicio pro quacumque societate.477

Palaestinus populus, qui illa in regione invenit historicam suam originem et intra decennia vivit vagus, ius habet naturale, ex iustitia, inveniendi patriam atque aetatem agendi concorditer et aequo animo cum ceteris populis eiusdem regionis.478 In these two paragraphs, John Paul II expressed in unequivocal terms the gist of the Holy See's position on the Palestine question and its attitude towards the State of Israel.

The Pope also mentioned in passing the problem of Lebanon, and the need for the country to rediscover the true meaning of its history and its vocation to a peaceful existence. Furthermore, the Holy Father appealed to political leaders and heads of international institutions to confront the Jerusalem and Palestine questions. He urged the Christian faithful to pray in a special way for peace in the Holy Land, in particular, and the Middle East, in general.479

C. Discourses, Messages, Homilies, Press Conferences and Communiqués

1. Audience with the King of Morocco, 2 April 1980480

After expressing his appreciation for the King's efforts to establish diplomatic relations with the Holy See, the Pope raised the question of Jerusalem. On this matter, the Roman Pontiff stressed his conviction that the Holy City was a sacred patrimony of the three great monotheistic religions and of the entire world, especially those who lived in the Holy Land. The Pope added that there was a need to find a new impetus, a new approach that would strengthen fraternity rather than aggravate the divisions. At the same time, there was a need to find perhaps a solution that would be original but nevertheless proximate and definitive, and at the same time guaranteed the rights of all parties concerned.

2. Discourse to the Representatives of the Lebanese National Assembly, 2 October 1980481

478 Ibid.
479 Cfr. Ibid.
John Paul II began his speech highlighting the special interest that had been shown by the Holy See concerning the difficult situation in Lebanon. The unity of the country's distinct religious and socio-cultural components, the Pope said, was a unique characteristic of Lebanon's identity and could serve as a model for the Middle East region and the rest of the world. More significantly, the Holy Father marked the connection of the Lebanese crisis to the Jerusalem and Palestine questions as elements of the wider Middle East crisis. He added that the Holy See, since the time of his predecessor Paul VI, had frequently voiced its concerns in this respect.  

3. Homily, *Ci ha fatto venire qui la venerazione verso il martirio, 5 October 1980*  

On the occasion of the five hundredth anniversary of Blessed Antonio Primoldo and his eight hundred companions (martyrs), John Paul II celebrated a Holy Mass at the Hill of Martyrs in Otranto.

In his homily, the Pope made reference to the Jewish people: after their tragic experiences connected with the extermination of many sons and daughters, driven by the desire for security, the Jews established the State of Israel. At the same time, the painful condition of the Palestinian people was created, a large number of whom had been excluded from their land. These were facts known to everyone. Other countries like Lebanon were suffering from a crisis that threatened to become chronic.  

Regarding the Jerusalem question, the Holy Father said that for centuries Christian, Jewish and Muslim communities had lived together on the same territories in the Middle East. In this region the Catholic Church could boast of communities outstanding in their ancient history, vitality, variety of rites and their own spiritual characteristics. Above all this world stood the City of Jerusalem, today the object of dispute that seemed unsolvable, tomorrow — if people would only want it! — a crossroads of reconciliation and peace. The Pope invited everyone to pray that Jerusalem might cease as an object of strife and division and become the meeting point of Christians, Jews and Muslims with no one superior nor indebted to the others.  

---

482 "Vous savez bien, aussi, que mon prédécesseur le Pape Paul VI et moi-même nous sommes toujours préoccupés et nous sommes exprimés plusieurs fois au sujet des autres problèmes de votre région, que vous avez évoqués, et en particulier celui du peuple palestinien et la question de Jérusalem" (Ibid., p. 757).  
484 Cfr. Ibid., p. 779.  
485 Cfr. Ibid., p. 780.
4. Audience of the Holy Father with His Excellency, the Foreign Affairs Minister of Israel, 7 January 1982.  

The Holy Father received in an audience the Israeli Foreign Minister Yitzhak Shamir, accompanied by Moshe Alon, the Israeli Ambassador to Italy, and other high-ranking officials of the Israeli Government. The problem of the Middle East was naturally the focus of the conversation. John Paul II noted with satisfaction the implementation process of the peace treaty between Egypt and Israel, but emphasized the need to include in the negotiations all the parties implicated and to confront all the unresolved questions in keeping with international agreements.

The Pope then singled out as particularly crucial in peace-keeping efforts the situation of the Palestinians, be they residents in the Holy Land or refugees in neighboring countries. A firm determination to resolve the crisis, taking into account the security of Israel, would give a decisive step in the peace process. Towards this end, the tranquility of the Palestinians in Cisjordan and Gaza would contribute greatly.

Concerning the Jerusalem question, John Paul II reconfirmed the well-known position of the Holy See which demanded guarantees for the City to become a crossroads of peace and encounter among the followers of the great monotheistic religions of the world, Christianity, Judaism and Islam.

The Holy Father also expressed his concern for the tense situation in Lebanon and his hope that everyone would contribute to consolidate the truce that had been reached months earlier in the southern part of the country.

Both John Paul II and Minister Yitzhak Shamir highlighted the various contacts that had been established between Catholic and Jewish institutions and organizations to promote Christian-Jewish relations.

5. Address, Meditando sulla terribile sofferenza della «Shoa» la Chiesa avverte sempre piu il legame con gli Ebrei, 11 September 1987

During a pastoral visit to the United States, John Paul II met in Miami with the representatives of Jewish organizations in the country. In his message, the Holy Father made various references to events and initiatives that fostered Christian-

---

486 «L’Osservatore Romano», 7-8 gennaio 1982, p. 3.

487 In his reply message, Minister Shamir underscored the efforts and concessions on the part of the Government of Israel to achieve peace with Egypt, at the same time that he called attention to the increase of armaments and terrorism in the region. On the Jerusalem question, he stressed Israel’s commitment to safeguard the Holy Places and ensure the free access to the same, the self-autonomy of the religious organizations and the well-being of the diverse communities. Cfr. Ibid.

Jewish relations; highlighted the common faith of the Christians and the Jews in the God of Abraham, Isaac and Jacob; recalled the tragic fate of the Jews in the *Shoah*; and praised the efforts of Pius XI and Pius XII to fight antisemitism.

In a very natural manner, the Pope expressed in two paragraphs the Holy See's posture on the Palestine question and the existence of Israel as a State. The texts read: "After the tragic extermination of the *Shoah*, the Jewish people began a new period in their history. They have a right to a homeland, as does any civil nation, according to international law." He then quoted *verbatim* the Apostolic Letter *Redemptionis Anno* saying "for the Jewish people who live in the State of Israel and who preserve in that land such precious testimonies to their history and their faith, we must ask for the desired security and the due tranquility that is the prerogative of every nation and condition of life and of progress for every society.

"What has been said about the right to a homeland also applies to the Palestinian people, so many of whom remain homeless and refugees. While all concerned must honestly reflect on the past — Muslims no less than Jews and Christians — it is time to forge those solutions which will lead to a just, complete and lasting peace in that area."


On the occasion of the 75th anniversary of the *Associazione della Stampa Esterà in Italia*, John Paul II talked about various issues of current interest, including the peace problem of the Middle East. Once more the Pope expressed in clear terms the policy posture of the Holy See which was basically the same for the past many years. The Middle East problem had two dimensions. First, there was the question of Jerusalem. The Holy City is sacred and, as such, it pertains to the three monotheistic religions of Judaism, Islam and Christianity. The second dimension is the question of Palestine — a question of human rights and the right of a people. All the peoples should be equal. Expressing his deep sorrow for the *Shoah* (the Pope said he had personally witnessed the brutalities of the Second World War) in which Jews were exterminated simply because they were Jews, the Holy Father acknowledged their right to a nation. But other peoples like the Palestinians also had their own right to establish a nation. The Palestinian question, the Roman Pontiff added, should be addressed by the two parties directly involved in the conflict, the Israelis and the Palestinians.

---

489 Ibid., p. 384.
490 Ibid.
491 Ibid.
493 "Tutti i popoli devono avere eguali diritti. Io sento profondamente quella realtà che si chiama olocausto, *Shoah*...è stato un genocidio, sono stati sterminati per il fatto stesso di essere ebrei...Allora sentiamo profondamente che c'è un diritto di quel popolo, ma ci sono anche i di-
7. **Verbal Remarks of the Press Office on the Audience of the Holy Father with Arafat, 23 December 1988**

John Paul II received in an audience PLO Chairman Yasser Arafat at the Vatican on the latter's express desire to meet the Roman Pontiff again. Following the audience, the Holy See's Press Office issued a verbal statement summarizing the words expressed by the Holy Father: the proximity of Christmas brought to his mind the Palestinian people as well as the Israelis, who lived in the Land where the Prince of Peace was born. The Pope hoped that these people would soon witness the beginning of a real peace process that would finally put an end to their sufferings. He repeated his profound conviction that both peoples had an identical fundamental right to have their own homeland, where they could live in freedom, dignity and security, in harmony with the neighboring countries.

8. **Message to the Members of the Diplomatic Corps Accredited to the Holy See, 9 January 1989**

On this occasion, the Holy Father spoke about the political situations in various parts of the world. Talking about the crisis in the Middle East, the Pope underscored the equal rights of the Palestinian and the Jewish people each to have its own homeland. He singled out the question of Jerusalem, expressing his hope that the Holy City would become a place of encounter, peace and dialogue among the Jews, Christians and Muslims.

In relation to the 40th anniversary of the *Universal Declaration of Human Rights* celebrated a month earlier (10 December 1988), the Roman Pontiff spoke about the problem of religious minorities. In particular, he stressed that religious...
freedom was so tightly linked to other fundamental human rights that the respect for the right to religious liberty served as a gauge for the observance of other rights. The Pope added that a State which, for historical reasons had granted a special protection to a particular religion, has the obligation to guarantee the rights of the religious minorities. Unfortunately, this has not been always the case. In not a few countries, Catholics felt oppressed in their religious aspirations and in the practice of their faith.498

9. Communiqué of the Press Office on the Audience of the Holy Father with Arafat, 6 April 1990499

John Paul II received in a private audience PLO Chairman Yasser Arafat at the Vatican, the latter having expressed earlier his desire to meet the Roman Pontiff in the course of a visit to Italy. The communiqué released after the audience indicated that the Holy See accepted the petition since it was part of the Pope's ministry to encourage every positive effort towards peace and dialogue. The document added that, in the course of his Pontificate, John Paul II many times had condemned the recourse to arms and especially violence perpetrated through terrorism and reprisals. Concerning the Israeli-Arab conflict, the Holy Father had repeated his profound conviction that only through mutual understanding and respect of each other's rights could the Jewish people and the Palestinian people tread along the path of negotiations. In this connection, the use of arms could restore neither the national unity nor the complete sovereignty and pluralistic character of Lebanon.

10. Discourse to the Members of the Diplomatic Corps Accredited to the Holy See, 12 January 1991500

The Pope's message can be synthesized as follows: In the past many decades, the Palestinian people has been tried seriously and treated unjustly: hundreds of thousands of refugees, dispersed in the Middle East regions (especially Cisjordan and Gaza) and other parts of the world, attest to this reality. Their clamor has to be heard, even though some Palestinian groups have resorted to unacceptable methods of airing their grievances.501 On the other hand, one has to recognize

501 The rise of Intifada in 1987 and the subsequent proclamation of the Palestine State required a clarification that the Holy See, as it had always done before, considered the demands of the Palestinians as legitimate but denounced their (and anyone else's) recourse to violence. The distinction was important especially in view of the fact that many Christians in Israel and the Occupied Territories openly identified themselves with the Palestinian cause. Cfr. D. BURELL, Y. LANDAU (eds.), Voices from Jerusalem, Jews and Christians Reflect on the Holy Land, op. cit., p. 125; E. CARLIER, La Libertad de los cristianos en Israel, in «Palabra» 419, Junio 1999, p. 10 and G. CAPRILE, La Santa Sede e lo Stato d'Israele, in «La Civiltà Cattolica» I, 1991, p. 357.
that oftentimes proposals advanced by various sectors to initiate a peace process in view of guaranteeing equally the security of Israel and the rights of the Palestinians have only received negative responses.502

Besides, in the Holy Land, there is the City of Jerusalem that continues to be a motive of conflict and discord among the believers.503

Furthermore, there is Lebanon, a country that has been shattered and pressured by external elements who wanted to use it for their own vested interests. The time has come for all non-Lebanese armed forces to evacuate the national territory so that the Lebanese people could choose ways of coexistence, in fidelity to their history and in continuity to their heritage of cultural and religious pluralism.504

As mentioned in the previous chapter, from the start of the Lebanese crisis the Holy See staunchly opposed any foreign involvement supporting either faction of the Civil War, as this would aggravate the situation and threaten Lebanon's independence and sovereignty. With respect to the PLO, the Holy See acknowledged the legitimate rights of the Palestinian people it represented, but at the same time warned against tampering with Lebanon's territorial integrity.505

4.3 ATTITUDE OF THE HOLY SEE TOWARDS THE STATE OF ISRAEL

4.3.1 Policy Statements of John Paul II

502 "Depuis des décennies, le peuple palestinien est gravement éprouvé et injustement traité: en témoignent les centaines de milliers de réfugiés dispersés dans la région et dans d'autres parties du monde, de même que la situation des habitants de la Cisjordanie et de Gaza. Il s'agit d'un peuple qui demande à être, écouté même si l'on doit reconnaître que certains groupes palestiniens ont choisi pour se faire entendre des méthodes inacceptables et condamnables. Mais, par ailleurs, force est de constater que trop souvent il a été répondu négativement aux propositions provenant de diverses instances et qui auraient pu permettre au moins d'amorcer un processus de dialogue en vue de garantir également à l'Est d'Israël les justes conditions de sa sécurité et au peuple palestinien ses droits incontestables" (GIOVANNI PAOLO II, Discorso ai Membri del Corpo Diplomatico Accreditato presso la Santa Sede, 12 January 1991, op. cit., p. 89).

503 "De plus, en Terre Sainte, se trouve la Ville de Jérusalem qui continue à être occasion de conflit et de discorde entre croyants. Jérusalem, la «Sainte», la «Cité de la Paix»..." (Ibid.).

504 Cfr. Ibid.

505 On the occasion of the National Feast of Lebanon in November 1988, John Paul II sent a message to Nasrallah Pierre Sfeir, Maronite Patriarch of Antioch and President of the Assembly of Catholic Patriarchs and Bishops of Lebanon. In his message the Roman Pontiff said that the right of Lebanon to unity, territorial integrity, sovereignty and independence was seriously threatened. Cfr. GIOVANNI PAOLO II, Message to Patriarch Sfeir on the Occasion of National Holiday, 22 November 1988, in «L'Osservatore Romano», 23 novembre 1988, p. 1.
Under John Paul II, the attitude of the Holy See towards the State of Israel is reflected in policy statements characterized by the fact that these were pronounced in the context of Christian-Jewish dialogue and in a way oftentimes linked to the fundamental issues, particularly the Palestine question. Hence, in the same discourses or documents, references to religious concepts such as the "faith" of the Jewish people or biblical figures like "Abraham, Isaac and Jacob" or historical events like Shoah appear side by side with politico-juridical categories such as "international law" and "civil nation." For John Paul II, the former implied that religious dialogues had an important bearing upon the relations of the Holy See with the Jewish State. The latter meant that the Pope's efforts to cultivate Christian-Jewish relations did not in any way detract from the Holy See's intent to distinguish the religious from the political and make Israel conform to the norms of international relations.

Thus, in the already cited homily in Otranto in 1980, the Pope acknowledged the legitimacy of the Jewish State especially in the wake of the Shoah where innumerable Jews had perished in the hands of the Nazis. But the Holy Father was quick to add that, in the process, the Palestinian people were marginalized and the refugee problem was created.506

The audience granted by the John Paul II to Israeli Foreign Minister Yitzhak Shamir at the Vatican on 7 January 1982 was also an occasion for the Pope to insist on the need to hear the voice of the Palestinian people in a way that did not necessarily threaten the security of Israel. However, in such an encounter of an official character, statements of religious character (i.e, mutual efforts of the Catholic Church and the Jewish community to improve Christian-Jewish relations) were made.507 Here was another example of the emerging trend wherein policy statements relative to the attitude of the Holy See towards Israel as a State conjoin (without being confused) with statements highlighting the importance of religious dialogues.

Two years later, the Apostolic Letter Redemptionis Anno recognized the deep historical and religious significance of the "Land" for the Jewish people who lived in the "State of Israel." This people were entitled to security and tranquility needed by every nation and society. In the same way, the document affirmed, the Palestinian people had the right to a nation especially in the light of their difficult situation as refugees.508

Even more illustrative was the Pope's message to the Jewish leaders in Miami in 1987. As already mentioned, the Holy Father detailed various efforts on the

507 Cfr. Udienza del Santo Padre a S.E. il Ministro per gli Affari Esteri d'Israele, 7 January 1982, op. cit., p. 3.
part of the Catholic Church to improve Christian-Jewish relations and highlighted
the common bond of Christianity and Judaism with the Patriarchs. Catholics, the
Pope said, recognize the special attachment of the Jews to the Land (Israel)
which is rooted in biblical tradition. But well intertwined with these markedly reli-
gious texts are references of a more politico-juridical character such as the affir-
mation that the Jews had the right to a homeland like any "civil nation" according to
"international law". 509

Other policy statements of the Holy See were likewise characterized by a par-
allel recognition of the right of the Jewish people to a secure State and the
equally justifiable right of the Palestinian people to found a nation of their own.
This is true in the case of the Pope's message before the UN General Assembly in
October 1979, to PLO Chairman Arafat in September 1982 and December 1988,
to the Diplomatic Corps in January 1991 and in the Press Conference he gave in

4.3.2 Notes on the Correct Way to Present the Jews and Judaism

The Holy See's Commission for Religious Relations with the Jews issued a
document of utmost importance in 1985, entitled Notes on the Correct Way to
Present the Jews and Judaism. 510 The document was intended to provide a help-
ful frame of reference for Catholic instructors and educators concerning the cur-
tent teaching of the Catholic Church on the Jews and Judaism. 511

The Notes state that the history of Israel did not end in A.D. 70 but it contin-
ued, especially in a numerous Diaspora which allowed Israel to carry to the whole
world a witness of its fidelity to the one God, while preserving the memory of the
land of their fathers at the heart of their hope (Passover Seder). The document
further states that Christians are invited to understand this religious attachment
which finds its roots in biblical tradition, without however making their own any
particular religious interpretation of this relationship. 512

This carefully formulated sentence means that Christians are invited to under-
stand the religious bond of the Jews to the land of their forefathers, a bond that
finds its roots in biblical tradition. However, this religious bond can be interpreted
in various ways. The warning against making one's own any particular religious

509 Cfr. GIOVANNI PAOLO II, Meditando sulla terrible sofferenza della «Shoa» la chiesa avverta
sempre piu il legame con gli Ebrei, op. cit., p. 384.
510 Hereinafter referred to as Notes.
511 Cfr. Ebrei ed Ebraismo nella predicazione e nella catechesi della Chiesa cattolica, Commissioni
per i Rapporti Religiosi con l'Ebraismo: Sussidi per una Corretta Presentazione, in «L'Osserva-
512 "I cristiani sono invitati a comprendere questo vincolo religioso che affonda le sue radici nella
tradizione biblica, pur non dovendo far propria una interpretazione religiosa particolare di tale
relazione" (Ibid., p. 7).
interpretation can be understood against the backdrop of biblical fundamentalism that tends to justify the establishment of a modern state and its political choices on biblical grounds.513

In the same vein, the Notes enunciate its most significant paragraph in what refers to the attitude of the Holy See towards Israel as a State: the existence of the State of Israel and its political options should be envisaged not in a perspective which is in itself religious, but in their reference to the common principles of international law.514 Here, the document cautioned against mixing the religious appreciation with the question of the existence of the State of Israel and its policies. The political character of the latter requires a totally different treatment based on the criteria that govern international relations.515

It is noteworthy that the Commission has been careful to use distinctly the terms "Israel" (referred to the Jewish people or Judaism) and the "State of Israel" (referred to Israel as a political entity). "Israel" appeared many times in the document whereas "State of Israel" is mentioned only once and for the purpose of underlining its nature as a political entity. In effect, Section VI of the Notes contains three central elements: first, the permanence of Judaism and its theological significance; second, the religious attachment of the Jews to the land of their forefathers; and third, the creation of the State of Israel. Given the delicate nature of the subject, the distinction between the concepts have been made with masterful precision.

The importance of emphasizing the dichotomy between the religious-theological and the politico-juridical in the Church's references to the Jewish people and the Jewish State were not altogether new in the Pontificate of John Paul II. Twelve years before the Notes were published, in a Common Declaration with the Patriarch of Alexandria, Paul VI had already warned against making abuse of religious arguments to justify political choices. The Declaration was issued pre-


514 "Per quanto si riferisce all'esistenza dello Stato di Israele e alle sue scelte politiche, esse vanno viste in un'ottica che non è di per sé religiosa, ma che si richiama ai principi comuni del diritto internazionale" (Ebrei ed Ebraismo nella predicazione e nella catechesi della Chiesa cattolica, op. cit., p. 7).

515 "The Holy See recognizes the validity of the Jewish state without question but will relate to «its political options» as a state on the basis of the same principles of international law which validate Israel's existence. That is, for example, it will not debate the boundaries of the state (currently in legal dispute) on the basis of «proof texts» from the Bible; rather, it will urge negotiations between the parties involved, as is the normal way with state-to-state relations" (E. FISHER, The Holy See and the State of Israel: The Evolution of Attitudes and Policies, op. cit., p. 202).
4.3.3. Old and New Elements

From the above considerations, the attitude of the Holy See towards the State of Israel during the Pontificate of John Paul II displayed old and new elements with respect to the period of Paul VI. The old element consisted of a policy pattern that had already been initiated by Paul VI: every time the right of the Jewish people to a State was acknowledged, the right of the Palestinian people to a «homeland» («legitimate aspirations» in the language of Paul VI) was equally upheld. Both Popes envisioned the Palestinian people in relation to a «potential» State at par with the Jewish people in relation to an «existing» State. This characteristic in the policy statements of the Holy See has been aptly described as «diplomatic twinning» by Archbishop Renato Martino, then Permanent Observer of the Holy See to the United Nations, in his address before the UN on 10 April 1989.517

The new element in John Paul II is precisely the fact that his call for the Jews to recognize the Palestinian people's right to self-determination was made in the context of maturing Christian-Jewish relations in which the Catholic Church recognized the special bond — rooted in biblical tradition — of the Jewish people to the Land of Israel. In this respect, John Paul II went one step farther than Paul VI whose policy statements raised the same demands but in a strictly juridico-political context. If Nostra Aetate helped in the evolution of the Holy See's attitude by making possible explicit references to the «State of Israel» under Paul VI, a more mature Christian-Jewish relations518 under John Paul II made possible the acknowledgment of the historical continuity between the ancient Israel and the modern-day State of Israel (without this permitting the justification of political choices on biblical grounds).

516 Cfr. AAS LXV(1973), pp. 429-431. In 1975, the US Catholic Bishops issued a similar statement saying that "appreciation of this link [between the Jews and the land of Israel] is not to give assent to any particular religious interpretation of this bond. Nor is this affirmation meant to deny the legitimate rights of other parties in the region" (Text in E. FISHER, Implementing the Vatican Document Notes on Jews and Judaism in Preaching and Catechesis, op. cit., p. 110).


518 "$\ldots$it was the Second Vatican Council with its Declaration Nostra Aetate that provided the starting point for this new and promising phase in the relationship between the Catholic Church and the Jewish religious community" (JOHN PAUL II, Allocution Ad Praesides et Legatos Conso- ciationum Hebraicarum, 12 March 1979, op. cit., p. 435).
As a new element in the policy statements of the Holy See concerning the State of Israel, the presence of religious undertones would have significant impact on the evolving relations between the two parties, up until the establishment of their full diplomatic ties. This topic shall be discussed at length in the next chapter.

4.4 THE FUNDAMENTAL ISSUES

4.4.1 The Palestine Question

A survey of the public statements of John Paul II on the Palestine question brings to light three basic principles: a) The Palestinian people have a right to found a homeland or a nation which the State of Israel should acknowledge; b) Given the Palestinians’ right to self-determination, they should be included in all negotiations affecting the Palestine question and c) The settlement of the Palestine question is conditio sine qua non for a solid and lasting peace in the Middle East. The second principle is corollary to the first; the third is a consequence of the first two.

In this respect, John Paul II simply echoed what Paul VI had already expressed a number of times. As discussed in Chapter 3, the latter vehemently upheld the need to recognize the legitimate rights and aspirations of the Palestinian people as a pre-requisite to achieve real peace in the region. Although he did not use the terms «nation» or «state», Paul VI implicitly defended the concept of a nation for the Palestinians since this was the substance of their demands. However, what was only implicit in Paul VI became explicit in John Paul II: the Palestinian people have a right to establish a nation, just as the Jewish people have a right to constitute a state of their own. In other words, the «legitimate aspirations» in the language of Paul VI found a specific content in John Paul II: the aspiration to «establish a nation». This is a dominant idea in his policy statements since 1978.

Like Paul VI, John Paul II also used «historical parallelism» as a recourse to uphold the just cause of the Palestinians. In the same way that the Jewish people could rightfully set up a secure and internationally recognized State after the horrors of the death camps, so also the Palestinians should be allowed to build a nation of their own after decades of suffering — paradoxically in the hands of Israel. It is as though the Holy See cautioned against historical irony in Israel’s efforts to protect itself and seek a peaceful existence.

Beyond the recourse to «historical parallelism», the Holy Father clearly affirmed that the Palestine question was a matter of international justice, in which the fundamental right of a people to self-determination was held in suspense.519 The need for Israel to take into account the stake of the Palestinians

519 Cfr. JOHN PAUL II, Allocution, Palatium deinde adiit Nationum Unitarium, 2 October 1979, op. cit., p. 1150. The Holy See holds that the situation of the Palestinians is an international injustice that victimize the weaker population and cannot be accepted. Cfr. G. CAPRILE, La Santa
was not a mere question of political convenience, required to stop once and for all the spiraling violence. Rather, it was a matter of respect for human dignity. For this reason, the concerns raised by John Paul II embraced all the peoples discriminated in the region, and not just the Christian Palestinians. These ideas were also prevalent in the discourses of Paul VI.

However, the new historical circumstances that characterized the Pontificate of John Paul II served to highlight the basic principles on the Palestine question. For example, the Camp David Accord had serious flaws that were bound to undermine its benefits in the interest of peace.

On the one hand, the Accord (signed on 18 September 1978, when John Paul I was the Pope) was a welcome development in so far as it broke the Israeli-Arab deadlock after decades of hostilities. Negotiations would have to begin somewhere sometime, and Camp David was certainly the first concrete step towards a comprehensive Middle East peace process.

On the other hand, the Accord ignored the first and the second principles on the Palestine question laid down in the Pontifical documents. With respect to the principle that the Palestinians have a right to found a nation, the Camp David Accord fell short in as much as Israel was not willing to concede more than a limited administrative autonomy for the Palestinian people in Cisjordan and the Gaza Strip. With respect to the second principle that the Palestinians should form part of the negotiations, Egypt and Israel worked out the Accord without counting on the PLO. The people who would be most directly affected by the outcome of the talks should participate in the decision-making. Peace would not necessarily arise from an initiative opposed by the party most implicated in it, as the PLO in fact objected to Egypt's single-handed attempt to seek peace with Israel.520 The Palestinians' right to self-determination included their right to be heard and speak for themselves.

It may be noted that John Paul II has received PLO Chairman Yasser Arafat at the Vatican on three occasions (1982, 1988 and 1990).521 Although these encounters were not political gestures on the part of the Holy See — precisely because the Palestine question was a matter of fundamental human rights — they manifested somehow the Holy See's recognition that the Organization legitimated represented the Palestinian people and that its demands were reasonable.

---


521 The fourth and last visit was during the signing of the Basic Agreement between the Holy See and the PLO on 15 February 2000.
without this implying the former's approval of the latter's violent methods sometimes to promote its cause.\textsuperscript{522}

The drawbacks of Camp David on the first and second principles corollarily confirmed the third principle: peace between Israel and the Arabs hinged on the final settlement of the Palestine question. The dissatisfaction of Egypt, in particular, and the Arabs, in general, with Israel's concept of autonomy for the Palestinians brought to a grinding halt the peace process and did not solve the Israeli-Arab conflict.

It was in this context that the Lebanese crisis became more and more linked with the Palestine question. The Camp David Accord that purportedly confronted the problems of the Palestinians did not bring about tranquility along the Israeli border with Lebanon. On the contrary, Israel invaded the country precisely when the PLO activities were at their peak, four years after Camp David.\textsuperscript{523} It was in this context that John Paul II continually mentioned Lebanon as another aspect of the Middle East crisis.

Lack of progress in peace efforts often implied not only stagnation but a real deterioration. So in 1987 the Palestinian people's discontent with Israel assumed another form of violent protest — the \textit{Intifada}, followed a few months later by PLO's formal act of declaration of the establishment of the Palestine State with East Jerusalem as its capital. The Holy See certainly did not approve the form of their protest, but the substance of their quest was often voiced by the Roman Pontiff. The former was not acceptable, the latter was the key to peace and stability in the Middle East.

\textbf{4.4.2 The Jerusalem Question}

The policy line of John Paul II on the Jerusalem question was in clear accord with that of Paul VI in the sense that the former reproposed the multilateral framework in the form of a special juridical statute guaranteed at the international level. This special statute should include as essential elements: 1) the protection of the global character of Jerusalem and not just «free access» to the Holy Places; 2) guarantees of the right to religious freedom in all its aspects; 3) the maintenance of the acquired rights over the sanctuaries, educational and welfare institutions on the part of the various communities; 4) guarantees of self-autonomy of the communities in carrying out their religious, educational and so-

\footnotesize{\textsuperscript{522} The Holy See was not the only one that saw the need to include the Palestinians in the peace talks. As noted earlier, the member countries of the European Council drew up the \textit{Venice Declaration} to stress the same point. Cfr. \textit{The Venice Declaration on the Middle East adopted by the European Council, 13 June 1980}, op. cit., p. 315.}

cial functions; 5) equitable treatment of the three religions; and 6) the international character of the juridical protection of all of the above elements.\textsuperscript{524}

Besides what was common to Paul VI, the policy statements of John Paul II contained certain unique characteristics both in the contents of the solution to the Jerusalem question as well as the perspective under which such solution was put forward — all under the same multilateral scheme of a special statute.

**A. Contents**

The Apostolic Letter \textit{Redemptionis Anno} states that \textit{non sola monumenta vel loca sancta, sed tota Ierusalem historica et communitatum religiosarum existentia earumque condicio et futura non possunt omnes non tangere atque cordi esse omnibus.}\textsuperscript{525} This statement, apart from highlighting the need for a multilateral solution to the Jerusalem question, implicitly indicated by the phrase «historical Jerusalem» the Holy See’s readiness to narrow down the extension of that solution to cover only the Old City, where the most important Holy Places of the three religions are concentrated and where nucleus of Christian, Jewish and Muslim communities thrive.\textsuperscript{526} This was the first time the Holy See referred in a major policy statement to «Old Jerusalem» and the Holy Places, rather than «Jerusalem» and the Holy Places. Although this did not imply that the Holy See had given up in the Apostolic Letter (by far, the only document of this category dedicated by John Paul II on the Jerusalem question) was not insignificant.\textsuperscript{528}

A supporting statement was made by the Permanent Observer of the Holy See to the United Nations, Archbishop Renato Martino, on 10 April 1989. In his address, Martino specifically delimited the Holy See’s interest on Jerusalem to the

\textsuperscript{524} Cfr. \textit{Gerusalemme}, in «L’Osservatore Romano», 30 giugno-1 luglio 1980, p. 1. This article summarized the policy posture of the Holy See on the Jerusalem question under John Paul II. See also G. RULLI, \textit{Uno Sguardo alla Storia}, op. cit., pp. 43-44.

\textsuperscript{525} AAS 76(1984), p. 627.


\textsuperscript{527} The application of a system of juridical guarantees to the Old City can be considered as the «principal analogy» of a similar application to the Holy Places outside this specific geographical area. For example, the Cenacle and part of the Mount of Olives are important Christian Holy Places that have to be safeguarded with analogous juridical instruments. Beyond the frontiers of Israel, there is also the Basilica of the Nativity in Bethlehem. Cfr. A. MACCHI, G. RULLI, \textit{Il Futuro di Gerusalemme}, op. cit., p. 554.

\textsuperscript{528} This might have been due to the fact that Jerusalem outside the Old City did not express a special religious character due to its commercial and tourism activities, the presence of Government institutions, and other secular characteristics of a modern city. Cfr. S. FERRARI, \textit{Vaticano e Israele. Dal secondo conflitto mondiale alla guerra del Golfo}, op. cit., p. 204.
Old City. The relevant statement says: "allow me to be more specific on the question of Jerusalem, and by «Jerusalem» I mean to limit myself to the Old City...In the eyes of the Holy See, Jerusalem must be preserved as a unified historical and cultural entity; its holy places, knitted as they are throughout the entire fabric of the Old City, cannot be separated from it." 529

Another slight modification in the specific content of the special statute demanded by the Holy See was its openness to the possibility of a national sovereignty over Jerusalem exercised by any one of the contending parties — as long as the special statute of the City is guaranteed at the international level. 530 Thus, any power that would come to exercise sovereignty over the Holy City should assume the responsibility before the world community of safeguarding the City’s unique character as well as the rights of its various communities. 531

The minor policy twist in this respect was significant in that the Holy See, while maintaining its multilateral scheme, was attentive at the same time to the realities affecting its interests in Jerusalem and the Holy Places. As it appeared, the Holy See began to take its hands off little by little from the strictly political aspects of the solution to the Jerusalem question, without ceasing to affirm that the political settlement of the status of the City could not ignore its religious character. This idea shall emerge more clearly in the succeeding paragraphs.

B. A New Perspective

From Pius XII to John Paul II, there has been a notable evolution in the way the Holy See presented the need for a multilateral solution to the Jerusalem question. Without ignoring the fact that other religions had stake in the Holy Land, Pius XII proposed the multilateral approach (in the form of a corpus separatum) mainly to protect the Christian interests in the region. During the Pontificate of Paul VI, the same multilateral solution (this time in the form of an internationally guaranteed special juridical statute) was proposed taking into account more the rights of the three monotheistic religions, but still with a certain emphasis on the interests of the Christian world. In the case of John Paul II, the same multilateral scheme (special statute) was accompanied not so much by a

certain accent on Christian rights as by a straightforward defense of the concept of «universal patrimony», that is to say, the unique value of Jerusalem for the Christians, the Jews and the Muslims. Therefore, throughout the years the Jerusalem question has slowly undergone — in the documents of the Holy See — a transition from a special focus on Christian interests to a greater parity among the three monotheistic religions.532

1. Implications on the Policy Course

John Paul II's novel way of presenting the Jerusalem question had an important bearing on the future policy course of the Holy See. The implications can be summarized as follows:

a) The multilateral solution now appeared not just as the best solution under the present circumstances, but the only solution that could bring about peace and stability in the Middle East.533 The Pope's logic was simple: given the religious character of Jerusalem and the Holy Places, any solution to the status of the City should take into consideration its religious character; and given that this religious character is derived from the City's unique significance to the three great monotheistic religions, the said solution would have to be multilateral.

As it were, the religious character of the Holy City could not be decoupled from its political fate.534 Even more, there is a primacy of the religious over the political in what refers to the unique configuration of Jerusalem.535 Since the former was multilateral, the latter should also be multilateral.

b) The multilateral solution or approach adopted by the Holy See since 1948 responded to the reality of Jerusalem's intrinsically multilateral or international character. In other words, the multilateral nature of the Holy See's solution was but a consequence of the multilateral nature of the problem.536

532 Referring to the rights of the various communities in Jerusalem, John Paul II called for international guarantees so that nulla pars valeat eam ad discrimen adducere (Apostolic Letter Redemptionis Anno, op. cit., p. 627).


536 "The Holy See gives primary consideration to the sacred, universal and distinct character of
c) There is a clear distinction between the multilateral problem (juridical status of Jerusalem and the Holy Places) and the multilateral solution proposed by the Holy See (special international statute). The former was a given reality, the latter was a policy choice of the Holy See adopted in an effort to protect interests that otherwise could be settled through bilateral means (i.e., the multilateral scheme was intended to settle bilateral problems).537

d) The Holy See, to settle the bilateral aspects of the Jerusalem question, could set aside its multilateral policy course — should the proper conditions arise — without affecting the intrinsic multilateral character of the Jerusalem question. In other words, the specifically Christian interests in the Holy Land (e.g., freedom of worship, free access and the maintenance of the Christian status quo), hitherto pursued by the Holy See through a multilateral means, could be resolved through alternative means such as the recourse to bilateral channels in a way that would not alter the need for a multilateral solution to the status of the City itself.

e) If the final solution to the status of Jerusalem should be multilateral in virtue of the City's multilateral religious character, the Holy See (representing the Catholic communities, in particular, if not the Christian communities, in general), would have the right to intervene in such a solution — even after abstracting the bilateral aspects of the problem — since Christianity (along with Judaism and Islam) continues to be the origin or basis of the City's multilateral character.538

In practical terms, the above considerations gave the Holy See sufficient margins necessary to maneuver so as to respond adequately to new political challenges. It may be noted that the Pontificate of John Paul II has already been long enough (twenty two years as of this time) as to coincide with political upheavals otherwise too improbable to occur during a shorter span of time. Hence, there have been events that tended to undermine the multilateral character of Jerusalem, which served as occasions for the Holy See to defend its multilateral posture; and there have been events that favored dialogue among the parties interested in Jerusalem, which served as occasions for the Holy See to consider alternative policy approaches. The former is discussed below; the latter served as the

---

537 See Chapter 2.
538 "Si potrebbe dire che, nell’insieme della «questione di Gerusalemme», convivono, si intersecano e, qualche volta, sembrano contrapporsi diverse «identità» alle quali corrispondono altrettanti «interessi»: due identità nazionali, la palestinese e la israeliana, tre identità religiose locali, l’ebraica, la cristiana e la musulmana, una identità internazionale, dovuta agli interessi che, dal punto di vista religioso e culturale, una gran parte dell’umanità nutre per la Città. Questa identità internazionale risulta rafforzata dal futuro del processo di pace per la regione" (A. MACCHI, G. RULLI, Il Futuro di Gerusalemme, op. cit., p. 548).
historical context of the major policy shift of the Holy See from the multilateral to the bilateral approach, the topic discussed in Chapter 5.

2. Events Unfavorable to Multilateral Solution

The major historical events discussed at the beginning of this chapter tended to undermine to a greater or lesser extent the multilateral character of Jerusalem.

In the first place, the Camp David Accord, although a well-intentioned attempt to settle the Palestine question in a bilateral way, excluded the Palestinians as a party to it and the status of Jerusalem was not to be resolved. In the wake of Camp David's serious defects, the Apostolic Letter *Redemptionis Anno* clearly affirmed that the status of Jerusalem (at least the Old City) and the Holy Places could not be settled without taking into account the interests of all the parties concerned.539

If a bilateral solution to the status of Jerusalem was unacceptable, a unilateral solution would be worse. For this reason Paul VI reacted strongly to Israel's annexation of East Jerusalem and the subsequent measures to alter the City's historical configuration. For the same reason, John Paul II reacted to Israel's Basic Law of 1980 which, as another manifestation of the country's determination to tighten its grip on the City, constituted an attempt to liquidate the Jerusalem question in a unilateral way.540 *Redemptionis Anno* and many other policy statements sought to correct this counter-productive move of Israel.

The PLO's 1988 proclamation to establish a Palestine State, with East Jerusalem as its capital, likewise militated against a multilateral solution to the Jerusalem question. As a reaction to Israel's exclusive hold on the City, the proclamation was a Palestinian version of a unilateral approach to the question, differing in that only half of the City was claimed541 and ineffective in that Israel was the real power holder in the whole of Jerusalem. For this reason, the Holy See also

---


540 The Basic Law signaled the firm determination of Israel to separate Jerusalem from the rest of the Occupied Territories in a definitive way, rendering difficult the efforts to grant the City a special statute guaranteed at the international level. Cfr. P. PIERACCINI, *Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale*, op. cit., pp. 632-633 and 705 and H. TINCQ, *L'Étoile et la Croix. Jean-Paul II-Israël: L'Explication*, op. cit., p. 263.

deplored "such a way of coming to grips with and resolving the problem..." as it "would always lead the excluded party to dispute the solution."\textsuperscript{542}

4.5 \textit{De Facto} Relations and the Fundamental Issues

One important consideration shall help clarify the evolution of the Holy See's relations with the State of Israel during the Pontificate of John Paul II, that is, the need to distinguish between two periods: 1978-1993 (when the Holy See continued its long-held multilateral policy approach to the Jerusalem question) and 1993 onwards (when the Holy See shifted to a bilateral approach). The division in time — under the same Pontificate of John Paul II — simply responded to the fact that in was under him that the relations between the Holy See and the State of Israel ceased to be \textit{de facto} and became \textit{de jure} with the establishment of their full diplomatic ties, coinciding precisely with the policy shift from multilateral to bilateral. The first period is discussed below; the second is tackled in Chapter 5.

It has been discussed earlier how John Paul II, on the one hand, associated more than ever the Holy See's attitude towards Israel with the Palestine question and, on the other hand, continued its bid for a multilateral solution to the Jerusalem question in a way that responded better to new historical challenges. The evolution of these policies developed not only in the context of improving Christian-Jewish relations but also in the context of intense \textit{de facto} relations between the Holy See and the State of Israel. To avoid redundancy, suffice it to recall that John Paul II pronounced an important policy statement in this respect on the occasion of the visit to the Vatican of Foreign Minister Yitzhak Shamir in 1982.\textsuperscript{543} In addition, regular contacts have been maintained, on the one hand, between the Israeli Embassy to Italy and the Holy See and, on the other hand, between the Apostolic Delegation in Jerusalem and the Israeli Foreign Ministry. For example, on 16 October 1990, at the commencement of his mission, Archbishop Andrea Cordero Lanza di Montezemolo, Apostolic Delegate to Jerusalem, paid a visit to Israeli President Chaim Herzog.\textsuperscript{544}

\textsuperscript{542} Address by Archbishop Renato R. Martino, Permanent Observer of the Holy See to the United Nations, concerning Jerusalem, 10 April 1989, op. cit., p. 443. The discontent of the Holy See with the PLO initiative was not so much for the fact that a «Palestine State» was established as for the fact that it was done outside the framework of a negotiated solution, and hence, ineffective to bring about real peace in the Middle East.

\textsuperscript{543} On 19 February 1985, the Pope also received in a private audience at the Vatican Israeli Prime Minister Shimon Peres. Cfr. \textit{L'Attività della Santa Sede nel 1985}, Città del Vaticano 1985, p. 162. However, details of the audience were not published in the official documents of the Holy See.

\textsuperscript{544} Cfr. Dichiarazione del Direttore della Sala Stampa della Santa Sede, Dr. Joaquín Navarro-Valls, a proposito delle relazioni tra la Santa Sede e lo Stato di Israele, 25 January 1991, op. cit., p. 91.
The insistence of the Holy See on its policy posture on the Palestine and Jerusalem questions conditioned its relations with the State of Israel more than ever under John Paul II. The Holy See issued two clear policy pronouncements in this respect. The first was made by Archbishop Renato Martino, the Holy See's Permanent Observer to the United Nations, in the already cited message on 10 April 1989. Martino said that "full diplomatic relations...must await the resolution of certain outstanding problems, such as the issue of the rights of the Palestinians, which has been pending for more than 40 years; the status of the City of Jerusalem; the question of internationally recognized borders and the related issue of Israel's conflicts with its neighbors; and the restoration of peace in Lebanon, since the well-known aggressive operation carried out by Israel since 1982 has also contributed to the complex Lebanese crisis, and the presence of the Israeli army in the south of the country continues to contribute to it." 545

The second statement was the abovementioned Declaration made by Joaquín-Navarro Valls, Spokesman of the Holy See. On this occasion, the Holy See explained systematically the reasons why, until that moment, it had not established full diplomatic relations with the State of Israel. More concretely, the Declaration stated that there existed difficulties of a juridical nature such as the presence of Israel in the Occupied Territories, its relations with the Palestinians, the annexation of East Jerusalem, and the occupation of the Catholic Church in Israel and the Occupied Territories. 546

That the question of diplomatic relations depended on the fundamental issues is clear from the above policy statements. What remains to be explained is how these issues affect the relations.

4.5.1 The Palestine Question

John Paul II tirelessly called for the final settlement of the Palestine question — before the UN General Assembly, and leaders of both Israel and Arab countries.


546 "...è ben noto che sono esistite finora difficoltà giuridiche per un allacciamento ufficiale dei rapporti diplomatici fra la Santa Sede e Stato di Israele. Sono le difficoltà, non ancora chiarite, della presenza di Israele nei Territori Occupati e dei rapporti con i Palestinesi, dell'annessione della Città Santa di Gerusalemme, come della situazione della Chiesa Cattolica in Israele e nei Territori da esso amministrati" (Dichiarazione del Direttore della Sala Stampa della Santa Sede, Dr. Joaquín Navarro-Valls, a proposito delle relazioni tra la Santa Sede e lo Stato di Israele, 25 January 1991, op. cit., p. 92). The Declaration was made apparently in reaction to an appeal officially made by the Jewish community (led by Rabbi Elio Toaff) in Rome on 22 June 1991. The latter deplored the alleged «failure» of the Holy See to mention explicitly the «State of Israel» as among the victims of Iraqi aggression. In fact, the day after, on January 23, in an Allocution, John Paul II made explicit reference to the State of Israel and Iraq to express his solidarity with all those who had suffered in the Gulf War in either side of the conflict. Cfr. Insegnamenti di Giovanni Paolo II XIV,1(1991), p. 177.
But he did not propose a concrete policy approach to the problem naturally because, then as before, the Palestine question was mainly a political problem wherein the Holy See played an active role, as conciliator and agent of peace, not as a party directly involved in the dispute. As can be seen in his policy statements, the Holy Father limited himself to exhort, appeal, encourage, promote, support and, whenever necessary, denounce. The final solution to the Palestine question, guided by the teachings of the Roman Pontiff, would have to be negotiated by the political authorities concerned. Like his predecessors, John Paul II pursued a specific end without proposing concrete means to achieve that end.

Therefore, as a diplomatic agenda, the Palestine question affected the relations between the Holy See and the State of Israel by virtue of the ends pursued by the former: justice to the Palestinian people concretized in the effective recognition of their right to establish a nation.

4.5.2 The Jerusalem Question

On the other hand, the Jerusalem question affected the relations between the Holy See and the State of Israel principally by virtue of the means proposed by former: a multilateral scheme in the form of a special statute guaranteed at international level. As mentioned earlier, the evolution in the policy posture of the Holy See, in what refers to the specific content of and the perspective under which the special statute was presented, did not deviate from the multilateral scheme. The numerous public interventions of John Paul II, including his messages to Israeli leaders, the PLO Chief, US President Carter and the UN General Assembly, all expressed what the Holy See wanted: a juridical protection for Jerusalem (especially the Old City) with international guarantees by virtue of its unique significance to the three great monotheistic religions of the world.

As in the case of Pius XII and Paul VI, John Paul II’s demand for a specific solution to the Jerusalem question was a consequence of the mainly religious character of the question, in which the Holy See intervened as an interested party. Likewise, it was as an interested party (i.e., in an effort to secure juridical guarantees for the interests of the Catholic Church in Israel) that the Holy See made the decisive step in December 1993 to shift from multilateral to bilateral policy approach, the topic of the next chapter.

4.6 Synthesis

John Paul II pursued the policy course of his predecessors, but introducing new elements necessary to respond to new historical circumstances and prepare the Holy See for an eventual policy shift.

From his public pronouncements three basic principles on the Palestine question can be inferred: a) The Palestinian people have a right to a nation which Israel should recognize; b) They should form part in all negotiations concerning the question; and c) The resolution of the Palestine question is indispensable to achieve peace in the Middle East.
The above principles had already been expressed in one way or another by Paul VI. However, what was only implicit in his policy statements became explicit in John Paul II; the «legitimate aspirations» in the language of the former was transformed into «right to a nation» with the latter.

Furthermore, John Paul II, like Paul VI, had recourse to «historical parallelism» in putting forward the policy stand of the Holy See: if the Jewish people could legitimately establish an independent state in the aftermath of the Shoah, the Palestinian people could equally claim the right to found a nation, especially in the wake of their sufferings — paradoxically in the hands of Israel.

The historical circumstances, in the midst of which the Pontificate of John Paul II unveiled itself, served to illustrate the importance of the three principles on the Palestine question. For example, notwithstanding its positive contribution to the peace process, the Camp David Accord fell short with respect to the first principle (Israel was not ready to allow the constitution of a Palestine State) and the second principle (the negotiations excluded the Palestinians). Wherefrom the third principle is confirmed — peace was not about to come in the Middle East. The Israeli invasion of Lebanon in 1982, the rise of the Intifada in 1987 and the PLO's proclamation of a Palestine State in 1988 were symptomatic of the fact that, as John Paul II oftentimes affirmed, the resolution of the Palestine question was essential to peace and stability in the region.

In what refers to the Jerusalem question, John Paul II continued the multilateral policy line of Paul VI in the form of a special juridical statute. However, the former's policy statements displayed some novelties both in the specific contents of and the perspective under which the special statute was proposed. With respect to the contents, John Paul II implicitly narrowed down the extension of the Holy See's claim from the traditional «Jerusalem» and the Holy Places to «historical Jerusalem» and the Holy Places. Besides, the Holy See began to consider the possibility of a national sovereignty exercised over Jerusalem, provided that a special statute of international character be put in place to safeguard the City's unique historico-religious configuration.

As regards the perspective under which the special statute was proposed, there has been a notable evolution in the Holy See's way of propounding the multilateral scheme. Pius XII put strong accent on Christian rights (without ignoring the other religious communities). Paul VI began to talk more of the three monotheistic religions, but still with certain emphasis on the stake of Christendom. In the case of John Paul II, there is a conscious effort to underscore the parity of rights of Christians, Jews and Muslims.

Such a way of presenting the Jerusalem question had important repercussions on the policy course of the Holy See. These can be summarized as follows: a) The multilateral solution was not only convenient but indispensable to bring about peace among the various peoples. This is because the question of Jerusalem is multilateral, and it is so in virtue of the interests of the three monotheistic religions. In the same vein, the political fate of the City could not be separated from its religious character; b) The multilateral scheme adopted by the Holy See since 1948 was a consequence of the intrinsically multilateral nature of Jerusa-
lem. The nature of the former responded to the nature of the latter; c) Therefore, there is a distinction between the multilateral solution (initially in the form of a corpus separatum; later as a special statue) of the Holy See and the multilateral problem (status of the City). The former was a policy choice; the latter was a given reality; d) Hence, the Holy See could change its scheme from multilateral to bilateral — for the purpose of securing guarantees to the bilateral aspects of the Jerusalem question — without detracting from the need of a multilateral solution to the status of the Jerusalem and the Holy Places themselves; and e) In the event that such a policy shift takes place, the Holy See could rightfully continue demanding a multilateral solution to the status of Jerusalem and the Holy Places, since the multilateral character of the City is derived in part from the presence therein of Christian communities.

In practical terms, the above considerations enabled the Holy See to respond better to new challenges and gear itself up for an eventual policy reversal, when the right moment would come. Thus, during the first fifteen years of John Paul II, the Holy See stuck to its decades-long multilateral framework (reinforced in the face of events that tended to undermine Jerusalem's multilateral nature, such as the Camp David Accord, Israel's Basic Law and the PLO's proclamation of a Palestine State). However, in 1993, following major political changes that favored dialogue, the Holy See, having prepared the ground earlier, finally changed its policy approach to a bilateral framework.

As described above, the policy of the Holy See on the fundamental issues under John Paul II evolved in the context of a more mature Christian-Jewish relations in which the Holy Father made frequent references to the State of Israel. At the same time, it was characterized by a continuing de facto relations between the two parties. In both cases John Paul II simply carried forward what had been initiated by his predecessors, particularly Paul VI. Nevertheless, under the present Pope the fundamental issues (especially the Palestine question) were linked to the attitude of the Holy See towards the State of Israel more than ever.
CHAPTER 5 BILATERAL TREATIES

5.1 THE FUNDAMENTAL AGREEMENT

5.1.1 Historical Context

A. A New Era of Peace

On 30 October 1991, the whole world expectantly watched the Israeli and Palestinian representatives as they sat around a negotiating table in Madrid for the first time after four decades of bloody conflict. Thus began the tortuous Middle East peace process, backed up by the United States, the defunct Soviet Union and the European Economic Community.

At the outset of the peace dialogues, little hope could be seen on the horizon as each negotiating party was unwilling to accede to the other's demands: the Arabs offered «peace for territories» (demanding, among others, the territories conquered by Israel in 1967), the Israelis would bargain nothing more than «peace for peace», through bilateral talks with each of its neighbours.

The stalemate in Madrid called for a second phase in the Peace Conference which was held in Washington. Meanwhile, elections in Israel in June 1992 brought to power the Labor Party led by Yitzhak Rabin. The new Government took a step forward offering the Palestinians «land for peace». Accordingly, representatives of Israel and the PLO held behind-the-scenes meetings in Oslo in July 1993, opening peace talks independent of the continuing sessions in Washington. The Norway Conference was still in progress when Bill Clinton assumed the US Presidency following his electoral victory in November 1992.

Despite numerous difficulties, the Oslo initiative yielded positive results. In separate letters dated 9 September 1993, PLO Chairman Yasser Arafat formally recognized the State of Israel and Israeli Prime Minister Yitzhak Rabin recognized the PLO as representative of the Palestinian people. Four days later in Washington, the two leaders signed the Declaration of Principles on Interim Self-

547 The UN General Assembly passed Resolution 46/75 supporting the Peace Conference and affirming, among others, that "the participation of all parties in the conflict, including the Palestinian Liberation Organization, on an equal footing, and the five permanent members of the Security Council...would contribute to the promotion of peace in the region" (UN General Assembly Resolution 46/75 About the International Peace Conference on the Middle East, 11 December 1991. Text in Documents on Jerusalem, op. cit., p. 280).

549 Cfr. Ibid., p. 347.
Government Arrangements. The document states that "the Government of the State of Israel and the PLO team to the Middle East Peace Conference (the «Palestinian Delegation»), representing the Palestinian people, agree that it is time to put an end to decades of confrontation and conflict, recognize their mutual legitimate and political rights, and strive to live in peaceful coexistence and mutual dignity and security and achieve a just, lasting and comprehensive peace settlement and historical reconciliation through the agreed political process." More concretely, the Declaration envisaged the establishment of a Palestinian Interim Self-Government Authority, an elected Council, for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period of not more than five years, leading to a permanent settlement based on the UN Security Resolutions 242 and 338 (See Chapter 3). Negotiations towards this end should cover the issues of Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors.

Contemporaneously with the Israeli-Palestinian talks, Israel held negotiations with Jordan for three years, culminating in a declaration in July 1994 by King Hussein and Prime Minister Yitzhak Rabin, which put an end to the forty-six year state-of-war between the two countries. This initial step led to the Jordan-Israel peace treaty signed on October 26 of the same year.

Still under the framework of the Madrid peace formula, Israel and Syria began negotiations in Washington, held sometimes at the ambassadorial level with the involvement of US officials. In particular, two round of talks in December 1995 and January 1996 focused on security and other key issues, identifying at the same time areas for future discussion.

The peace process has certainly gathered enough momentum. Attempts to sabotage the peace plan perpetrated by extremists on both sides did not deter its chief architects to carry it on. Thus, in Cairo on 4 May 1994 Israel and the PLO took another step forward by signing the Agreement on the Gaza Strip and the Jericho Area, giving birth to the Palestine National Authority.

Prime Minister Rabin's apertures in the interest of peace cost him his life when a young ultra-rightist Jew shot him dead on 4 November 1995. But the peace plan did not die with him. By Christmas of the same year, the Israeli soldiers abandoned Bethlehem and elections were held in Cisjordan and Gaza on 19

---

552 Cfr. Ibid.
553 Cfr. E. HIRSCH (ed.), Facts About Israel, op. cit., p. 44.
January 1996, making Arafat the first democratically-elected Palestinian President.554

**B. Diplomatic Initiatives of the Holy See**

Right from the start, the peace process augured well not only for the international community, in general, but also for the Holy See, in particular, whose cause on the Palestine and Jerusalem questions was inseparably linked to the broader issue of peace in the Middle East. Indeed, the political entente ushered in by the Madrid Conference in October 1991 — barely four years after the birth of the Intifada, eight months after Israel’s new declaration of Jerusalem as its «eternal capital»555 and six months after the end of the Gulf War556 — was a sharp positive turn of events that was not to be missed by any advocate of world peace. While the Holy See’s diplomatic moves were not purely dictated by the political circumstances, it took advantage of the occasion and initiated a series of talks with the Israeli representatives with a view of normalizing the relations between the two parties.557 More concretely, the peace process offered the Holy See an important opportunity to remind the negotiators of the need to take into consideration the status of Jerusalem and the Holy Places.558

In the light of the above, a Bilateral Permanent Working Commission composed of representatives of the Holy See and the State of Israel was set up on 29 July 1992 following an initial meeting held in Jerusalem two weeks earlier to fix the agenda.559 Tasked to study issues of common interest and outline the text of

---


555 As mentioned earlier, in July 1980 the Knesset declared Jerusalem as the State capital. On 11 June 1990, the Parliament approved a government program proclaiming once again Jerusalem as Israel’s eternal capital and as an indivisible City under Israeli sovereignty. The program indicated that Jerusalem would not be included in the plan of autonomy for the Palestinians in Judaea, Samaria and Gaza. Cfr. S. FERRARI, *Vaticano e Israele. Dal secondo conflitto mondiale alla guerra del golfo*, op. cit., pp. 209-210.

556 When Iraq invaded Kuwait on 2 August 1990, the PLO threw its weight behind the aggressor since it promised to liberate Palestine and it seemed to be the only Arab power capable to confront Israel. However, with Iraq’s defeat, the PLO’s prestige plunged down and Israel — target of Iraqi Scud Missiles, bolstered its international image. Cfr. D. SOLAR, *El Laberinto de Palestina*, op. cit., p. 331.


559 In an interview made by the author with Mr. Florent Arnaud, Secretary of the Delegation of the Holy See on the Bilateral Permanent Working Commission, in Jerusalem on 13 July 2000, he explained that Archbishop Andrea Cordero Lanza di Montezemolo, representing the Holy See, had established contact with the Israeli Government to explore the possibility of initiating bilateral talks. The first official meeting between representatives of the two parties was held in

btcadg
an agreement, the Commission set out to work intensively for seventeen months under the leadership of firstly, Mr. Moshe Gilboa and then from September 1992, Mr. Eitan Margalit (for Israel) and of Archbishop Andrea Cordero Lanza di Montezemolo (for the Holy See).

The initial contacts between the representatives of the Holy See and the State of Israel soon brought to light the wide discrepancy in their respective points of departure. The Holy See wanted to tackle bilateral issues with the possibility of regularizing the diplomatic relations on a gradual basis. On the other hand, Israel's priority was the immediate establishment of full diplomatic ties, making such demand a pre-condition to accept the Holy See as an «observer» in the peace talks.\footnote{560}

The Israelis conceived the negotiation as a series of questions to be resolved empirically on a case by case basis; the Holy See, on the other hand, looked for a complex juridical systematization that would regulate not only the relations between the two parties, but more importantly grant a clear and well-defined status to the Catholic Church and its rights in the Holy Land.\footnote{561}

It took months for experts on both sides to smooth out their differences and carve out the articles of the future accord. Whenever necessary, they resorted to the formulation of compromise phrases such as "this right [of the Catholic Church] being exercised in harmony with the rights of the State of Israel." Finally, the Fundamental Agreement was signed in a solemn ceremony in Jerusalem on 30 December 1993 by the respective Plenipotentiaries, Msgr. Claudio Maria Celli, the Holy See’s Under-Secretary for Relations with States, and Dr. Yossi Beilin, Israeli Deputy Minister for External Affairs.\footnote{562}

In his message to the Diplomatic Corps on 15 January 1994, John Paul II said that the Fundamental Agreement would regulate the mutual relations between the two parties and guarantee the conditions necessary for the Catholic Church to exist in Israel, adding that new form of relations of the Holy See with the State of

\footnote{560} Cfr. L. CREMONESI, Le tappe del negoziato diplomatico, in «Quaderni di Diritto e Politica Ecclesiastica» I, 3447(1995), p. 165. In fact, the Holy See was not originally invited to the Madrid Peace Conference since Israel did not want to have contacts with countries or parties with which it had no diplomatic relations. Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 710.

\footnote{561} Cfr. Ibid., op. cit., p. 709.

Israel would help consolidate the peace process in favor of all those concerned.563

5.1.2 The Fundamental Agreement as a Policy Shift

With the Fundamental Agreement, the evolution of the relations of the Holy See with the State of Israel entered a new phase in which one of the fundamental issues, the Jerusalem question — in its bilateral aspects — became the object of bilateral negotiations. In its form (bilateral treaty), the Agreement reflects the new policy option of the Holy See whereby it treated separately the bilateral and the multilateral aspects of the Jerusalem question.564 In its contents, the Agreement embodies the said bilateral aspects (freedom of worship, free access, maintenance of the status quo, etc.). In its remote origin (political entente ushered in by the Madrid Peace Conference), the Agreement indicates the progress of the other fundamental issue: the Palestine question.

A. Form: A Bilateral Treaty

The Fundamental Agreement signed between the Holy See and the State of Israel is an authentic international treaty between two subjects of international law and thereby legally binds the contracting parties. It falls within the category of «agreement» in Public International Law, intended to formalize the relations between two sovereign and independent entities. Although crafted in broad terms in such a way that it required further negotiations, it approximates the figure of a «concordat» in so far as its juridical object is to guarantee the freedom of the Catholic Church to fulfill her ends within the State of Israel, respecting the latter's temporal sovereignty and establishing the general norms that would allow the regulation of «mixed questions» over which both the State of Israel and the Holy See have particular interests.565 Hence, the Fundamental Agreement is a bilateral treaty in the strict sense of the word.

The signing of the Agreement marked a radical shift in the policy approach of the Holy See to the Jerusalem question. Whereas, before 1993 the Holy See had

563 "C'est dans ce contexte d'espoir...que se situent les conversations qui ont permis à l'Etat d'Israël et au Saint-Siège de signer un accord sur quelques principes fondamentaux propres à régir leurs relations mutuelles et à garantir des conditions d'existence normales à l'Eglise catholique qui se trouve dans ce pays... le Saint-Siège est convaincu que cette nouvelle forme de relation avec l'Etat d'Israël lui permettra... d'aider à consolider le désir de justice et de paix de tous ceux qui sont engagés dans le processus de paix" (L'udienza di Giovanni Paolo II ai membri del Corpo Diplomatico accreditato presso la Santa Sede per la presentazione degli auguri per il nuovo anno, 15 January 1994, in «L'Osservatore Romano», 16 gennaio 1994, p. 4).

564 "Va precisato che nell'Accordo non c'è traccia diretta di tali questioni [Gerusalemme e altri Luoghi Santi] che, avendo un carattere internazionale e multilaterale, esulano ovviamente da a un trattato bilaterale" (Firmato l'Accordo tra la Santa Sede e lo Stato di Israele, op. cit., p. 1).

565 Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, op. cit., p. 77.
pursued the question by treating as a single multilateral agenda (first in the form of a corpus separatum, then through internationally guaranteed special statute) both its multilateral aspect (status of the City of Jerusalem) and bilateral aspects (freedom of worship, free access and status quo), with the Fundamental Agreement the Holy See has separated the former from the latter.566

1. Why the Shift? Internal Logic at Work

It might appear, on the surface, that the policy change set forth by the Fundamental Agreement was the result exclusively of the favorable turn of historical events in the 1990’s. In other words, the rationale behind the Holy See’s decision to take the bilateral course might seem to have been motivated purely by political factors.

However, there was an internal logic that served as the principal basis of the policy course of the Holy See throughout these years — that is, that the Jerusalem question was principally a religious problem, that the role herein played by the Holy See was that of an interested party, and that its multilateral policy approach, by the fact that it was a means proposed to achieve a set of ends, was transitory in character.

a) An Interested Party in a Religious Problem

As discussed in Chapter 2, the Jerusalem question was mainly a religious problem involving the protection of the Holy Places and the rights of the minorities in the Holy Land. The intrinsic stake of the Holy See (legitimate rights of the Catholic Church) on the question made it an interested party567 in all negotiations in this regard, from the period of Pius XII down to the Pontificate of John Paul II. Hence, as a manifestation of its pro-active role, the Holy See had been preparing the ground for its eventual policy re-orientation years before the advent of the Fundamental Agreement.

To start with, Nostra Aetate accompanied the political overtures of the Holy See by nourishing on the religious plane the progressive maturation of Christian-Jewish relations. As discussed in Chapter 3, this document initiated a series of theological dialogues that ran parallel to and reinforced the developments on the diplomatic level (without confusing the former with the latter). In this context, frequent contacts took place between John Paul II and Jewish leaders, accompanied by the Pope’s statements that often mentioned the «State of Israel». These contact helped build an atmosphere of mutual trust and understanding between the Catholic Church and the Jewish people and, by extension, between the Holy See and the State of Israel.


567 Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, op. cit., p. 72.
In what refers to the problem itself of the Holy Places, the Holy See undertook bold steps to make frequent public interventions and did not just confine itself to a defensive posture.\textsuperscript{568} This is true especially in the case of Paul VI and John Paul II, who both bolstered the cause in the international community through allocations, messages to world leaders, apostolic exhortations and encyclicals, at a time when many nations seemed to renegade on the responsibility of guaranteeing the universal and religious character of Jerusalem and the Holy Places.

Moreover, the Holy See did not ignore the fact that the State of Israel had become a more important partner of dialogue on the question of the Holy Places and religious rights especially since 1967, when most of the Christian Holy Places and Christian communities came under its effective control. The political and military dominance of Israel over many areas where the Church's interests were geographically located made the Jewish State an increasingly potential partner of dialogue to settle the juridical status of such interests.\textsuperscript{569} Expressed in another way, the \textit{de facto} circumscription of the Holy Places in the Israeli State as a result of the Six-Day War was a reality with which the Holy See had to contend, irrespective of the legal validity of the territorial changes brought about by military campaigns.

In addition, the same change of circumstances in 1967 was followed by a series of legislative measures and real protection of the Holy Places on the part of the State of Israel. In practical terms, freedom of worship and free access were enjoyed by Christians more than ever beginning this period.\textsuperscript{570} The original idea that the Christian Holy Places and the religious rights of the various communities could only be safeguarded through a special international regime for Jerusalem gradually gave way to alternative arrangements.\textsuperscript{571} While it is true that Israel's protection of the Holy Places and certain respect for religious rights fell short of what the Holy See sought, yet the unresolved issues were potential objects of a comprehensive bilateral negotiation.

As a side benefit of Israel's expansionist policy (denounced by the Holy See), the greater real protection enjoyed by the Holy Places was not, in itself, a sufficient reason for the Holy See to strike an accord with Israel on this matter, espe-
cially since the inseparably linked Palestine question was to remain unresolved. But the opening of the Madrid Peace Conference changed entirely the whole scenario. As years of deadlock between the Israelis and the Palestinians was about to break, the Holy See explored ways of opening stable bilateral channels with Israel. As it were, the historical circumstances in the beginning of the 1990’s were sufficiently apt for a new course of action that the Holy See did not just remain a passive bystander but took positive steps to initiate preliminary contact with the Israeli authorities with the end view of reaching an agreement on substantive issues.

b) Multilateral Scheme: A Transitory Means

The multilateral scheme adopted by Pius XII (in the form of territorial internationalization) and strongly carried on by Paul VI and John Paul II (in the form of functional internationalization) was, as Pius XII himself had said in the Encyclical Letter *In Multiplicibus Curis*, a means that seemed to be the best solution *in praesentibus rerum adiunctis*. The Holy See’s resolute efforts to defend the multilateral solution to the Jerusalem question over a span of fifty years did not alter the transitory character of the multilateral scheme. This was potentially replaceable by another means to pursue the unchanging ends (freedom of worship, free access, *status quo*, etc.). Precisely when the right circumstances came in the 1990’s, the Holy See deemed it opportune to shift its policy orientation in favor of the bilateral approach as it appeared now to be the best solution to address the Church’s concerns.

The policy shift came about in a natural way since the Holy See was not caught off guard by the change of political fortunes. As discussed in Chapter 4, John Paul II had conceived the Jerusalem question in a way that placed the Holy See in a better position to ride the tides of change, while keeping its key interests secure.

In summary, the Holy See’s decision to assume the bilateral approach after years of multilateral option manifested its flexibility and ability to respond adequately to political vicissitudes in the task of defending Christian interests in the Holy Land. But this was possible given the mainly religious nature of the Jerusalem question, the corresponding role played by the Holy See as an interested party, as well as the instrumental character of the multilateral scheme it had originally proposed.

---

2. De Jure Diplomatic Relations

The Fundamental Agreement itself sealed the new policy line of the Holy See in so far as it provided for, among other stipulations, the establishment of full diplomatic relations between the Holy See and the State of Israel. In other words, the Agreement paved the way for the two parties to elevate their de facto relations to a de jure level — the maximum expression of a bilateral approach. In the context of the evolving relations between the two parties since 1948, wherein the Holy See tightly followed the multilateral course with or without strong international support, the policy shift in favor of the bilateral approach constituted a pivotal change. The Fundamental Agreement provided a bilateral legal framework for present and future dealings between the two parties especially in the juridico-political sphere. Henceforth, all matters of exclusively common interests to the Holy See and the State of Israel were to be settled through the established bilateral channels.576

As provided for in Article 14 of the Fundamental Agreement, the normalization of the said diplomatic ties would be carried out in two phases: first phase — the immediate exchange of Special Representatives who enjoy the "rights, privileges and immunities granted to Heads of Diplomatic Missions under international law and common usage, on the basis of reciprocity" (Additional Protocol, no. 2);577 and second phase — the establishment of full diplomatic relations following the entry into force and the start of the implementation of the Fundamental Agreement.

In keeping with the timetable agreed upon earlier, on 19 January 1994 the Government of Israel appointed Mr. Samuel Hadas as its Special Representative to the Holy See, while the latter accredited Archbishop Andrea Cordero di Montezemolo as its Special Representative to the State of Israel. The next stage in the plan of implementation was the ratification of the Fundamental Agreement which was accomplished on March 10. This paved the way for the second phase of the accord to take flesh on 15 June 1994 with the nomination of the first Israeli Ambassador to the Holy See, Mr. Samuel Hadas and the first Apostolic Nuncio to the State of Israel, Archbishop Andrea Cordero di Montezemolo, completing the establishment of de jure diplomatic relations between the two parties. On this same day the Apostolic Nunciature was inaugurated at the old Franciscan Convent of St. Peter in Jaffa, coinciding with the opening of the Israeli Embassy before the Holy See in Rome.578

Upon receiving Ambassador Hadas' credentials on 29 September 1994, Pope John Paul II highlighted the Holy See's mission to open up the paths of peace without which the integral development would be hindered, the survival of entire

groups would be jeopardized, and the culture and the very identity of more than one nation would be threatened with extinction. On his part, Ambassador Hadas observed that the establishment of diplomatic relations between the Holy See and the State of Israel was not the point of arrival, but on the contrary, the starting point in the task to bring together in dialogue the Catholic Church and the Jewish People.

B. Contents

1. A Closer Look at the Agreement

Preamble

The Preamble of the Fundamental Agreement briefly outlines the context under which the accord between the Holy See and the State of Israel was established, stating their common awareness of "the singular character and universal significance of the Holy Land;...the unique nature of the relationship between the Catholic Church and the Jewish people" and of the "historic process of reconciliation...between Catholics and Jews." After considering the preparatory work of the Bilateral Permanent Working Commission as well as its future task, the text goes on to enunciate the fifteen articles and the Additional Protocol.

Article 1

In Article 1 the State of Israel, recalling its Declaration of Independence, and the Holy See, recalling its Declaration on Religious Liberty of the Second Vatican Council, Dignitatis Humanae, committed themselves to uphold the right to freedom of religion and conscience, as set forth in the Universal Declaration of Human Rights and other international instruments to which either one was a party.

Article 1 is an all-embracing provision that guarantees the right to religious freedom of every person irrespective of his racial, national or religious identity since religious freedom is a natural human right. It applies to both individuals and collectivities. This has certain implications on the obligations assumed by the State of Israel and the Holy See as the contracting parties.


582 "Ils s'attachent, en premier lieu, au respect du droit de liberté de religion et de conscience, qui est une condition indispensable au respect de la dignité de tout être humain" (Discorso di Giovanni Paolo II al primo ambasciatore dello Stato d’Israele presso la Santa Sede, 29 September 1994, op. cit., p. 4).
In its *Declaration of Independence* (See Chapter 2), the State of Israel committed itself to be "based on freedom, justice, and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture."

The text shows that the State of Israel conformed itself formally to the demands of religious freedom as an essential element of a democratic society. Such a commitment, in both its collective and individual dimensions, bears much upon Israel's system of «Recognized Religious Communities». This shall be discussed at length in relation to Article 13.1 later in the chapter.

In the case of the Holy See, it commits itself to uphold religious freedom formally defined as the immunity of all men "from coercion on the part of individuals, social groups and every human power so that, within due limits, nobody is forced to act against his convictions nor is anyone to be restrained from acting in accordance with his convictions in religious matters in private or in public, alone or in associations with others." This right "has its foundation not in the subjective attitude of the individual but in his very nature."

This commitment has twofold aspects: the freedom of the individual and the freedom of the Church to carry out her functions. With respect to the first aspect, religious freedom does not imply absolute autonomy of the individual or institution in relation to moral norms; rather it means that individuals and institutions are free in religious matters in relation to the civil norms. With respect to the second aspect, religious freedom demands the minimum conditions necessary for the Church to fulfill her apostolic mission.

Given its broad character, the right to religious freedom herein upheld by the State of Israel and the Holy See needs further specification. This has been partly accomplished by the clause "as set forth" in certain international covenants.

Article 1 in fact remits to the *Universal Declaration of Human Rights* adopted by UN General Assembly on 10 December 1948. The document states that:

---

583 The Declaration of Independence of the State of Israel, 14 May 1948. Text in Documents on Jerusalem, op. cit., p. 78.

584 VATICAN COUNCIL II, Declaration *Dignitatis Humanae*, no. 2.

585 Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, op. cit., p. 256.


587 It should be noted that neither the Holy See nor the State of Israel was a member of the United Nations when it adopted the *Universal Declaration of Human Rights* on 10 December 1948. Israel became a UN member in 1949 while the Holy See established its Office of Permanent Observer in the UN in 1964.
"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (Article 2, paragraph 1).

"Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in a community with others, and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance" (Article 18).

As regards other international instruments to which either the Holy See or the State of Israel was a party, the fact that they had been signatories to different international treaties touching on religious freedom implies a certain difference in the extension of their respective duties in this area.

To cite an example, only the State of Israel was a signatory to the International Treaty on Civil and Political Rights (New York, 16 December 1966) which contains detailed provisions on freedom of religion and conscience.

Only the State of Israel signed the Treaty on Economic, Social and Cultural Rights (New York, 16 December 1966) which safeguards the freedom of education — an important item in the Holy See's agenda. In particular, the Treaty provides that: "the States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their established by the public authorities, which conform to such minimum educational standards as may be laid down or

588 Text in T. SCOVAZZI, L'Accordo Fondamentale tra la Santa Sede e Israele, op. cit., p. 160.
590 The relevant provision states:

"1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or moral or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions" (Article 18). Text in T. SCOVAZZI, L'Accordo Fondamentale tra la Santa Sede e Israele, op. cit., p. 161.
approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions" (Article 13.3). 591

Meanwhile, only the Holy See adopted the first and the second additional protocols (Geneva, 8 June 1977) to the Geneva Convention of 1949 concerning respectively the protection of victims of international and non-international armed conflicts. The Holy See is legally obliged to observe the protocol with respect to the right to freedom of religion and conscience. It would be more logical though, if this obligation were assumed by the State of Israel since it was the party that had been engaged in armed confrontation.

Another observation that can be made with respect to Article 1 is the manner in which it is formulated. It may be noted that the obligations of the State of Israel and that of the Holy See are different in content. The former is called to "uphold and observe" the human right to freedom of religion and conscience, whereas the Holy See is called but "to uphold" the same. The difference is not insignificant for the two subjects have diverse natures. 592

A detailed study of the nature and activities of the Holy See as a sovereign subject of international law is beyond the scope of this study. 593 However, it is important to clarify that the text of the Fundamental Agreement is better understood if the term "Holy See," every time it appears, is taken to mean the organ of government of the Church or of the Vatican State rather than the Church itself. 594

Those who drafted and approved the Fundamental Agreement had been careful to use the terms "Holy See" and "Catholic Church" distinctly, depending on whichever was appropriate in a given provision, precisely because the two terms refer to two different realities. For example, whereas in most articles of the Fundamental Agreement it is the Holy See that agrees with the State of Israel, in Article 3.2 the State of Israel recognizes the right of the "Catholic Church" rather than that of the Holy See to carry out religious, moral, educational and charitable functions, logically because it is as a religious community rather than a sovereign entity that the Catholic Church undertakes such functions. As far as freedom of religion and conscience is concerned, the relationship of the Catholic Church to its own faithful is certainly not the same as the relationship of the State of Israel (or whatever state for that matter) to its citizens. The Church perforce seeks to profess and spread its own creed whereas the state, in the context of a democratic

591 Ibid., p. 162.
592 Cfr. S. FERRARI, L'Accordo fondamentale tra S. Sede e Israele e le convenzioni post-conciliari tra Chiesa e Stati, op. cit., p. 259.
593 For this topic, see G. BARBERINI, Chiesa e Santa Sede nell'ordinamento internazionale. Esame delle norme canoniche, Torino 1996.
594 Cfr. T. SCOVAZZI, L'Accordo Fondamentale tra la Santa Sede e Israele, op. cit., p. 163.
society, keeps its hands off religious choices and does no more than ensure the free and peaceful exercise of the right to religious freedom.

In the same vein, the obligation to uphold the right to freedom of religion and conscience as contained in Article 1 is assumed by the Holy See not so much in relation to the Catholic faithful (needless to say, the Church respects the religious freedom of everyone) as to the believers of other creeds, a commitment made all the more important in a place strongly marked by the presence of diverse religions as in the case of the Holy Land. Under this perspective, the Holy See affirms in Article 1.2 the "Catholic Church's respect for other religions and their followers as solemnly stated by the Second Vatican Ecumenical Council in its Declaration on the Relation of the Church to Non-Christian Religions, Nostrae Aetate." Nonetheless, the clause “respect for other religions” does not constitute a curtailment of the right of Catholics to evangelise, manifest and promote their religion and to invite others to accept it since this right is an essential element of the right to freedom of religion and conscience.

One last observation on Article 1 is that, in guaranteeing the right to religious freedom, the provisions of this Article fulfill a specific function within the Fundamental Agreement itself — that of serving as a frame of reference for the rest of the provisions of the Agreement.

Article 2

In Article 2.1 both the Holy See and the State of Israel agree to "cooperate in combating all forms of antisemitism, racism and religious intolerance and in promoting mutual understanding among nations, tolerance among communities and respect for human life and dignity."

Religious tolerance, mutual understanding and respect for human life and dignity are moral values which the Church has always upheld. The inclusion of the specific commitment to fight antisemitism was second in Israel's list of demands to the Holy See when both parties met to negotiate. On its part, the Holy See certainly did not have any problem in making a declaration in this respect, as it had already done so in several pontifical documents. In particular, Article 2.2 reiterates, using almost the same words of Nostrae Aetate the condemnation of hatred, persecution and other manifestations of antisemitism.595

Article 3

The mutual recognition between the Holy See and the State of Israel of their freedom to exercise their respective rights and powers (Article 3.1) has an enormous importance in so far as it put both parties on an equal plane, at least implicitly, as two juridical subjects that are autonomous and independent of each

595 For the relevant text, see Annex 4.
During the negotiations, the representatives of the Holy See certainly had to grapple with their counterpart's confused notion of the Catholic Church as something that should be subject to the earthly authority.

Another important concern of the Holy See throughout these years finally found a legal niche in Article 3.2: the organizational autonomy of the various religious communities in the Holy Land. In effect, the State of Israel recognizes in this Article the Catholic Church's right to carry out its religious, moral, educational and charitable functions, to have its own institutions and to train, appoint and deploy the corresponding personnel. In doing so, the State of Israel applies to the Catholic Church as a collectivity the principle of religious freedom it enshrines in Article 1.1.

This right of the Church is counterbalanced, so to speak, by the "right of the State to carry out its functions, such as promoting and protecting the welfare and the safety of the people." Possible misunderstandings on the manner and extent to which the State of Israel can carry out this right should be resolved through dialogue and cooperation.

With respect to the legal personality of the Church, both the Holy See and the State of Israel agree in Article 3.3 to hold further negotiations with a view of giving such legal personality full effect in Israeli law, following a report from a joint subcommission of experts. This shall be considered in more details in the analysis of the Legal Personality Agreement.

Article 4

Article 4.1 settled what had been a thorny aspect of the Jerusalem question, declaring the State of Israel's continuing commitment to maintain and respect (and the Catholic Church's continuing commitment to respect) the status quo in the Christian Holy Places and the respective rights of the Christian communities.

To be sure, fleshing out this commitment required subsequent arrangements. But this did not detract from the binding force of the agreement. Hence, in the meantime pending subsequent talks at a more concrete level, the State of Israel assured the Holy See that it would respect the rights of all the institutions of the Catholic Church in Israel, the character proper to the Catholic Holy Places as well as the freedom of worship.

---

596 Cfr. S. FERRARI, L'Accordo fondamentale tra S. Sede e Israele e le convenzioni post-conciliari tra Chiesa e Stati, op. cit., p. 264.
598 "Las tratativas de buena fe contribuirán...a la formalización, a satisfacción de las Partes, de las relaciones entre el Estado de Israel y la Iglesia Católica. Mientras tanto será respetada la situación en todo lo referente a los derechos de las instituciones católicas en Israel y se continuará respetando y protegiendo el carácter propio de los Lugares Santos católicos, así como la libertad de culto católico" (S. HADAS, Discorso dell'Ambasciatore dello Stato d'Israele al Santo
The Fundamental Agreement makes a distinction in the use of the terms "Christian communities" (Article 4.1) and "Catholic communities" (Article 10.2.a). The latter is specifically defined in Article 13.1.b as "the Catholic religious entities considered by the Holy See as Churches sui iuris and by the State of Israel as Recognized Religious Communities." The term “Christian communities” is left undefined.

This distinction matters in as much as the Catholic Church spoke in its own name during the negotiations, excluding, with due respect, the non-Catholic communities which understandably had been trying to vindicate similar rights as claimed by the Catholic Church. In separate declarations made by Msgr. Claudio Celli, Plenipotentiary of the Holy See, and Joaquín Navarro-Valls, Spokesman of the Holy See, during the signing of the Fundamental Agreement, they made the above observation, making it clear that, despite the fact that many questions negotiated upon were common to other Christian denominations, the Holy See did not act on their behalf precisely because of the Catholic Church’s respect towards them and in its hope that the Fundamental Agreement would help facilitate a similar agreement between the non-Catholic Christians and the State of Israel.599 In fact, as an ecumenical gesture, the Holy See informed the leaders of the other Christian communities of its intention to negotiate with the State of Israel before the constitution of the Bilateral Permanent Working Commission in 1992, a move appreciated by the said communities. However, the Holy See did not want to give the slightest impression that it was negotiating also on their behalf.600

In the light of the above considerations the commitment of the State of Israel to respect the status quo of "Christian Holy Places" and the respective rights of the "Christian communities" in Article 4.1 covers not only the Catholic Church but also the non-Catholic Christian communities, at least to the extent that a clear-cut distinction between them could not be easily established for the purpose of applying legal guarantees on the part of the State of Israel. The same may be said in what refers to "Christian pilgrimages" to the Holy Land mentioned in Article 5.1.601 Article 4.3 helps to illustrate this point as it specifically employs the term "Catholic," recognizing the obligation of the State of Israel to respect and protect "the character proper to Catholic sacred places, such as churches, mon-


600 Cfr. F. NWACHUKWU, Canons 364 and 365 the Holy See and the State of Israel: an example of the logic of pontifical diplomacy, op. cit, pp. 133-134.

601 This may be due to the fact that in some cases, the same sanctuaries are shared between or administered jointly by the diverse Christian communities. For example, the Basilica of the Holy Sepulcher is controlled by the Greek Orthodox, the Armenians and the Latins (specifically, the Franciscans). Cfr. R. STERN, Religion, Politics and Jerusalem, op. cit., p. 20.
asteries, convents, cemeteries and their like." Therefore, where a distinction could be made between the Catholic Church and the non-Catholic Christian confessions, the Fundamental Agreement made such distinction; otherwise, it lumped them all together.

As a product of a bilateral accord strictly between the Holy See (representing the Catholic Church) and the State of Israel, the commitment thus obtained by the former from the latter in Article 4.1 brought with it a side benefit for non-Catholic Christian communities.602

In addition, it is interesting to observe that, with the provision of Article 4.1, the State of Israel offers guarantees for Christian sanctuaries (e.g., the Basilica of the Holy Sepulcher, the Basilica of the Nativity and the Tomb of the Virgin) found in areas that the relevant UN resolutions — basis of the peace treaty between Israel and the Arab countries — considered as Occupied Territories. As far as the Holy See is concerned, the agreement on this concrete point did not ignore the reality that the State of Israel de facto was the civil power that exercised authority pro tempore over these territories.603

The last paragraph of Article 4 guarantees the freedom of Catholic worship — a logical consequence of the right to religious freedom recognized in Article 1.

Article 5

Article 5.1 states that "the Holy See and the State of Israel recognize that both have an interest in favouring Christian pilgrimages to the Holy Land."604 In the past, there have been frictions between local Christian and Jewish authorities with regard to the management and administration of tourism and pilgrimages. The former held that pilgrimages were part of the Church's religious function and should therefore be free of any Government interference. The latter (in particular the Israeli Tourist Guide Association) expressed certain "resentment that while pilgrimage involves preoccupation with the historic past, there is often little or no encounter with the contemporary Israeli reality."605 Small wonder therefore why Article 5.1 goes on to say that "whenever the need for coordination arises, the proper agencies of the Church and of the State will consult and cooperate as re-

603 Cfr. Ibid., p. 712.
604 On the part of the State of Israel, a more direct benefit of the pilgrimages come in the form of the huge revenue these imply. Cfr. C. CORRAL SALVADOR, El Acuerdo Basico de 30 de Diciembre de 1994, entre la Santa Sede e el Estado de Israel: desde la Perspectiva de la Santa Sede, in «Estudios Eclesiasticos» 69(1994), p. 163.
quired." It is also in this light that Article 5.2 adds: "The State of Israel and the Holy See express the hope that such pilgrimages will provide an occasion for better understanding between the pilgrims and the people and religions in Israel."

Articles 6, 8, and 9

Articles 6, 8, and 9 recognize the right of the Catholic Church pertaining to education, communications and charitable functions, but in a way conditioned by the clause "this right being exercised in harmony with the rights of the State." The clause, sufficiently vague as to allow various interpretations, was the final compromise reached by the representatives of the Holy See and the State of Israel after three months (January to March of 1993) of interruption in the negotiations.606

The difficulties in these areas of the negotiations were due to the discrepancy in the basic assumptions of the Holy See and the State of Israel. "For the Catholic Church, the rights being negotiated concerned persons and institutions subject to two equal and independent legal authorities — the laws of the Church (Canon Law) on the one hand, and the laws of the State of Israel on the other. For the latter, the negotiations concerned interests and communities under Israel's own exclusively sovereign jurisdiction. Accordingly, it posed no inherent problems for the State of Israel to...confirm the status quo regarding the Holy Sites, the right to maintain separate educational facilities, freedom of expression and communications, and the right to charitable and welfare activity, as long as it was clear that the implementation of these is subject to the laws of the land. For their part, the Vatican negotiators sought to ensure a language of parallelism."607

The compromise formula adopted is such that, in so far as the present and future activities of the Church in the fields of education, media communications, health and social welfare are concerned, the State of Israel reserves the right to evaluate these initiatives on a case to case basis in the light of its Government's policies. Nevertheless, while the norms of the State of Israel may prevail, these cannot be imposed trampling upon the rights of the Church protected by the very same Fundamental Agreement.608

Article 6

608 Cfr. F. MARGIOTTA BROGLIO, L'accordo "fondamentale" tra la Santa Sede e lo Stato d'Israele (30 dicembre 1993), op. cit., p. 158.
More concretely, Article 6 provides that "the Holy See and the State of Israel jointly reaffirm the right of the Catholic Church to establish, maintain and direct schools and institutes of study at all levels."

Freedom of education was one of the seven items on the agenda of the Holy See at the start of the negotiations. This point became the object of a tumultuous discussion in November-December 1992 especially due to Israel’s expressed will that the Israeli police and security service be permitted to interfere in the activities of the Catholic schools in East Jerusalem and in the Occupied Territories.609

At stake in the formulation of this Article was the prospect of the Catholic Church to erect new learning institutions. The mention of "at all levels" means that the Catholic Church may establish not only elementary and high schools but also institutes of higher learning such as Biblical Institutes.610 This issue was more delicate than it appears. Higher education for Palestinian Christians had been an important concern of the Holy See in the past. However, the experience of the University of Bethlehem — a focus of tension not only between the Palestinians and the Israelis but also between different Palestinian factions — showed how sensitive the status of educational institutions could be in the State of Israel.611 Again, to relieve the impediment in the negotiations, a compromise was made by adding the clause "this right being exercised in harmony with the rights of the State in the field of education."

Article 7

Article 7 states that the "the Holy See and the State of Israel recognize a common interest in promoting and encouraging cultural exchanges between Catholic institutions worldwide, and educational, cultural and research institutions in Israel, and in facilitating access to manuscripts, historical documents and similar source materials, in conformity with applicable laws and regulations."

In a sense, Article 7 is a consequence of Article 6 to the extent that the effective exercise of the right of the Catholic Church to establish, maintain and direct schools and institutes of study at all levels requires — for the purpose of making possible biblical studies and research — the free access to manuscripts and historical documents.612 The exhibition of the Dead Sea scrolls, lent by the Museum of Israel in Jerusalem, at the Vatican Museums in June 1994, was the

610 Cfr. C. CORRAL SALVADOR, El Acuerdo Basico de 30 de Diciembre de 1994, entre la Santa Sede e el Estado de Israel: desde la Poespectiva de la Santa Sede, op. cit., p. 163.
611 Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, op. cit., p. 266.
612 Cfr. C. CORRAL SALVADOR, El Acuerdo Basico de 30 de Diciembre de 1994, entre la Santa Sede e el Estado de Israel: desde la Poespectiva de la Santa Sede, op. cit., p. 163.
of Israel in Jerusalem, at the Vatican Museums in June 1994, was the first manifestation of "Cultural exchanges." 613

Article 8

The right of the Catholic Church to freedom of expression in carrying out its various functions is presumed by the State of Israel as can be deduced from the way Article 8 is formulated. What the State of Israel recognizes, in fact, is the exercise of such right "through the Church's own communications media..." in conformity of course with the State's law in this area. 614

Article 9

Article 9 guarantees "the right of the Catholic Church to carry out its charitable functions through its health care and social welfare institutions; this right being exercised in harmony with the rights of the State in this field." Subject to the limitation, Article 9 guarantees unhindered activities of Church institutions such as hospitals and homes for the aged. Negotiations on the fiscal status of these and similar entities are in progress. 615

Article 10

"The Holy See and the State of Israel jointly affirm the right of the Catholic Church to property" in Article 10.1. Fiscal and property matters were a bone of contention throughout negotiations. The point of controversy lay in the Holy See's petition to conserve and extend the fiscal privileges and exemptions obtained through the years since the time of the Ottoman Empire. Viewed from another perspective, the controversy lay in the lack of readiness on the part of the State of Israel to grant legal status to the fiscal privileges which the Catholic Church de facto had enjoyed since centuries ago. 616

613 Cfr. L. CREMONESI, Le tappe del negoziato diplomatico, op. cit., p. 177.
614 Criticisms were expressed on the Jewish side for the fact that there was not an express prohibition on missionary work. However, since the Agreement reflected the current legal position of the Catholic Church in Israel, it was not thought necessary to include a provision in this respect. The Israeli law prohibits specifically the religious conversion of minors and those conversions that involve the grant of material benefit. Cfr. E. MARGALIT, Comments on the Fundamental Agreement between the Holy See and the State of Israel, in «Justice» 2, June 1994, p. 28. (Eitan Margalit was the Advisor to the Israeli Minister of Foreign Affairs on Religious Affairs and was closely involved in the negotiations of the Fundamental Agreement). It should be noted, though, that missionary work is expressly endorsed as an essential element of freedom of religion and conscience, in the Universal Declaration of Human Rights, which becomes an object of the Agreement in Article 1.1.
615 See Epilogue.
616 The representatives of the local ecclesiastical institutions pressed to get the maximum exemptions knowing that a victory in this sense would help make the agreement acceptable to
The inability of the negotiators to arrive at a consensus led them to opt for another round of sessions. This is the reason why the Fundamental Agreement limits itself to reaffirm the right of the Catholic Church to property (Article 10.1) and leaves for future talks "...unclear, unsettled and disputed issues, concerning property, economic and fiscal matters relating to the Catholic Church generally, or to specific Catholic Communities or institutions" (Article 10.2.a). For this purpose, Article 10.2.b calls for the appointment of "one or more bilateral subcommittees of experts to study the issues and make proposals." Article 10.3.c set then a timeframe of two years to reach an agreement, commencing within three months from the date of the Fundamental Agreement's enforcement. In the meantime, both the Holy See and the State of Israel made a commitment to refrain from taking any measures contrary to the above matter.

Article 11

Article 11.1 declares the Holy See and the State of Israel's "respectful commitment to the promotion of the peaceful resolution of conflicts among States and nations, excluding violence and terror from international life." The words seem to have been carefully selected to implicitly distinguish international from internal conflicts. The latter understandably include uprisings within the Israeli territory — an internal matter that is not the business of the Holy See. 617

In Article 11.2 "the Holy See, while maintaining in every case the right to exercise its moral and spiritual teaching-office, deems it opportune to recall that, owing to its own character, it is solemnly committed to remaining a stranger to all merely temporal conflicts, which principle applies specifically to disputed territories and unsettled borders." 618

In a speech before a Symposium held in Jerusalem on 26-27 October 1998, attended by Presidents and Delegates of Catholic Episcopal Conferences, Archbishop Jean-Louis Tauran, the Holy See's Secretary for Relations with the States, affirmed that the immediate and practical preoccupation of the Holy See concerned the religious questions. With respect to the other spheres — political, economic, etc. — the Holy See would intervene only in so far as these involved the moral dimension. It is not proper that the Holy See enmesh itself in territorial disputes among nations, take sides nor propose detailed solutions. 619

---

618 This is analogous to Article 24 of the Lateran Treaty of 1929 between the Holy See and Italy, indicating the will of the former to stay out of questions concerning sovereignty. Cfr. P. PIE-RACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 713.
619 "Ovviamente, la preoccupazione pratica e immediata della Santa Sede concerne questioni re-
With the provision of Article 11.2, it appears offhand that the Holy See has counted itself out of the efforts to solve the Jerusalem question — that is, if this question is inseparably linked to territorial controversies. However, it should be noted that the limit imposed on the Holy See's capacity to intervene is confined to "merely temporal conflicts."

The phrase reflects the fact that the Jerusalem question, as has been discussed in the previous chapters, is a religious question mixed with political elements, that is to say, the problem of the Holy Places is inseparably linked to the question of the status of Jerusalem, at least in so far as the Holy City itself has a peculiar religious character beyond the mere aggregation of sacred shrines. In the already cited Apostolic Letter Redemptionis Anno, John Paul II could not have been clearer in emphasizing the religious identity of Jerusalem and the need to preserve the sacred, unique and unrepeatable character of the City — not only the monuments and the Holy Places, but in fact the entire historical Jerusalem.

Undoubtedly, it is not an easy task to delineate the religious and the political aspects of the Jerusalem question and separate the two spheres. In this regard, Article 11.2 is susceptible to diverse interpretations incompatible with each other.

In what refers to the Christian Holy Places themselves, it may be recalled that part of the problem has been remedied by Article 4 of the Fundamental Agreement. A review of the said provision shows the commitment of the State of Israel (and the Holy See) "to maintain and respect the status quo in the Christian Holy Places...and the respective rights of the Christian communities thereunder" (Article 4.1). To reinforce such commitment, Article 4.2 adds that this provision (Article 4.1) "shall apply notwithstanding an interpretation to the contrary of any Article in this Fundamental Agreement." Article 4.3 specifies the State of Israel's obligation to respect and protect "the character proper to Catholic sacred places, such as churches, monasteries, convents, cemeteries and their like."

However, beyond the juridical guarantees on the Holy Places obtained bilaterally in the above provisions, and given that the legal inhibition imposed is confined to "merely temporal conflicts," the Holy See reserves the right and duty to intervene in two things: a) the Jerusalem question — in its multilateral aspect touching on the religious character of the City and b) the Palestine question, in as much as this is a matter of human justice perfectly within the ambit of the Holy See's "moral and spiritual teaching-office." However, these issues shall be discussed in the Epilogue since they affect the relations between the Holy See and the State of Israel subsequent to the signing of the Fundamental Agreement.

Article 13
Article 13.1 defines the "Catholic Church" or "The Church" as a single entity that includes, *inter alia*, its communities and institutions. This is distinguished from the "Communities" of the Catholic Church that refers to "religious entities considered by the Holy See as Churches *sui iuris* and by the State of Israel as Recognized Religious Communities." The provision of Article 13.1 has an enormous importance beyond mere definitions. In these few lines the Fundamental Agreement laid down the basis of a new regime in Church-State relations hitherto unknown in the State of Israel.

Nine days before the signing of the Fundamental Agreement, on the occasion of the IX International Juridical Convention held at the Lateran University in Rome, John Paul II affirmed that every community has the natural and primary right to live collectively and in an organized way its own religious dimension. Religious freedom is at the root of every other right because it is based on the dignity of the human person who, by nature, is a social being. The Roman Pontiff then went on to observe that the traditional ways by which Christian religious communities in Eastern Mediterranean were assured of their religious rights, valid in their own historical contexts, did not anymore adequately respond to our times. A mature conception of the State and its legal order, inspired by that which the common conscience of humanity has expressed in the rules of international community, demanded the effort to ensure equality of treatment to every person, irrespective of his ethnic, linguistic, cultural and religious origin.620

The words of John Paul II constituted a challenge for Middle Eastern states where Christians form a small minority in largely Muslim societies. However, the call applied equally to the State of Israel, now the specific object of this study.

When it was founded in May 1948, the State of Israel inherited the old *millet* system which had characterized the Ottoman Empire (1517-1917).621 The *millets* or «autonomous» ghettoes was "fundamentally premised on the monistic nature of the political-religious Islamic *Res publica*" and may be described as "a system in which the Muslim religious community was numerically identical with the politi-

---


621 The *millet*, in turn, was a derivation from an earlier system prevailing throughout the pre-Ottoman Islamic rule in the Holy Land, spanning the period from 639 to 1517, interrupted only from 1099 to 1291 by the Crusaders. With its own characteristics, the pre-Ottoman legal regime was also based on the theocratic nature of the Islamic Commonwealth whereby the spiritual and the temporal are confused. This system continued to be in force under the British Mandate (1917-1948) with some adaptations. Cfr. D. JAEGGER, *The Fundamental Agreement between the Holy See and the State of Israel: A New Legal Régime of Church-State Relations*, in «Catholic University Law Review» 47, 1998, pp. 429-430.
Diplomatic Relations between the Holy See and The State of Israel (1948-1997)

As envisioned by the Zionists, the State of Israel was founded on democratic principles that guaranteed freedom of religion and conscience to all its inhabitants. Such democratic ideals were expected to bring about changes in the old millet system of group enclosures. However, not only did the old regime remain in force, but the Jewish community eventually took the privileged place used to be occupied by the Muslim community. As far as the Christians were concerned, their position remained invariably the same under the old as under the new politico-religious dispensations. The Jewish version of the millets were technically called «Recognized Religious Communities». This system applies the «personal status» law directly to the norms of each religious confession, classified according to a criteria determined by the State. By the fact that a person belongs to a particular «Recognized Religious Community», the Israeli legal system applies to this person the corresponding legal order of the said religious community. There is no civil law in Israel regulating, for example, the marriage of someone who does not belong to any religious confession. The Roman or Latin Catholic Church, in so far as it was a «Recognized Religious Community», had the canonical marriage as the only choice available to any of its faithful who wished to get married. If there was another option, it was to adopt another religion or become a member of another «Recognized Religious Community».

The over-all panorama is that the State of Israel makes a series of separate micro recognitions of religious communities. Where the Catholic Church was concerned, it did not legally exist in Israel. Rather, one finds the Greek Catholic (or Melkite), the Maronites, the Armenian Catholic, the Syrian Catholic, the Coptic Catholic and the Chaldeans, each considered as «Recognized Religious Community» but never as rites of the same Catholic Church as they are in reality. Hence, the phenomenon of «Recognized Religious Communities» is a creation of the State that reinforces ethnic distinction and impede religious choices by making it part of the citizen's civil identity vis-à-vis the State and society.

Here lies the revolutionary character of Article 13.1 of the Fundamental Agreement: it addressed the deficiencies of the millet system with a view of norm-
malizing Church-State relations. From this moment on, the Catholic Church became the title holder of the rights and duties vis-à-vis the State of Israel and not the segregated «Recognized Religious Communities». As a community of faithful, Catholics, while constituting a religious minority in Israel, enjoy in the new regime the recognition of a fundamental human right and not just a recognition of certain rights of the minorities.626 However, the legal guarantees obtained by the Holy See for the Catholic Church does not constitute a privileged position over the other religious groups since religious freedom is an element proper of a democratic society which the State of Israel professes to be.627

In the context of the unique relation between the Holy See and the State of Israel, the new regime in Church-State relations inaugurated by the Fundamental Agreement is significant, more so in view of the fact that Israel has no written constitution to guarantee religious rights.628

Article 13.2 is a complex provision. It states that treaties which are existing between either the State of Israel or the Holy See and another State or States and which are known and available to both Parties at the time of the signing of the Fundamental Agreement prevail over the latter in case of discordance. However, this shall be observed without detracting from "the generality of any applicable rule of law with reference to treaties."

The existing norms and customs of international law in this respect were elaborated by the Vienna Convention on the right of treaties (23 May 1969) to which the Holy See is a party but not the State of Israel.629 In particular, Article 30.2 of the said Convention states that "when a treaty specifies that it is subject to, or

626 Cfr. C. MIGLIORE, L’Azione della Santa Sede, op. cit., pp. 680-681. Cfr. also D. ROSEN, Israel-Vatican Relations Since the Signing of the Fundamental Agreement, an article prepared for the Washington Catholic University publication, Spring 1999. The article, a copy which has been personally furnished by the author, highlighted the significance of the Agreement in view of the fact that Catholic communities form a minority in Israel. Rabbi Rosen was formerly a member of the Bilateral Permanent Working Commission, representing the State of Israel.

627 Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, op. cit., p. 73.

628 Cfr. S. FERRARI, L’Accordo fondamentale tra S. Sede e Israele e le convenzioni post-conciliari tra Chiesa e Stati, op. cit., p. 268. In addition, the Fundamental Agreement contains a series of religious rights, both individual and collective, that are generally acknowledged today but are not specifically listed in obligatory positive international law. Cfr. N. LERNER, The Holy See and Israel, in «Anuario de Derecho Eclesiástico del Estado» XIII(1997), p. 145. Hence, the accord stands out in the absence of a detailed international convention on religious human rights to define and protect common interests. There has been a welcome development in this area with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed in 1981 by the UN General Assembly. Cfr. Ibid., p. 139.

629 Cfr. T. SCOVAZZI, L’Accordo Fondamentale tra la Santa Sede e Israele, op. cit., p. 158.
that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other prevail."\textsuperscript{630}

Article 14

As seen earlier, Article 14 stipulates the two stages in the establishment of diplomatic relations between the Holy See and the State of Israel. Stage one consists of the exchange of Special Representatives upon the signing of the Fundamental Agreement and stage two of the establishment of full diplomatic relations at the level of Apostolic Nunciature (on the part of the Holy See) and Embassy (on the part of the State of Israel).

An additional five-point protocol specifies, among others, that the Special Representatives shall have the personal rank of Apostolic Nuncio (for the Holy See) and Ambassador (for the State of Israel), and with the rights, privileges and immunities granted to Heads of Diplomatic Missions under international law and common usage on the basis of reciprocity. The other stipulations may be found in the appendix.

2. Comprehensive Treaty: The Voice of Israel

The Fundamental Agreement is a comprehensive bilateral treaty not only from the point of view of the Holy See (i.e., not only for that fact that the Agreement guarantees as a whole the interests of the Catholic Church in Israel) but also from the point of view of Israel. Indeed, it is the meeting point of the two parties after half a century of relations limited to a \textit{de facto} level. This explains the peculiar character of the Fundamental Agreement which does not have the conventional language of international diplomacy in so far as it reflects the unique relations between the Catholic Church and the Jewish people beyond strictly legal formulations.\textsuperscript{631} Hence, while the Agreement is formally an international treaty between two subjects of international law, it contains at the same time mutual commitments on the religious plane.\textsuperscript{632} While provisions such as freedom of worship, free access and maintenance of the Christian \textit{status quo} were the specific interests of the Holy See formally shared or guaranteed by Israel in the Fundamental Agreement, provisions like the commitment to fight antisemitism (Article 2) represented the specific interests of the State of Israel formally shared or upheld by the Holy See in the Fundamental Agreement. As a matter of fact, this provision was one of the most significant achievements of the Agreement from the point of view of Israel.\textsuperscript{633}

\textsuperscript{630} Text in L. CREMONESI, \textit{Le tappe del negoziato diplomatico}, op. cit., p. 164.


\textsuperscript{632} Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, op. cit., p. 74.

\textsuperscript{633} Cfr. E. MARGALIT, Comments on the Fundamental Agreement between the Holy See and the
In this regard, given the diverse natures of the respective interests of the Holy See and the State Israel, their consequences on future relations between the two parties as could be expected would also be different. Hence, provisions such as the legal personality of the Catholic Church were potential objects of a later accord at the diplomatic level, whereas provisions such as the commitment to combat antisemitism would remain in the spheres of solemn declarations.634

Another important (if not the most important) agenda of the State of Israel in its negotiations with the Holy See was the establishment of diplomatic relations (Article 14).635 The Israeli delegation wanted first to work out the matter of diplomatic relations before proceeding to discuss the substantive issues, with the idea that the former would serve as a vehicle for the latter. However, the Holy See delegation wanted to tackle the substantive issues (bilateral aspects of the Jerusalem question) without pre-conditions relative to the establishment of diplomatic relations.636 The impasse was resolved when the Israeli delegation finally agreed on the terms of negotiation laid down by the Holy See. Thus, a compromise was reached to the effect that the subject of diplomatic relations, along with the substantive issues, would be included in the talks. This way, both the agenda of the Holy See and that of the State of Israel were eventually etched out in the Fundamental Agreement.637

C. Remote Origin: The Palestine Question

As a bilateral treaty containing the bilateral aspects of the Jerusalem question, the Fundamental Agreement did not imply that the Holy See had abandoned the


635 For the State of Israel, the importance of normalizing diplomatic rapport with the Holy See could not be over-emphasized. In this respect, Rabbi David Rosen said that "Catholicism is the dominant ethos in South America; it is a growing force in Africa and one to be reckoned with in South-East Asia and still not without influence in the industrialized and technologically advanced societies. The normalization of the Holy See's relations with Israel thus has global diplomatic ramifications" (D. ROSEN, Vatican-Israel Relations: The Jewish Perspective in «Justice» 3 September 1994, p. 25). See also Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., pp. 708-709.

636 Of course, diplomatic relations were of interest to the Holy See, but these were something it originally sought to establish on a gradual basis and not so much as a symbolic gesture of Christian-Jewish reconciliation as a juridico-political instrument that would provide, among other things, a legal framework for the interests of the Church in Israel as well as for the relations between the Holy See and the State of Israel as two subjects of international law.

637 This was explained during an interview made by the author with Prof. David Jaeger, Legal Adviser of the Bilateral Permanent Working Commission representing the Holy See, at the Pontifical Athenaeum “Antonianum,” Rome, 3 November 2000.
other fundamental issue: Palestine question.\textsuperscript{638} As noted in the previous chapters, the mainly political nature of the Palestine question meant that its final solution would not come from the Holy See but from the parties in conflict.\textsuperscript{639} Therefore, the Palestine question was something independent from, although closely linked to, the Jerusalem question, and the former should be addressed separately from the latter (in its bilateral aspects) as far as the Holy See was concerned.

The fact that Fundamental Agreement does not contain anything concerning the Palestine question\textsuperscript{640} points to its distinction and independence from the Jerusalem question.\textsuperscript{641} But fact that the bilateral steps leading to the Fundamental Agreement were initiated only when the Palestine question made a breakthrough points to its essential nexus with the Jerusalem question. Indeed, the progress of the Palestine question turned out to be the remote origin (the proximate origin were the contacts initiated by the Holy See with Israel) of the Fundamental Agreement to the extent that the Israeli-Arab dialogue at the Madrid Peace Conference paved the way for the Holy See to commence its own dialogue with the State of Israel.\textsuperscript{642}

As a matter of fact, the same propitious circumstances that brought about the policy shift of the Holy See in favor of the bilateral approach in its relations with

\textsuperscript{638} Cfr. P. PIERACCINI, Gerusalemme, Luoghi Santi e comunità religiose nella politica internazionale, op. cit., p. 713.

\textsuperscript{639} Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, op. cit., p. 72.

\textsuperscript{640} On the contrary, it contains a commitment of the Holy See to stay out of purely temporal or territorial disputes — implicitly confirming its non-competence over the Palestine question (Article 11.2).

\textsuperscript{641} "Madrid, Washington e lo storico Accordo del 13 settembre scorso tra Israele e l'Olp sono state grandi tappe in ordine alla questione territoriale e alla sovranità ad essa legata. Nel momento in cui israeliani e palestinesi siedono, gli uni di fronte agli altri, al tavolo delle trattative, la Santa Sede non intende in alcun modo sostituirsi a nessuna delle parti" (\textit{Firmato l'Accordo tra la Santa Sede e lo Stato di Israele}, op. cit., p. 1).

\textsuperscript{642} Cfr. A. PELAYO, D. VALCÁRCEL, \textit{La normalización Israel-Santa Sede y el futuro de Jerusalén}, op. cit., p. 178. It is important to highlight this point especially in the light of the negative reactions in some Arab sectors to the decision of the Holy See to strike an accord with Israel. The Arab League issued a communiqué expressing its apprehension that such agreement could mean the Holy See's acceptance of Israeli's annexation of East Jerusalem and a violation of its (the Holy See's) neutral stand. However, the Holy See made consultations with most of the diplomats accredited to it prior to entering into an agreement with Israel. Cfr. C. MIGLIORE, \textit{L'Azione della Santa Sede}, op. cit., p. 684. Thus, for example, Egypt's official reaction was positive. At the same time, the Holy See made clear that the protection of fundamental human rights of the people living in Israeli territory and Occupied Territories — Christians and Muslims — were among its principal objectives. Cfr. G. IRANI, \textit{Le reazioni religiose e politiche del mondo arabo}, in «Quaderni di Diritto e Politica Ecclesiastica» I, aprile 1995, p. 186.
Israel similarly affected the former's relations with the Arab side. In other words, the events concomitant to the Madrid Peace Conference eventually led the Holy See to deal in a bilateral manner not only with the State of Israel but also with the Arab parties such as Jordan and the Palestinians. Consequently, the Holy See established full diplomatic ties with the Kingdom of Jordan on 25 October 1994\textsuperscript{643} and, more significantly, it reached a Basic Agreement with the PLO on 15 February 2000.\textsuperscript{644}

Hence, for the Holy See its Fundamental Agreement with the State of Israel not only represented progress in the Jerusalem question (in its bilateral aspects), but also indicated progress in the Palestine question. This was not a simple coincidence but responded to the fact that the two fundamental issues were deeply related to each other, as they always had been treated by the Holy See.

From what has been discussed, a common pattern emerged from the policy orientation of the Holy See towards Israel, Jordan and the PLO in reference to the bilateral aspects of the Jerusalem question. Whereas, before the 1990's, issues such as the freedom of worship, free access and the maintenance of the Christian status quo were all subsumed under a multilateral framework, in the last decade these all became objects of bilateral treaties. If the Roman Pontiffs had appealed to Israeli and Arab leaders to protect the Christian interests by multilateral means, the same interests are now guaranteed under bilateral treaties between the Holy See and each of the three parties.

5.2 THE LEGAL PERSONALITY AGREEMENT

5.2.1 Historical Context

A. The Wye Mill Memorandum

With the change of Government in Israel on 29 May 1996, dark clouds loomed on the horizon as the new Prime Minister Binyamin Netanyahu of the Likud Party rose to power with the slogan «peace with security». The leader of the Israeli Government immediately calmed the fears of the neighboring countries and the international community by assuring them of his intent to consider as binding the

\textsuperscript{643} A day later, 26 October 1994, Israel and Jordan signed a Peace Treaty. Cfr. A. MACCHI, Santa Sede e Israele: Passato, Presente e Futuro, op. cit., p. 87.

agreements forged by his predecessors. However, Israeli-Palestinian tensions were soon renewed when the Government adopted a series of hard-line measures: opening a tunnel that led to the Muslim districts in East Jerusalem; denying Palestinian laborers’ entry to their workplaces in Israel and building Jewish settlements in Palestinian-claimed districts. Once again a new round of violence gripped Israel with the terrorist attack in a crowded market in Jerusalem on 30 July 1997 that left 16 people dead, the assassination of three Israeli soldiers in Southern Lebanon on 30 May 1998 and the bombing Bersheva on 19 October 1998 that injured 64 Israelis. Meanwhile, despite Israeli protests, the UN General Assembly elevated on 9 July 1998 the status of the Palestine National Authority (PNA) in the United Nations from that of an «Observer» to one of a «virtual State», granting the PNA a non-voting seat in the Assembly.

The intervention of the United States has been decisive in bringing the warring factions together in dialogue. With this, a new round of negotiations was opened in Washington on 15 October 1998 and later continued in Wye Mills, Maryland. The result was the Wye Memorandum issued on October 23 that called for the withdrawal of Israeli forces from Cisjordan, the liberation of 750 Palestinians from Israeli prisons, the arrest and disarming of Palestinian extremists on the part of the PNA, the opening of two corridors linking Cisjordan and Gaza, and the abrogation of a Palestinian law that called for the destruction of the State of Israel.

The Wye Memorandum brought fresh hopes to restore peace in the troubled region. But translating into realities the texts of the agreement proved difficult, especially since the two sides blamed each other for having violated the accord. The Palestinians charged Israel of not completing the implementation of the Wye Memorandum and consequently rallied the international community to pressure the Government of Netanyahu. For this purpose, Arafat spoke before the World Economic Forum held in Davos (Switzerland) in February 1999 and then proceeded to Washington to meet with President Clinton and members of the US Congress. Israel, on the other hand, accused Arafat of having released from prison Palestinian terrorists and declared that it would not budge unless the PNA provided sufficient guarantees for Israel’s security, as was agreed in the Wye Memorandum.

---

B. The Holy See Reiterates its Policy Posture

The Holy See followed with keen interest the ebb and flow of the peace process in the Middle East. John Paul II made numerous public interventions to encourage the positive efforts, while stressing at the same time that the questions of Jerusalem and Palestine remained as the key elements in bringing stable peace to the region. For example, on 13 January 1996, in his message to the Diplomatic Corps, the Pope said that the religious and universal dimension of the Holy City of Jerusalem required the involvement of the international community. He added that the Holy Places, sacred to the three great monotheistic religions, would lose their significance if the various Jewish, Christian and Muslim communities were deprived of an authentic freedom of conscience and of religion and were prevented from carrying out their respective religious, educational and social activities.\footnote{649}

The Holy Father, observing that negotiations for the definitive status of the territories under the Palestine National Authority (PNA) as well as the delicate question of Jerusalem would begin that year (1996),\footnote{650} expressed his hope that the international community would offer the necessary juridical and diplomatic instruments.\footnote{651}

5.2.2 A Closer Look at the Legal Personality Agreement\footnote{652}

A. Genesis of the Agreement

Article 3.3 of the Fundamental Agreement called for negotiations between representatives of the Holy See and the State of Israel with the aim of giving full effect to the legal personality of the Catholic Church in Israeli legal system. Pursuant to this Article, on 15 June 1994 a Bilateral Sub-Commission of experts on juridical matters was created.\footnote{653} Subsequent negotiations between representatives


\footnote{650} The term fixed by the Oslo Accord of 1993 for the proclamation of an autonomous Palestine State ended on 4 May 1999. Hence, Arafat intended to push through with the proclamation. However, Israel threatened to occupy the whole of Cisjordan should the former make a unilateral declaration. Cfr. \textit{L’Anp chiede pressioni su Netanyahu affinché rispetti le intese}, \textit{op. cit.}, p. 2.


\footnote{652} For the text of the Agreement, see Annex 8. See also J.T. MARTÍN DE AGCORDATI: 1950-1999, \textit{op. cit.}, pp. 526-552.

\footnote{653} Cfr. R. PALOMINO, El Acuerdo Fundamental entre la Santa Sede y el Estado de Israel, \textit{op. cit.}, p. 264.
of the two parties led to the signing on 10 November 1997 of the Legal Personality Agreement between Archbishop Andrea Cordero Lanza di Montezemolo, Apostolic Nuncio to Israel, and David Levy, Israeli Minister of Foreign Affairs.

Therefore, the Legal Personality Agreement was the fulfillment of a specific requirement of the Fundamental Agreement, whose nature as a partial accord implied subsequent talks to complete its juridical significance. Like the 1993 Agreement, the new accord is a bilateral treaty between two sovereign and independent subjects (the Holy See and the State of Israel) of international law, forged within the framework of the de jure diplomatic relations. The new treaty paved the way for Israeli law to fully recognize the civil effects of the moral and legal persons constituted by the Catholic Church according to and operating within the ambit of canon law, such as patriarchates, dioceses, monasteries, religious congregations, religious, educational and welfare institutions, as well as associations and foundations that are canonically established. This means that the Legal Personality Agreement recognizes the canonical legal order as something complete, independent, and sovereign within the sphere of competence proper to the Church, and therefore distinct from and at par with the legal order of the State of Israel itself, or any State. More significantly, the new accord precludes in a definitive way any possible application to the Catholic Church or any of its Church sui iuris of the category of «Recognized Religious Communities» (See Chapter 5). As it were, with the 1997 Agreement, the "Church has solidified its status as an organic, sovereign and independent society, with its own primary legal order, Sovereign Authority, and administrative, judicial and legislative apparatus."

The Legal Personality Agreement represented another positive step in the evolving relations between the Holy See and the State of Israel, within the framework of their diplomatic relations. Although it did not produce as much echo in the international scene as did the Fundamental Agreement of 1993, the Legal Personality Agreement has enormous importance to the extent that it pro-

---

656 Ibid., pp. 439-440.
657 On the religious plane, Christian-Jewish relations also showed further progress with the issuance of a document on 17 March 1997 by the Commission for Religious Relations with the Jews, entitled We Remember: a Reflection on the Shoah. The document was prepared as a concrete way of seconding John Paul II's call in his Apostolic Letter Tertio Millennio Adveniente for self-examination and repentance in preparation for the Jubilee year 2000. Thus, the document recalled the horror of the genocide of the Jews, asked all the Christians to meditate on the moral imperative to ensure that never again would such a catastrophe recur, and appealed to the Jews to hear the voice of the Church in this respect. For the full text, see Noi ricordiamo: una Riflessione sulla Shoah, in «L'Osservatore Romano», 16-17 marzo 1998, p. 4.
vides the much-needed legal basis for the Catholic Church and its various entities to operate in the State of Israel.

Written in English and Hebrew, the new agreement consists of thirteen articles, an annex containing a list of legal ecclesiastical persons and «Implementation Provisions» that established the specific terms and procedures for the recognition of new legal and moral persons that would be erected by the Catholic Church in the future, as well as the terms and procedures for their suppression or fusion.

B. Ratification

For the Legal Personality Agreement to enter into force, it had to be ratified (Article 13). However, in the opinion of the Israeli Government, for the effective implementation of the same under Israeli law, there was a need for primary and secondary legislations, the latter to be made with the consent of the Holy See (Article 6.1).

The ratification of the Agreement itself was the immediate concern of the Holy See. For this, the proper procedure includes the exchange of notes of ratification and, subsequently, the publication of the accord in the corresponding official gazettes, necessary for the effective promulgation of all the norms contained therein.

The lack of primary and secondary legislations need not affect the Agreement itself since international treaties to which Israel is a party prevail over local legislation, unless the said treaties contradict an internal law of Israel (Article 13.2 of the Fundamental Agreement). The Legal Personality Agreement is an international treaty that does not contravene any law in Israel and hence, it binds the contracting parties. In this sense, primary and secondary legislations were more a concern of Israel than the Holy See.

In reality, however, the very question of ratification was affected by the need for primary and secondary legislations to the extent that the Government of Israel at some moment wanted to settle the former at the same time as the latter.

---

658 The itinerary leading to the ratification of the Legal Personality Agreement is summarized in the following words: Conuentio ipsa litterarumque traditio inter Ministrum ab Exteris Negotiis ac Nuntiatum Apostolicam die XXVII Septembris anno MCMXCVII et die II Novembris anno MCMXCVII necnon Notarum inter Statum Israeliis atque Apostolicam Sedem die X Novembris anno MCMXCVIII, ratae habitae sunt a Statu Israelis dei XVI Decembris anno MCMXCVIII. Apostolica dein Sedes eadem sanxit documenta die XXI Ianuarii anno MCMXCVIX (AAS XCI(1999), p. 566).

659 These are Israeli municipal laws that would render effective the legal personality of the Catholic Church and its institutions in all their practical consequences.

More concretely, the Israeli delegation explained to their Holy See counterparts that the secondary legislation would allow the opening of the Registry containing the list of all the juridical personalities of the Church present in Israel. To avoid presenting legislation concerning the Church to Knesset twice, the Israeli delegation insisted on having it presented only once with the ratification of the Juridical Personality Agreement. The Israelis affirmed that their system was very complex and time consuming, assuring the Holy See delegation that the delay was borne out of good faith. However, the latter, through Archbishop Pietro Sambi, Apostolic Nuncio to Israel and Apostolic Delegate in Jerusalem, made it clear that there would not be further negotiations until the Agreement was ratified. This was finally accomplished by the State of Israel on 16 December 1998. Subsequently, the ceremony for the exchange of notes of ratification took place on 3 February 1999 at the Israeli Ministry of Foreign Affairs in Jerusalem.

C. Contents

The following commentary, by no means exhaustive, seeks to highlight the more important aspects of the Agreement and provide a brief explanation of the articles.

Article 1 indicates that, as earlier discussed, the Legal Personality Agreement "is made on the basis of the provisions of the «Fundamental Agreement between the Holy See and the State of Israel», which was signed on 30 December 1993, and which came into force on 10 March 1994."

Article 2 states that "recalling that the Holy See is the Sovereign Authority of the Catholic Church, the State of Israel agrees to assure full effect in Israeli law to the legal personality of the Catholic Church itself." The recognition of the Sovereign Authority of the Church on the part of the State of Israel does not imply a partial renunciation of the latter's political sovereignty. In other words, Israel's political sovereignty has no limitation other than that which is normally established by public international law in matters of immunity, something which does not affect the juridical autonomy of the Church.

---

661 The delay in the ratification showed how the Legal Personality Agreement, notwithstanding its relatively technical character, was vulnerable to political developments taking place in Israel. Apart from the complex nature of the Israeli system, the Israeli delegation said that the political composition and the priorities of Knesset were factors to be taken into account. In fact, the pace of the negotiations leading to the Fundamental Agreement was also conditioned by political factors. Cfr. D. ROSEN, The Negotiations of the Permanent Bilateral Commission between the Holy See and the State of Israel, and their Fundamental Agreement signed on December 30, 1993, op. cit., p. 22.


663 Cfr. AAS XCI(1999), pp. 491-567.

664 Cfr. R. PALOMINO, Avances en las relaciones jurídicas entre Israel y la Santa Sede. El
It may be noted that the legal personality that is recognized is that of the Catholic Church "itself" since the Catholic Church possesses a juridical personality distinct from that of its various institutions. The Agreement precisely carries three Annexes that enumerate the various Church entities whose juridical personality is likewise given full effect in Israeli law.

In Article 3.1 the same commitment is applied to the Eastern Catholic Patriarchates, the Latin Patriarchate of Jerusalem (the Latin Patriarchal Diocese of Jerusalem), the present Dioceses of the Eastern Catholic Patriarchates, new Dioceses that may be created in Israel, and the Assembly of the Catholic Ordinaries of the Holy Land.

With respect to new cross-border Dioceses, the question of assuring its legal personality's full effect in Israeli law is left open (Article 3.3). This provision calls to mind the Holy See's hands-off policy in matters involving territorial boundaries (Article 11.2 of the Fundamental Agreement).

In canon law, a Parish enjoys ipso iure a juridical personality. To this internal Church legislation the Agreement makes an exception by not recognizing a juridical personality of the Parish separate from that of the Diocese where it belongs. However, a "Diocese may, subject to the canon law, authorize its Parishes to act on its behalf, in such matters and under such terms, as it may determine" (Article 3.4).

Article 3.5 states that in the Agreement the term "Diocese" includes its "synonyms" and "equivalents." In the light of c. 368 and the juridical experience of the Church, apart from the exarchies, the following can be considered as equivalents in iure to the dioceses and eparchies: territorial prelatures, territorial abbeys, apostolic vicariates, apostolic prefectures, missions sui iuris, permanently established apostolic administrations, military ordinariates and personal prelates.

The Custody of the Holy Land also has its juridical personality recognized and given full effect in Israeli law (Article 4). Added to this are the Pontifical Institutes of Consecrated Life (Article 5.a) and other official entities of the Catholic Church (Article 5.b).


In Article 6.1, the Holy See’s sovereign character is affirmed once more and the legal personality of the entities mentioned in Articles 3-5 is acknowledged to have been established canonically. Furthermore, Article 6.2.b remits to canon law everything that concerns the identity of the head or any other official of a legal person as well as their powers to represent the same.

The above provisions notwithstanding, Article 6.2.a provides that "the law which governs any legal transaction or other legal acts in Israel between any legal person and any party shall be the law of the State of Israel." This provision responds to the Church’s principle of «canonization» provided for in c. 22 which states that "when the law of the Church remits some issue to the civil law, the latter is to be observed with the same effects in canon law, in so far as it is not contrary to divine law, and provided it is not otherwise stipulated in canon law".

Article 6.2.c establishes that "certain kinds of transactions by a legal person concerning immovable property or certain other kinds of property depend on prior written permission of the Holy See in accordance with its written decisions as issued from time to time." This provision brings to mind again the case of \textit{Notre Dame} Center in Jerusalem.

\begin{itemize}
\item \textbf{668} «Canonization» means that "the ecclesiastical legislator refrains from enacting norms on a question, and defers to secular laws so that they might also be applied within canon law. This procedure is especially suitable for regulating matters where it is convenient that the criteria of the canonical and secular legal systems should coincide" (See commentary on c. 22 in \textit{Code of Canon Law Annotated}, op. cit., p. 93).
\item \textbf{669} An example of this with respect to the alienation of goods is the provision of c. 1290 which states that "without prejudice to c. 1547, whatever the local civil law decrees about contracts, both generally and specifically, and about the voiding of contracts, is to be observed regarding matters which are subject to the power of governance of the Church, and with the same effect, provided that the civil law is not contrary to divine law, and that canon law does not provide otherwise." (c. 1290).
\item \textbf{670} See cc. 1290-1298 for contracts and especially alienation of goods.
\item \textbf{671} The \textit{Notre Dame} Center belonged to the Assumptionist Fathers and was built in 1885 to house the French pilgrims. The building suffered serious damages during the 1948 Arab-Israeli conflict. Its south wing was used by the Israeli military as a fortress. Financial difficulties led the Assumptionist Fathers to sell the property to Hamenuta of the Jewish National Fund. A little later the building was donated to the Hebrew University of Jerusalem as a students' residence. The Holy See opposed the property transfer since the Assumptionist Fathers did not secure the prior consent of Rome. Hence the Apostolic Delegate claimed the rights of the Holy See before Israeli tribunals. An amicable settlement was reached in 1972: the government of Israel would rescind the sale of the \textit{Notre Dame} Center and would sell it again to the Holy See. In 1973, the building recovered its original function. Cfr. R. PALOMINO, \textit{Avances en las relaciones jurídicas entre Israel y la Santa Sede. El "Acuerdo sobre Personalidad Jurídica de 1997,"} op. cit., p. 745.
\end{itemize}
Article 6.3 recognizes the judicial and administrative autonomy of the Church to settle internal controversies between a member, official or functionary of a legal person and a legal person or between legal persons through the proper ecclesiastical forum. This provision is not incompatible with the statement in Article 6.4.a that "a legal person, whose legal personality is given full effect in Israel, is deemed to have consented to sue and be sued before a judicial or administrative forum in Israel, if that is the proper forum under Israeli law." The two articles precisely seek to avoid possible conflicts of jurisdiction, and establish, in general terms, the respective spheres of competence of the ecclesiastical and civil tribunals.

In Article 7 the existing rights and obligations of any legal person covered by the Agreement prevail over the same.

The independent nature of the various entities of the Church is reaffirmed by Article 8 in which it is made clear that the juridical personality of the legal persons to which the Agreement applies precedes the same. Anyone who maintains the contrary shall bear the burden of proof.

Article 9 establishes that when a question with regard to canon law arises in any matter before a civil court, it shall be regarded as a question of fact rather than a legal question. This would avoid the application of the principle of iura novit curia to which civil tribunals would submit the question. In other words, "in the forum of the State, questions of canon law shall be considered questions of fact, as are, in Israel, all questions concerning the law of other independent legal orders, such as foreign states."  

Article 11 refers to three Annexes that classify the legal persons into three groups: Annex I — the Eastern Catholic Patriarchates and their present Dioceses, the Latin Patriarchate of Jerusalem, the Assembly of the Catholic Ordinaries of the Holy Land and the Custody of the Holy Land; Annex II — the Pontifical Institutes of Consecrated Life and Annex III — other official entities of the Catholic Church. The explicit mention of these institutions was necessary for their juridical personality to be given full recognition in Israeli law. It is for this reason that Archbishop Montezemolo wrote a letter to Foreign Minister David Levy on 27 September 1997 asking the Government of Israel that, in giving full effect in Israeli law...
law to the legal personality of certain ecclesiastical juridical persons as per initial agreement in May 1996, the Government include the new ecclesiastical entities of the Catholic Church in Israel that may be established subsequent to the Agreement. The request was made so that the Legal Personality Agreement would correspond to the real situation on the date of its signing. To facilitate the work implied, Montezemolo proposed to the Israeli Government that "prior to the formal, imminent signing of the Legal Personality Agreement, we proceed with the exchange of Letters between this Apostolic Nunciature and the Ministry of Foreign Affairs, stating that as soon as a Registry will be established (in accordance with no. 5 of the Implementation Provisions, which form part of the same Legal Personality Agreement), the legal entities, which appear in the document herewith attached, will be immediately incorporated in the mentioned Registry, thus granting also to them full recognition within Israeli legislation as far as civil effects are concerned."  

On behalf of the State of Israel, Foreign Minister Levy gave an affirmative response to the petition of the Holy See, saying that "I am pleased to inform Your Excellency that the proposal set forth in your abovementioned Note is acceptable to my Government and that my Government agrees that your Note together with this reply shall be regarded as constituting mutual agreement in this regard."  

D. Implementation Provisions

A Schedule to the Agreement called the "Implementation Provisions" is established in Article 12. Among the more important items of the said Schedule is a provision (no. 1) with respect to newly established legal persons. If these have been established by the Holy See (pontifical legal persons), the Apostolic Nunciature should convey a corresponding Certificate to the State's Foreign Affairs Ministry as a requirement for the said legal persons to function in the State of Israel (1.1.b). Once the Israeli Government has conveyed the Certificate to the Registry or ninety one days have passed since the said Certificate was forwarded by the Nunciature — whichever comes first, the juridical personality of these legal persons automatically takes full effect in Israeli law (1.1.c).

On the other hand, if the legal persons have been established by a local Church Authority, in particular by a Patriarch or a Diocesan Bishop (1.2), such Authority should convey the corresponding Certificate to the Israeli government/Registry (1.2.a). Furthermore, except when the institution established is a Diocese (1.2.d), the State of Israel may request a discussion on the matter through a bilateral committee if the legal person in question is of the kind mentioned in Article 3.2 of the Fundamental Agreement (i.e., religious, moral, educational and charitable institutions) (1.2.b). Where such discussion is not asked or

674 The letter contained an annex that enumerates such new legal entities (See Annex 8).
675 AAS XCI(1999), pp. 568-569.
676 Ibid., p. 571.
an agreement is reached through the bilateral committee, the legal personality of the newly established legal person takes full effect in Israeli law from the ninety first day after the delivery of the Certificate to the Registry or from the date of the agreement of the committee, as the case may be (1.2.c).

Nos. 2 and 3 of the "Implementation Provisions" respectively provide detailed stipulations on the merger of two or more legal persons and the dissolution of a legal person. The extensive list of conditions should help avoid possible confusions and conflicts between canon law and civil law on such delicate matters as outstanding debts and obligations of the legal persons that have been merged (2.2) or dissolved (3.1.a). For the same reason precautionary measures are adopted such as the possibility for the Government of the State of Israel to verify the constitution of the former's juridical personality. As can be deduced from no. 5, the Registry, apart from serving to make legal documents publicly available, is an administrative instrument that simply marks the moment from which a new legal person can function officially in Israeli law. The presumption made by Article 8.2 of the legal personality prior to the Agreement helps clarify possible misinterpretations in this respect.

Finally, for the execution of the provisions of the Agreement under Israeli law, no. 6 requires a primary and secondary legislation, the latter being subject to the consent of the Holy See. In this regard, should a divergence arise in the interpretation of the text, the Hebrew version shall prevail (6.2).

5.3 SYNTHESIS

At the beginning of the 1990's, the Middle East witnessed an unprecedented turn of events in favor of peace as the Madrid Conference brought the Israelis and the Palestinians together to negotiate face to face for the first time after almost half a century of bloody conflict.

The political entente served as an occasion for the Holy See to initiate its own round of talks with the Israeli Government with the end view of establishing more stable bilateral relations. After more than a year of negotiations, the two parties signed the Fundamental Agreement in December 1993. The Agreement marked a radical shift in the policy approach of the Holy See on the Jerusalem question whereby its bilateral and multilateral aspects were treated separately.

As a bilateral treaty between two sovereign and independent subjects of international law, the Agreement reflects — in its form — the Holy See's new policy course. In so far as it provides a series of juridical guarantees on the rights and interests (e.g., freedom of religion, free access, maintenance of the Christian status quo and organizational autonomy of Church institutions) of the Catholic
Church in Israel, the Agreement contains the bilateral aspects of the Jerusalem question.

The Agreement also called for the establishment of full diplomatic ties between the Holy See and the State of Israel, upgrading their de facto relations to a de jure level. Here the policy shift of the Holy See in favor of bilateral channels found its maximum expression. From then on, relations between the two parties should develop within this bilateral legal framework.

Thus, the Holy See and the State of Israel signed the so-called Legal Personality Agreement (November 1997) in pursuance to Article 3.3 of the Fundamental Agreement. The new accord gave full effect in Israeli law to the legal personality of the Catholic Church and its various entities, both the existing and the future ones, in accordance to the agreed terms. Its significance rests on the formal recognition on the part of the State of Israel of the independent and sovereign nature of the Catholic Church, far removed from the category of «Recognized Religious Communities» that did not respond adequately to the reality of the Church.

Like the Fundamental Agreement, the Legal Personality Agreement is a bilateral treaty between the Holy See and the State of Israel, with the difference that, whereas the former served as the basis for the establishment of de jure diplomatic relations between the two parties, the latter was crafted in the context of the already existing full diplomatic relations.

The policy change of the Holy See from multilateral to bilateral — in what refers to the bilateral aspects of the Jerusalem question — was not purely dictated by historical circumstances. Rather, it was based on the fact that, from the very start, the question was basically a religious problem in which the Holy See played an active role as an interested party. In addition, the policy reversal was made possible, thanks to the transitory character of the multilateral solution the Holy See had originally proposed in the form of a corpus separatum and later, in the form of a special statute with international guarantees. As a matter of fact, the Holy See had been preparing the ground for the eventual policy change by gradually reshaping its posture according to political developments.

Having forged covenants with Israel, the Holy See has not abandon the Palestine question. In fact, it was the breakthrough in this question on the international scene that paved the way for the Holy See to negotiate with Israel and with the Arab parties such as Jordan and the PLO. In each of these cases, the Holy See settled through bilateral means items which it had sought to resolve through the multilateral scheme.
The Epilogue discusses briefly in two parts the developments that have taken place since the signing of the Legal Personality Agreement (November 1997). The first part deals with the current negotiations between the Holy See and the State of Israel concerning property, economic and fiscal matters, in pursuance to a specific requirement of the Fundamental Agreement. The second part explains the policy posture of the Holy See on the questions of Jerusalem (in its multilateral aspect) and Palestine, especially in the light of the recent disturbances in Israel and the Occupied Territories as well as the reactions in the diplomatic circles.

A. NEGOTIATIONS ON PROPERTY, FISCAL AND ECONOMIC MATTERS

Article 10.2 of the Fundamental Agreement states that "the Holy See and the State of Israel will negotiate in good faith a comprehensive agreement, containing solutions acceptable to both Parties, on unclear, unsettled and disputed issues, concerning property, economic and fiscal matters relating to the Catholic Church generally, or to specific Catholic Communities or institutions."

As mentioned in Chapter 5, the members of the Bilateral Permanent Working Commission decided to settle property, economic and fiscal matters in negotiations posterior to the Fundamental Agreement owing to the complexity of the issues involved and the lack of consensus between the parties. The problem was three-tiered: a) properties of the Church — here there was a certain confusion because of the succession of regimes in the Holy Land (Ottoman, British, Jordan); b) fiscal exemptions and privileges — at present, the exemptions apply only to the activities directly related to the mission of the Church (business initiatives are excluded)\textsuperscript{677} and cover only the Latin Catholic rite (non-Latin Catholic communities are excluded) and c) services of the Church — these include schools, hospitals and homes for the aged. Some of these institutions enjoy \textit{de facto} fiscal privileges, but only as a gesture of goodwill on the part of the Israeli Government. What the Holy See wants is precisely for the State of Israel to grant these Catholic services and institutions a legal status equivalent to the corresponding services of the State of Israel.\textsuperscript{678} With the juridical personality of the

\textsuperscript{677} A case in point is the Notre Dame Center in Jerusalem, which has been classified as a hotel by the Municipal Government in view of its function as hostel for pilgrims. There has been disagreement as to whether Notre Dame should be liable for property taxes. Another question to be settled was whether materials and equipment brought into Israel from abroad for Church institutions would be exempt or not from customs duty.

\textsuperscript{678} Interview made by the author with Archbishop Pietro Sambi, Apostolic Nuncio to Israel and Apostolic Delegate in Jerusalem, Jerusalem, 11 July 2000.
Catholic Church and its various institutions recognized in Israeli law, an agreement in favor of the demands of the Holy See on fiscal matters would, in effect, enable the Church and its entities to avail of tax-exemption mechanisms that in fact already exist in Israeli legal system.679

Negotiations on the question of fiscal privileges have been especially arduous owing to the wide discrepancy in the way the two sides view the problem. On the one hand, the Israeli Government (especially the Ministry of Finance) is reluctant to grant Catholic religious communities in the Holy Land de jure fiscal privileges and exemptions for fear that the concessions would open the way for other religious groups (e.g., the Muslims) to claim the same special treatment. This, according to Israel, would lead to disorder and a lack of any supervision.680 On the other hand, what the Holy See asks is simply the consolidation or rationalization of the fiscal privileges and exemptions that the Church had already enjoyed under both the Ottoman Empire and the British Mandate — an arrangement guaranteed by treaties with European nations and confirmed by UN Resolution 181.681 Hence, the Holy See is not asking for something new since the substance of its demands are in fact already in place.682 However, Israel does not recognize the treaties granting special fiscal treatment obtained under the Ottoman and British Mandate.

The complexity of the issues involved and the difficulty to find common ground to narrow down the differences between the two parties account for the relatively slow progress in the negotiations, more so given that the talks treat the issues case by case.683 Nevertheless, representatives of the Holy See and the State of Israel have painstakingly continued their task in the hope of reaching an "Economic Agreement."

679 Interview made by the author with Mr. Florent Arnaud, Secretary of the Delegation of the Holy See on the Bilateral Permanent Working Commission, at Notre Dame Center, Jerusalem, 13 July 2000.
680 Interview made by the author with Samuel Hadas, former Ambassador of the State of Israel to the Holy See, at Hotel Larome, Jerusalem, 14 July 2000.
681 "No taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the creation of the State. No incidence of such taxation shall be made which would either discriminate between the owners or occupiers of Holy Places, religious buildings or sites, or would place such owners or occupiers in a position less favorable in relation to the general incidence of taxation that existed at the time of the adoption of the Assembly's recommendations" (UN General Assembly Resolution 181, 29 November 1947. Text in Documents on Jerusalem, op. cit., p. 227).
683 Interview made by the author with Rabbi David Rosen, formerly a member of the Bilateral Permanent Working Commission representing the State of Israel, at the King Solomon Hotel, Jerusalem, 18 July 2000.
B. THE FUNDAMENTAL ISSUES

1. The Jerusalem Question: Multilateral Aspect

It has been discussed in Chapters 2-4 how the Holy See has confronted the fundamental issues throughout the 1948-1993 period. Chapter 5 shows that, given a set of historical circumstances, particularly the Madrid Peace Conference that addressed the Palestine question, the Holy See signed the Fundamental Agreement with the State of Israel in which the bilateral and multilateral aspects of the Jerusalem question are separated, making the former aspect an object of a bilateral treaty. A logical question then arises: what does the Holy See have to say now about the Jerusalem question in its multilateral aspect, that is to say, the status of the Holy City and the Holy Places?

To begin with, the Holy See has made clear two things during the signing of the Agreement: first, that the accord did not tackle the status of Jerusalem because it was of a multilateral character and second, that the Holy See reserved the right to intervene on this matter.684 As discussed in Chapter 5, the fact that the Holy See abstracted the bilateral aspects of the Jerusalem question (i.e., the specific interests of the Catholic Church in Israel) did not suppose its (the Holy See's) exclusion from posterior negotiations concerning the settlement of the status of the City itself, since Jerusalem owes its multilateral character to the three monotheistic religions, one of which is obviously Christianity.

For this reason, the Holy See has continued to demand international guarantees that would protect and preserve the unique historico-religious configuration of Jerusalem and the Holy Places. For example, in his message to the Diplomatic Corps on 13 January 1996, John Paul II appealed to the international community to provide juridical and diplomatic instruments that would facilitate the peace process and ensure Jerusalem's unique identity as a Holy City to the three great monotheistic religions.685

684 "Va precisato che nell'Accordo non c'è traccia diretta di tali questioni [Gerusalemme e altri Luoghi Santi] che, avendo un carattere internazionale e multilaterale, esulano ovviamente da a un trattato bilaterale...Per la Santa Sede resta valido il «dovere e il diritto di continuare a reclamare, come sempre ha fatto, alcune garanzie nell'ambito internazionale». È una richiesta irrinunciabile per tener viva la speranza del giorno in cui la Città Santa di Gerusalemme possa diventare veramente la «Città crocevia della pace, luogo privilegiato per l'incontro di popoli, culture e civiltà»" (Firmato l'Accordo Fondamentale tra la Santa Sede e lo Stato di Israele, op. cit., p. 1).

685 "Je souhaite que la Communauté internationale offre aux partenaires politiques plus directement concernés par ce problème des instruments juridiques et diplomatiques susceptibles d'assurer que Jérusalem, unique et sainte, soit vraiment un «carrefour de paix»" (GIOVANNI PAOLO II, Al corpo diplomatico in occasione della presentazione degli auguri per il nuovo anno,
The State of Israel does not see the reason why the Holy See keeps on insisting on the need for international guarantees after the two parties have signed the Fundamental Agreement. The former tends to view the latter's pertinacity as a sign of distrust in Israel's capability to safeguard the Christian Holy Places and the rights of the Christian communities. During an interview on 2 September 2000, Shimon Peres, former Israeli Prime Minister and current Foreign Affairs Minister, said that he did not understand why there was a need to change the present state of affairs, adding that agreements are forged between nations and not between religions. The peaceful coexistence among the three monotheistic religions in Israel, in particular, and the Middle East, in general, should continue through dialogue.686

In the light of the policy standpoint of the Israeli Government, there is a need to clarify the position of the Holy See. The key idea to bear in mind is the fact that, as far as the Holy See is concerned, the Fundamental Agreement — for all its merits in terms of juridical guarantees on the Church's rights — did not settle the whole question of Jerusalem. As has been emphasized, the Agreement merely addressed the bilateral aspects of the question, leaving its multilateral aspects for future arrangements — not exclusively between the Holy See and the State of Israel — but precisely through a consensus among the representatives of the three religions, juridically established at international level. In the words of Archbishop Jean-Louis Tauran, the Holy See's Secretary for Relations with the States, the Israelis and the Palestinians, in finding a political solution to their conflict over Jerusalem, cannot overlook the fact that the City has aspects beyond their legitimate national interests. It is essential that the negotiating parties take into consideration the universal and sacred character of Jerusalem. There is a need to protect the identity of the City itself in its entirety. Mere «extraterritoriality» of the Holy Places, with guarantee of free access, is not sufficient.687

---

687 Cfr. J.L. TAURAN, La Santa Sede e Gerusalemme, op. cit., p. 8. "Guardando a Gerusalemme, la Santa Sede continua a chiedere che venga tutelata da «uno statuto speciale internazionalmente garantito. Che cosa intende? Secondo la Santa Sede:

— Le caratteristiche storiche e materiali della città, così come quelle religiose e culturali, devono essere tutelate...;

— Deve esserci uguaglianza di diritti e di trattamento per quanti appartengono alle comunità delle tre religioni nella città, nel contesto della libertà delle attività culturali e spirituali, economiche e civiche;

— I Luoghi Santi, situati nella città devono essere tutelati, così come devono essere salvaguardati i diritti di libertà di religione e di culto e di accesso, per i residenti e per i pellegrini, sia che provengano della stessa Terra Santa sia dalle altre parti del mondo" (Ibid.).
Long forgotten by the international community, the Holy See's bid to bestow on Jerusalem and the Holy Places international guarantees seized the limelight in the wake of the latest developments in Israel. The US-brokered summit at Camp David in July 2000, which brought together Israeli Prime Minister Ehud Barak and PNA President Yasser Arafat, collapsed after two weeks of intense negotiations due to lack of consensus principally on the matter of who should exercise sovereignty over the Old City of Jerusalem. Barak went to Camp David ready to make great concessions in the interest of peace, but with well-defined limits such as the exclusion of the Old City (especially the Temple Mount) from Palestinian sovereignty. Arafat refused the peace package under such condition. In a trilateral statement issued after the breakdown of the summit, the US, Israel and the PLO stated that "they were not able to bridge the gaps and reach an agreement," but will nevertheless agree to seek "an end to decades of conflict...; continue their efforts to conclude an agreement on all permanent status issues...based on Security Council Resolutions 242 and 338...; and avoid unilateral actions that prejudge the outcome of the negotiations..." 

On July 23, the day before the Camp David talks ended, John Paul II addressed the pilgrims gathered at Castelgandolfo saying, among other things, that the negotiators at Camp David should not forget the spiritual dimension of Jerusalem. He added that the Holy See continued to maintain that only a special statute internationally guaranteed could effectively preserve the most sacred areas of the Holy City and assure the freedom of religion and of worship for all the faithful who looked to Jerusalem as a crossroads of peace and of coexistence.

---

688 Professor Ruth Lapidoth, an expert in international law, said that «sovereignty» is not an absolute concept, it allows for many variants. In the case of Jerusalem, where Jews and Palestinians could not agree, it is possible to suspend the question of sovereignty since it is possible to live together without an agreement on the matter of sovereignty. A similar arrangement was reached, for example, between Great Britain and Argentina over the Falkland Islands and among the countries interested in the South Pole. Cfr. Agreeing — not to agree, in «Ha'aretz», 28 July 2000, p. B3.

689 The Trilateral Statement, in «Ha'aretz», 26 July 2000, p. 9. See also A. BENN, Y. VERTER, Summit fails; PM says «dream of peace still lives», in Ibid.

690 "...vorrei invitare le Parti in causa a non trascurare l'importanza della dimensione spirituale della Città di Gerusalemme, con i suoi Luoghi Santi e le comunità delle tre religioni monoteistiche che li circondano. La Santa Sede continua a ritenere che solo uno statuto speciale internazionalmente garantito potrà effettivamente preservare le parti più sacre della Città Santa ed assicurare le libertà di fede e di culto per tutti i fedeli che, nella regione e nel mondo intero, guardano a Gerusalemme come crocevia di pace e di convivenza" (Le preghiera e l'incoraggiamento del Papa per i negoziati di Camp David, 23 July 2000, in «L'Osservatore Romano», 24-25 luglio 2000, p. 1). See also Pope urges international status for Jerusalem, in «The Jerusalem Post», 24 July 2000, p. 3. A collection of articles explaining the position of the Holy See can be found in «Bulletin Associated Christian Press», September-October 2000.
This and other policy statements of the Holy See on the question of Jerusalem in the light of the Camp David talks produced echoes in various sectors and revived interest in the wisdom of the multilateral scheme for the City. For example, Madeleine Albright, then US Secretary of State, came to the Vatican in August 2000 for an exchange of views with Archbishop Jean-Louis Tauran concerning the Middle East problem, particularly the question of Jerusalem. Likewise, Israel and the PLO respectively sent their foreign envoys to make consultations with the Holy See.

More recent events further confirmed that the final settlement of the status of Jerusalem is the key to Israeli-Arab peace and that this issue is extremely delicate for the Jews, Muslims and Christians. In particular, the incident in September 2000 involving the clash between Israeli police and Palestinians in the Temple Mount, which re-ignited the Intifada, causing hundreds of deaths over the following months, blocked new efforts of dialogue and provoked a political crisis in Israel leading to the downfall of Ehud Barak and the rise of Ariel Sharon under the banner of the right-wing Likud Party.

Two weeks after the resumption of hostilities, the Pontifical Council for Interreligious Dialogue issued a declaration on the Israeli-Palestinian conflict. Representing the Council as President, Francis Cardinal Arinze expressed his solidarity with all the victims of the conflict, appealed to the warring factions to resume dialogue and reaffirmed the position of the Holy See on the question of Jerusalem: the City cannot be an object of exclusive claim, given its importance to the Jews, Christians and Muslims.

---

691 In an interview with the French daily La Croix, Archbishop Tauran reaffirmed the position of the Holy See on the question of Jerusalem, saying that "su carácter sagrado, único y universal sea salvaguardado gracias a un estatuto internacional garantizado. Esos Lugares Santos, con los santuarios pero también con las comunidades que viven en torno a ellos, con sus negocios, sus escuelas, sus instituciones culturales, constituyen un patrimonio que pertenece al mundo entero, en la medida en que los fieles de las tres grandes religiones monoteístas tienen en Jerusalén su fuente espiritual" (Aunque moleste, la voz de la Santa Sede es escuchada, in «Acento Prensa» XXXI, 20 Septiembre 2000, p. 4). This article reproduced in Spanish the original text of the interview.

692 "Non vi può essere una pretesa esclusiva sulla città. Gerusalemme appartiene inoltre al patrimonio spirituale dell'umanità. Ci deve essere per tutti libero accesso ai Luoghi Santi, specialmente per ebrei, cristiani e musulmani" (Dichiarazione sul conflitto Israelo-Palestinese, in «L'Osservatore Romano», 9 novembre 2000, p. 4). See also the message sent by the John Paul II on 6 November 2000 to Catholic bishops of the Holy Land concerning the situation in the Middle East. Text in Nuovo appello del Santo Padre per la pace in Medio Oriente, Ibid., p. 1. In the Basic Agreement between the Holy See and the PLO, both parties declared in the Preamble that "an equitable solution for the issue of Jerusalem, based on international resolutions, is fundamental for a just and lasting peace in the Middle East, and that unilateral decisions and actions altering the specific character and status of Jerusalem are morally and legally unacceptable" (Basic Agreement between the Holy See and the Palestine Liberation Organization, 15 February 2000, in «L'Osservatore Romano», 16 febbraio 2000, p. 9).
2. The Palestine Question

It has been discussed in Chapter 5 that the policy transition of the Holy See from multilateral to bilateral on the Jerusalem question was intimately linked — in its remote origin — to the major breakthrough of the Palestine question in the context of the Madrid Peace Conference. Furthermore, it has been affirmed that the Holy See, while committing itself to remain a stranger to merely temporal conflicts (in keeping with its neutral character), reserved nevertheless "the right to exercise its moral and spiritual teaching office" (Article 11.2 of the Fundamental Agreement). To the extent that the Palestine question is a matter of international justice, the Holy See had no qualms in making its voice heard and continues demanding what it had asked in the past many years: the recognition of the legitimate rights of the Palestinian people to establish a nation.

The Camp David failure and the new Intifada mentioned above were yet other manifestations of the need to resolve the Palestine question once and for all as a pre-condition to achieve lasting peace in the Middle East. In this regard, suffice it to mention the latest public pronouncement of the Holy See. During his recent pilgrimage to Syria, John Paul II challenged all the nations of the Middle East (including the State of Israel) to return to the principles of international legality: the invalidity of the acquisition of territory by force, the right of a people to self-determination and the due respect for the United Nations resolutions and the Geneva Conventions.693

The way to peace is certainly full of difficulties and the end seems to be far off, but the option of dialogue should never be closed.694 The final settlement of the Palestine question, together with the inseparable problem of Jerusalem and the Holy Places, shall usher in a new era of peace in the Middle East in which the Jewish and Palestinian peoples can finally coexist free of threats and violence, and respectful of each other's rights.

693 "...è ora di ritornare ai principi della legalità internazionale: l'interdizione dell'acquisizione dei territori mediante la forza, diritto dei popoli a disporre di se stessi, rispetto delle risoluzioni dell'Organizzazione delle Nazioni Unite e delle Convenzioni di Ginevra, per non citare che i più importanti" (Discorso di Giovanni Paolo II all'arrivo all'aeroporto di Damasco, 5 May 2001, in «L'Osservatore Romano», 6 maggio 2001, p. 8).

694 In an interview with Fides, David Jaeger stressed that the way of multilateral negotiations is more difficult and painstaking, but the results are more sure and univocal. He added that for over twenty years the Pope had considered this question to be central in the search for peace, and this intuition has been confirmed by the results of Camp David talks. The Israelis, according to Jaeger, must recognize the equal rights of the people whom they have in front of them, avoiding the idea of «making concessions», as if it were a matter of granting favors. At present, the two peoples are not yet adequately prepared for accepting peace, but proposals of the Israeli Government such as the exchange of territories (given the impossibility of repatriating all the Israelis in the Occupied Territories) is a realistic option. Cfr. Bref rappel de la position du Vatican, in «L'Homme Nouveau», 18 février 2001, p. 9.
CONCLUSIONS

From the preceding discussion and analysis of the policy statements of the Holy See, its relations with and attitude towards the State of Israel as well as the relevant historical contexts, it can be affirmed that the working hypothesis formulated at the start of the thesis has been verified. The following conclusions can be made.

Since the emergence of the State of Israel in 1948 the Holy See has issued various documents that, on the one hand, reflect its evolving attitude towards Israel and, on the other hand, provides the basis of their de facto relations: the fundamental issues or questions of Palestine and Jerusalem.

PIUS XII: PERIOD OF CONSOLIDATION

The Palestine and Jerusalem questions arose in 1948 with the proclamation of independence of the State of Israel and the ensuing outbreak of Israeli-Arab conflict. These political changes coincided with the Pontificate of Pius XII. In effect, it was he who, given the concrete historical juncture, defined the nature of the fundamental issues, identified the corresponding role of the Holy See and devised its policy approach. These were expressed and concretized mainly through the Encyclical Letters In Multiplicibus Curis (1948) and Redemptoris Nostri (1949) and the Apostolic Exhortation Sollemnibus Documentis (1949). These documents were programmatic in the sense that they provided the basis and framework of the policy statements of the Roman Pontiffs for the next four decades.

From the standpoint of the Holy See, the Palestine question was mainly a political problem involving disputes over sovereignty or territorial control, but with a religious dimension, in so far as various communities (Jews, Christians and Muslims alike) were displaced and deprived of their places of worship as a consequence of the hostilities. Given the political nature of the Palestine question and in consonance with the neutrality of the Holy See on purely temporal matters, the role it played on this question can be considered as that of a conciliator or an advocate of peace in the family of nations. Hence, it was for the sake of peace and human justice, rather than out of political motives, that Pius XII called for the cessation of hostilities and the repatriation for all the war refugees, most of whom were Palestinians. In the same vein, the Holy See demanded a settlement of the question without proposing a concrete policy approach, this being the proper competence of political leaders. In particular, the problem had to be resolved by the warring parties, the Israelis and the Arabs, preferably with the mediation of the international community through its proper organs.

As regards the Jerusalem question, it was mainly a religious problem involving the protection of the unique historical and religious configuration of Jerusalem and the Holy Places, as well as the rights of the religious minorities. However, the question of Jerusalem had a political dimension to the extent that the effective
protection of the Holy Places implied the need to settle the juridico-political status of the City itself.

The Holy See had an intrinsic stake in such a religious problem: the Christian Holy Places and the long-held rights of the Catholic Church and the Catholic communities in the Holy Land. For this reason, unlike the Palestine question, the Holy See could not and did not remain neutral on the question of Jerusalem, but rather played an active role as a party directly involved in the dispute. More concretely, in the abovementioned Encyclicals Pius XII called for the territorial internationalization of the City of Jerusalem and its outskirts, a proposal that coincided with the UN hypothesis of a *corpus separatum*, which consisted precisely in the territorial exclusion of the City from the envisioned States of Israel and Palestine. The *corpus separatum* was considered by Pius XII as the best solution in guaranteeing the Holy Places, given the historical circumstances of the moment.

In demanding the territorial internationalization of Jerusalem, Pius XII adopted a multilateral policy course that consolidated the policy line which had been broadly outlined by Benedict XV and Pius XI more than twenty five years earlier. As it were, the appeals of the Holy See before the League of Nations in the 1920’s were transformed into concrete policy proposals to the United Nations in the late 1940’s.

Pius XII clearly expressed that the Holy See wanted juridical guarantees for the right to freedom of worship, free access to the Holy Places and the maintenance of the Christian *status quo*. These were a series of rights that should be safeguarded integrally precisely through the institution of a *corpus separatum*. Therefore, as far as the Holy See was concerned, the Jerusalem question had two levels or aspects: the bilateral (the aforesaid series of rights) and the multilateral (the status of Jerusalem itself).

In principle, when the City of Jerusalem was divided between Israel and Jordan after the 1948 War, the bilateral aspects of the Jerusalem question could be separated from its multilateral aspect in such a way that the Holy See could settle the former directly (or in a bilateral way) with either country. In other words, the Holy See could have forgone the multilateral scheme and negotiated separately (and hence, bilaterally) with Israel and Jordan to obtain guarantees for the interests of the Catholic Church in either side of the divided City. However, given the political vagaries and the state of belligerency in the region (the division of Jerusalem was *de facto* arising from the War, not *de jure* or legally sanctioned, making its status extremely vulnerable to changes), the Holy See opted to pursue the multilateral scheme, integrating issues that were otherwise bilateral. However, this policy choice did not alter the merely instrumental and therefore, transitory character of the multilateral framework. Thus, on the question of Jerusalem, the Holy See adopted a multilateral means to pursue a set of ends of a bilateral character.

The same documents of Pius XII mentioned above reflected the initial attitude of the Holy See towards Israel as a State. In particular, the Roman Pontiff preferred not to mention the State of Israel in his policy statements, even after the country was admitted as a member of the United Nations in May 1949. Instead,
the Pope used the terms "Holy Land," "Holy Places" and "Palestine." Nevertheless, the "silence" of the Holy See with respect to the State of Israel did not mean absence of relations between the two parties, since the former had maintained official contacts with the latter from the moment it was established. Rather, the "silence" simply indicated that the Holy See's attitude towards the State of Israel was closely linked to the resolution of the fundamental issues which formed the basis of their _de facto_ relations. However, it should be noted that, as per the diplomatic agenda of the Holy See, the Palestine and Jerusalem questions affected its relations with the State of Israel in different ways. Whereas the former conditioned such relations mainly in virtue of the ends pursued (justice to the Palestinian people), the latter determined the same relations basically in virtue of the means adopted (multilateral scheme).

**PAUL VI: A NEW THRUST**

Paul VI continued the policy line of Pius XII, but with slight modifications necessary to adapt it to new historical circumstances. In what refers to the Palestine question, Paul VI vigorously called for justice for the Palestinian people, which means the effective recognition of their legitimate aspirations. In this regard, what Pius XII had generally (though not exclusively) viewed as a humanitarian problem, Paul VI presented in categories of fundamental human rights and justice. This has been reflected, among other policy statements, in the latter's Apostolic Exhortation _Nobis In Animo_ (1974).

In unison with the general opinion of the world community, the demands of the Holy See in this respect were made especially imperative in the wake of the Six-Day War of 1967, Israel's subsequent annexation of East Jerusalem, and its establishment of Jewish settlements in the Palestine territories. These events not only aggravated the problem of refugees but also narrowed down the possibility of finding a legally-based solution to the territorial controversies. In the ultimate analysis, these developments bode ill for peace in the Middle East.

The numerous public interventions of Paul VI on the Palestine question were not political gestures or a show of partisanship, but rather a requirement of human justice, imperatives of the natural moral law. For the same reason, the Holy See upheld the legitimate rights not only of the Christian Palestinians but all peoples discriminated in the region. In addition, the political nature of the Palestine question and the neutral stance of the Holy See on the same explains why Paul VI, like Pius XII, did not propose a concrete policy approach, since this was the proper competence of the political authorities, particularly the parties directly implicated in the conflict.

As regards the question of Jerusalem, the policy of Paul VI deviated slightly from that of Pius XII, in what refers to the specific content of the multilateral scheme: the territorial internationalization proposed by Pius XII became functional internationalization under Paul VI or, in the language of the Roman Pontiff, an internationally guaranteed special juridical statute for Jerusalem and the Holy Places as the best way to preserve the City's unique historico-religious significance among the three great monotheistic religions. However, this slight modification did not imply a departure from the multilateral policy course that had been
set forth by Pius XII. In effect, *corpus separatum* and special international statute were simply variants within the same multilateral framework. In this regard, the adjustments made by the Holy See manifested the flexibility of its policy posture. More significantly, it showed the instrumental character of the multilateral solution it propounded.

Paul VI reaffirmed the need for a multilateral solution to the question of Jerusalem even as the interest of the international community along this line clearly waned, the Arab countries opposed the idea and more significantly, Israel tended to impose a unilateral settlement of the Jerusalem question. These countervailing forces highlighted the need to secure the unique character of Jerusalem and the Holy Places in their integrity. Hence, without forgetting the bilateral aspects, Paul VI gave more emphasis to the multilateral legal framework in his policy statements, relying on international juridical statues to guarantee specific rights such as freedom of worship and free access.

Meanwhile, the attitude of the Holy See towards the State of Israel showed significant progress under Paul VI. A decisive step was marked by the Second Vatican Council's Declaration *Nostra Aetate* (1965) which clarified the teachings of the Catholic Church regarding the Jews. The document gave rise to a series of religious dialogues that improved Christian-Jewish relations. Given its theological character, *Nostra Aetate* did not imply the immediate establishment of diplomatic relations between the Holy See and the State of Israel. Nevertheless, it had considerable impact on the political sphere and on the attitude of the Holy See towards the Jewish State. More particularly, beginning the mid-1970's Paul VI began to make explicit references to Israel as a sovereign and independent State. However, this explicit recognition was accompanied by a parallel call for Israel to respect the legitimate aspirations of the Palestinian people.

These developments took place in the context of improving *de facto* relations between the two parties, as can be gleaned from the fact that Paul VI received on different occasions at the Vatican high-ranking Israeli officials: Foreign Minister Abba Eban (1969), Prime Prime Minister Golda Meir (1973), Tourism Minister Moshe Kol (1975) and Foreign Minister Moshe Dayan (1978). However, these increasing bilateral contacts between the Holy See and the State of Israel did not constitute a prelude to an immediate establishment of stable bilateral relations. On the contrary, they served as occasions for the Roman Pontiff to reaffirm the policy posture of the Holy See on the fundamental issues, which was strongly pro-multilateral in the case of the question of Jerusalem. Therefore, during the Pontificate of Paul VI, the close connection between the Holy See's attitude towards the State of Israel and the fundamental issues became more evident.

**JOHN PAUL II: TOWARDS A POLICY SHIFT**

John Paul II carried on the policy line of Paul VI on the Palestine and Jerusalem questions, but with significant changes made to respond better to new political challenges.

From the policy statements of John Paul II, particularly his Apostolic Letter *Redemptionis Anno* (1984), three basic principles on the Palestine question emerge:
1) The Palestinian people have the right to establish a nation and coexist with the State of Israel in a parity of rights; 2) Given their right to self-determination, the Palestinians should form part of all negotiations that affect their status and 3) The settlement of the Palestine question is *conditio sine qua non* for an enduring peace in the Middle East.

These principles had already been expressed in one way or another by Paul VI. However, if Paul VI went a step farther than Pius XII by defending the legitimate rights and aspirations of the Palestinian people, John Paul II went even farther by stating explicitly what these rights and aspirations consisted of: the right to found a homeland or an independent nation. Like Paul VI, John Paul II made use of «historical parallelism» by affirming that Israel should recognize the just demand of the Palestinian people to build a nation after their prolonged sufferings (paradoxically in the hands of Israel), in the same way that the Jewish people had sought to establish an internationally recognized State after their tragic experience of the *Shoah*.

The Pontificate of John Paul II has been marked by political changes that, on the one hand, augured well for peace and, on the other, tended to undermine to a greater or lesser extent the aforesaid principles. To begin with, there was the Camp David Accord (1978) which gave rise to a peace treaty between Israel and Egypt, including a plan that partly addressed the Palestine question. However, the negotiations at Camp David did not envisage the creation of an independent Palestine State, but only a limited administrative autonomy under Israeli sovereignty. This ignored the first principle. In addition, the negotiations leading to the signing of the Accord excluded representatives of the Palestinian people, in disregard of the second principle. As a corollary to the first two principles, the third principle was confirmed by the fact that the Camp David Accord did not bring peace, but was followed by an escalation of the Israeli-Palestinian conflict that led to the Israeli invasion of Lebanon in 1982, the rise of *Intifada* in 1987 and the PLO proclamation of a Palestine State in 1988.

In the case of the question of Jerusalem, the multilateral policy framework of Paul VI in the form of special juridical statute was strongly echoed by John Paul II. However, the latter's policy statements displayed certain novelties both in the «specific content» of as well as the «perspective» under which the said special statute was put forward. «Specific content», because 1) John Paul II implicitly delimited the extension of the special statute by calling for its application specifically to the Old City of Jerusalem (where nucleus of Christian, Jewish, Muslim and Armenian communities are found together with their most important Holy Places), rather than the entire City, the way the Holy See had traditionally proposed and 2) the Holy See manifested its readiness to accept the exercise of a national sovereignty over Jerusalem on the part of any State (Israel or Palestine), provided that the abovementioned special statute be put in place in such a way as would be guaranteed at the international level. «Perspective», because instead of putting certain emphasis on Christian rights (as did Pius XII and, in a much lesser degree, Paul VI), John Paul II underscored the parity of the three monotheistic religions vis-à-vis the historico-religious significance of Jerusalem. Indeed, «universal patrimony» has become almost synonymous with «Jerusalem» in the policy statements of John Paul II.
Such a manner of presenting the question of Jerusalem had important bearings on the posterior policy course of the Holy See. More concretely, it implied that: 1) the multilateral solution to the question was not merely convenient, but was indispensable to bring about lasting peace in the Middle East, for the reason that the Holy City has an intrinsically multilateral character derived from the interest of the three monotheistic religions (the determination of the political status of Jerusalem cannot ignore its religious, and hence, multilateral character); 2) there was a distinction between the multilateral problem (status of Jerusalem) and the multilateral solution (initially as corpus separatum, later as special statute) proposed by the Holy See since 1948 (the former was a given reality, the latter was a policy option adopted to address, among other things, bilateral matters); 3) the multilateral policy of the Holy See (proposed solution) could be adjusted (e.g., by pursuing a bilateral approach to the bilateral aspects of the question of Jerusalem) without affecting the intrinsically multilateral character of Jerusalem (problem) and 4) should the policy shift take place, the Holy See could rightfully continue demanding a multilateral solution to the status of the City since it owes its pluralistic character to the presence therein of Christian (along with Jewish and Muslim) communities and sanctuaries.

Based on the above considerations, John Paul II gradually oriented the policy course of the Holy See to confront important political changes and prepare for an eventual policy transition, when the right moment would come. Meanwhile, from 1978 to 1993, the Holy See continued to pursue the multilateral scheme as the best means to resolve the question of Jerusalem, both in its multilateral (status of the City) and bilateral (specific interests of the Catholic Church) aspects. During this period it had to contend with a series of events that tended to negate the value of the multilateral scheme. The Camp David Accord was an attempt to settle the question in a bilateral way in which the Palestinians were excluded (reducing the Jerusalem question to a matter of who should exercise sovereignty). Israel’s Basic Law of 1980, which proclaimed Jerusalem as the country’s eternal and undivided capital, imposed a unilateral solution by excluding the status of the City from any negotiations. The Palestinian version of a unilateral solution came with the PLO’s proclamation in 1988 of a Palestine State with East Jerusalem as capital, a move that was equally unacceptable in so far as it disregarded the framework of negotiations.

The evolving policy of the Holy See on the fundamental issues just described coincided with fast-maturing Christian-Jewish relations in which John Paul II made frequent references to the State of Israel, in a way that stressed its special bond to the history of the Jewish people as well as its identity as a body politic subject to the norms of international law. Moreover, there had been an increase in official contacts between the Holy See and the State of Israel such as the visit to the Vatican of top-level officials of the Israeli Government including Foreign Minister Yitzhak Shamir (1982) and Prime Minister Shimon Peres (1985). In this regard, John Paul II simply continued the tradition initiated by Paul VI, but in a way that linked more clearly the fundamental issues to the attitude of the Holy See towards the State of Israel.
BILATERAL TREATIES

In October 1991 the unprecedented Madrid Peace Conference brought the Israelis and the Palestinians to the negotiation table for the first time after decades of violence. Despite difficulties, the Madrid summit eventually led to a mutual recognition of the State of Israel and the PLO in 1993, the constitution of the Palestinian National Authority (PNA) and the first Palestinian democratic elections.

The entente ushered in by the Madrid Peace Conference paved the way for the Holy See to initiate dialogue with the Government of Israel with the end view of entering into a bilateral agreement on questions of common interest. The outcome of the negotiations was the signing of the Fundamental Agreement in December 1993.

The bilateral form of the Fundamental Agreement reflects the new policy orientation of the Holy See whereby multilateral and bilateral aspects of the Jerusalem question are separated, precisely abstracting the latter from the multilateral scheme of a special statute and making them an object of bilateral negotiations. Such a policy reversal was not just the consequence of favorable historical circumstances (as though the Holy See limited itself to a defensive posture), but rather was made possible because of the fact that the question of Jerusalem was mainly a religious problem. In this the Holy See had played a pro-active role from the start as a party directly interested in the dispute. The countless interventions of the Roman Pontiff before international forums bear witness to the active role of the Holy See on the question of Jerusalem. Moreover, the Holy See did not ignore the fact that, over the years, the State of Israel had increasingly become an important partner of dialogue because of its de facto control over the Christian Holy Places and as such provided certain real guarantees for the interests of the Christian communities within its areas of influence.

The policy shift was also made possible, thanks to the instrumental character of the multilateral scheme itself. As a means adopted by the Holy See to pursue a set of ends, the said multilateral framework (as corpus separatum under Pius XII, as special statute under Paul VI and John Paul II) was vulnerable to change at any moment. In a nutshell, the Holy See's decision to separate the multilateral and bilateral aspects of the question of Jerusalem indicated the flexibility of its policy stand, necessary to respond adequately to political contingencies in the task of safeguarding Christian interests in the Holy Land.

The signing of the Fundamental Agreement meant not merely a growing de facto relationship between the Holy See and the State of Israel. Rather, it elevated such relations to a de jure level since the Agreement provided for the establishment of full diplomatic relations between the two parties. Relations at the ambassadorial level precisely constitutes the maximum expression of a bilateral policy approach. Henceforth, all matters of exclusively common interest between the Holy See and the State of Israel should be negotiated and settled within the framework of such established bilateral channels.

In terms of content, the Fundamental Agreement embodied the bilateral aspects of the question of Jerusalem: including freedom of worship, free access to
the Holy Places, maintenance of the Christian status quo, organizational autonomy of Church entities, etc.). It also called for negotiations on property, economic and fiscal matters which are in progress at the moment. More significantly, the Agreement paved the way for the full recognition in Israeli law of the juridical personality of the Catholic Church and its various institutions. This was accomplished through the Legal Personality Agreement signed as another bilateral treaty between the Holy See and the State of Israel in November 1997. The significance of the new Agreement lies in the fact that it constitutes a full and formal recognition on the part of the State of Israel of the independent and sovereign character of the Holy See as a juridical subject in international law.

One important difference between the two treaties is that the Fundamental Agreement served as the basis for the establishment of diplomatic relations, whereas the Legal Personality Agreement was forged within the context of pre-existing diplomatic relations and was a manifestation of stable bilateral relations.

With the Fundamental Agreement, the Holy See has not abandoned the Palestine question. The fact that the Agreement did not address the problem was because, as previously noted, the Palestine question was mainly a political issue whose final settlement was incumbent upon the parties directly mired in the conflict. However, the fact that the Agreement was signed in the context of the Madrid Peace Conference points to the close link between the Jerusalem and Palestine questions.

Indeed, the peace talks between the Israelis and the Palestinians in Madrid can be considered as the remote origin of the negotiations between the Holy See and the State of Israel. In other words, the bilateral treaty between the two parties could hardly have come about without the atmosphere of dialogue in the early 1990's. For the same reason, the Holy See initiated bilateral negotiations with the Arab parties such as Jordan (leading to the establishment of diplomatic relations in October 1994) and the PLO (leading to a Basic Agreement in February 2000). In all of these agreements, the Holy See has sought, through bilateral means, to protect the interests it had subsumed under multilateral schemes during the previous forty five years.

Neither did the Holy See turn its back on the multilateral aspect of the Jerusalem question (the status of the City and the Holy Places in terms of their historico-religious significance). On the contrary, right up to this day John Paul II has continued to press for a special juridical statute for Jerusalem guaranteed at international level. The uninterrupted intervention of the Holy See in this regard is a consequence of the multilateral character of Jerusalem, a given reality that cannot be ignored and which is based on the presence of the three monotheistic religions in the City. The fact that the Fundamental Agreement did not tackle the status of Jerusalem was precisely because of its multilateral nature, which fell outside the scope of bilateral agreement. The multilateral character of the status of the Holy City (and the Holy Places) ought to be the object of multilateral arrangements among the interested parties, not an exclusively bilateral concern of the Holy See and the State of Israel.
ANNEXES

1. ENCICLICAL LETTER IN MULTIPICIBUS CURIS, 24 October 1948

An. et vol. XL 26 Octobris 1948 (Ser. II, v. XV) — N. 11

ACTA APOSTOLICAE SEDIS COMMENTARIUM OFFICIALE

ACTA PII PP. XII

EPISTULA ENCYCLICA

AD VENERABLES PATRIARCHAS, PRIMATES, ARCHIEPISCOPOS, EPISCOPOS
ALIOSQUE LOCORUM ORDINARIOS PACEM ET COMMUNIONEM CUM
APOSTOLICA SEDE HABENTES: PUBLICAE ITERUM INDICUNTUR
SUPPLICATIONES AD PACEM IN PALAEISTINA CONCILIANDAM.

PIUS PP. XII

Venerabiles Fratres salutem et Apostolicam Benedictionem. — In multiplicitibus curis, quae hoc temporum flexu — ex quo futurae maximi momenti condiciones orientur universae hominem familiae — gravissimum Supremi Pontificatus onus Nos experiri iubent, illae peculiari modo Nos sollicitant, quae ad bellum spectant, quod Sacra Palaestinae Loca cruentat. Verum enim vero vobis asseverare possumus, Venerabiles Fratres, nec laetam, nec tristem rerum vicissitudinem acerrimum posse relevare dolorem, qui vehementer Nos angit, dum animo recogitamus illa in regione, in qua Christus Iesus suum effudit sanguinem ut cunctum redimeret hominum genus, fraternum adhuc effluere cruorem; atque ubi primum angelicum pacis nuntium in noctis tenebris insonuit mentisque affulsit, gentes inter se digladiari, miserorum cotidie magis augeri miseriam, atque expavescentium gliscere terrorem, dum exsules ac profugi, ad milia bene multa et sua terra deturbati, vagantur longe, panem quaerentes tutumque perfugium. Ea etiam peculiari de causa aegritudine maeroque afficimur, quod Nobis perlatum est illa religionis a nobis habentur, non pauca, nec levia accepisse detrimenta; unde timendum est vel ipsa Sacra Loca, cum in Palaestina, tum praesertim Hierosolymae — quae quidem loca natali, vita atque obitu Divini Redemptoris Nostri consecrata fuere — eamdem posse deflendam habere sortem. Supervacaneum autem est, Venerabiles Fratres, vobis significare Nos in praesenti rerum discrimine, quod auctiora etiam mala in posterum portendere videtur, non tacitos Nosstrum compressisse in animo dolorem, sed quidquid in facultate esset, studiose effecisse, ut opportunum pro viribus huic causae adhibetur remedium. Nostis enim, cum ante dimicationis ininitum Arabum optimates coram admisissemus, qui sua Nobis cupiebant testari obsequia, Nos, factis ad eos ex animo verbis, sollicitudinem Nostram pro Palaestinae pace aperuisse, ac clare affirmateque asseverasse eiusmodi veri nominis pacem non vi, non armis assequebam fore, sed veritate ac Iustitia, sed mutua uniuscuilusque iuris in tuto posita securitate,
servatisque consuetudinibus a maioribus acceptis, ad religionem praesertim quod attinet, ac debitis utriusque partis officii invicem praestitis. Cum autem conflagratio iam orta esset, Nos, qui pro Apostolico, quo fungimur, Ministerio, supra humanae societatis conflictus nullo non tempore erigimur, aequanimitate summa impense, pro facultate, allaboravi mus, ut concordia ac tranquillitas, cum iustitia copulatae, in Palaestina triumpharent, Sacra inibi Loca incolustria atque inviolata manerent. Et quamvis fere unde ine ad Apostolicam hanc Sedem, supplices preces ab omne genus egentibus admoveantur, nihilo secius, quotiescumque potuimus, iis omnibus enisi sumus suppetias occurrere, qui ex bello detrimento fecissent, cum per Nostros in Palaestina, in Libano et in Aegypto Legatos impertitis auxiliis, tum aliarum Nationum christifidelibus ad idem propositione atque inceptum paterno animo excitatis. Quoniam vero Nobis perspectum est difficult huic ac salebrosae causae componendae humanas opes impares evadere, precibus potissimum confidimus, quiae ad Divinum pacis Principem adhibeantur; atque adeo per Encyclicam Epistulam «Auspicia quaedam», haud ita pridem datam, vos adhortemur summus, Venerabiles Fratres, quemadmodum iterum adhortamur, ut concordia ac tranquillitas etiam occurrere, qui ex bello detrimenta fecissent, cum per Nostros in Palaestina, in Libano et in Aegypto Legatos impertitis auxiliis, tum aliarum Nationum christifidelibus ad idem propositionem atque inceptum paterno animo excitatis. Quoniam vero Nobis perspectum est difficile huic ac salebrosae causae componendae humanas opes impares evadere, precibus potissimum confidimus, quiae ad Divinum pacis Principem adhibeantur; atque adeo per Encyclicam Epistulam «Auspicia quaedam», haud ita pridem datam, vos adhortemur summus, Venerabiles Fratres, quemadmodum iterum adhortamur, ut publicae a vobis et a gregibus, pastorali solum in vestrae concréditi habeantur supplicationes, quibus id tandem, Beata Virgine Maria auspice, impetratur «ut, rebus... in Palaestina aequitatem compositis, inibi etiam concordia et pax feliciter redintegratur»

Haud incassum invitatio nem eiusmodi Nostram evenisse, non sine animi solacio, novimus. Ac novimus etiam, dum Nos, iis omnibus conjuncti, quos ubique terrarum habemus in Christo filios, supplicando operando entebamus, ut in Palaestina ordinatim feliciterque componerentur, cordatos non defuisse homines, qui, nec parentes laborosae, nec periculis territii, ad hoc idem assequendum contenderent propositum; quorum quidem nobiles nisus heic publice agnosceret ac dilaudaret. In praesens tamen, dum conflictatio non remittit neque conquiescit, ac iacturae ruinaeque, quae inde consequuntur, miserrime augmentatur, opportunum ducimus Nostras iterare invitatiorum, fore omnino confisi ut eaedem non modo a vobis, Venerabiles Fratres, sed a christianis etiam omnibus libenti actuosque animo excipiantur Quemadmodum postridie calendas Iunias Sacro Purpuratorum Patrum Collegio coram admissi declaravimus, Nostrum eidem pandentes animum ob hanc causam sollicitum et anxium, incredibile prorsus Nobis videtur futurum ut universa christianorum communitates voluntate facile acquiscense, vel inani indignatione cernat sacras illas terras, quas suave omnibus erat invisere, ac venerabundo animo incensoque deosculari amore, ab armigeris ferro ignique vastari, et ab aeronaubibus. Incendiariis missilibus caelo deiectis, pessumdari ac diripi; incredibile prorsus videtur Nobis fieri possit ut Sacra illa Loca ipsumque lesu Christi sepulcrum temere diruantur. Immo potius fiduciam fovemus bonam fore ut, quae a christianis ex toto terrarum orbe ad Omnipotentem ac Misericordissimum Deum hac de causa admoventur preces, itemque nobilissima illa tot hominum vota, qui veritatem bonitatatemque appetunt, id reapace efficiat, ut iis, qui populorum gubernacula moderantur, minus asperum minusque arduum pateat iter, quod ad iustitiam tranquillitatemque in

Palaestina restituendam conduecat; atque ita res ibi ordinari possint ut — mutua omnium, quorum causa est, consensione et opera collata — et publica privataque utriusque partis securitas in tuto ponatur, et spiritualis socialisque vitae condiciones habeantur, quae ad rectam verique nominis prosperitatem conferant. Parique modo futurum confidimus ut indictas preces ac nobilissima eiusmodi proborum hominum vota — e quibus manifestum est quantopere fere universa humana communitas Sacra illa Loca cordi habeat — iis omnibus, qui in supræmis coetibus gravissimam causam tractant de redintegranda populorum pace, id persuadeant prorsus, opportunum empe omnino esse ut Hierosolymae ac vicinitati, ubi Divini Redemptoris vitae ac mortis veneranda servantur monumenta, regimen tribuatur « internationali» iure statutum se solidatum, quod in praesentibus rerum adiunctis satius aptiusque videtur sacra eadem monumenta tueri posse. Quo quidem «internationali» iure opportunum itidem erit commeatuum ad Sacra Loca securitatem confirmare, divinorum rituum libertatem sartam tectamque ponere, ac mores denique consuetudinesque a maioribus traditas incolumes servari. Ac faxit utinam Deus ut quam primum dies elucescat, quo pias ad Sacra Loca peregrinationes iterum dies elucescat, quo pias ad Sacra Loca peregrinationes iterum dies elucescat, ibique iisdem luculentius pateat, Iesu Christi amoris testimonia meditantibus, qui pro fratrum salute vitam profudit suam, quo modo homines ac gentes, pacatis rebus rationibusque suis, una simul vivere queant. Qua quidem spe freti, cum vobis, Venerabiles Fratres, vestrisque gregibus, tum iis omnibus, qui volenti animo has excipiens hortationes Nostras, caelestium gratiarum auspiciem Nostræaeque benevolentiae testem, Apostolicam Benedictionem perlibenter in Domino impertimus.

Datum ex Arce Gandulphi, prope Romam, die XXIV mensis Octobris, anno MDCCCCXXXXVIII, Pontificatus Nostri decimo.

PIUS PP. XII
2. ENCICLICAL LETTER *REDEMPTORIS NOSTRI*, 15 APRIL 1049


**ACTA APOSTOLICAE SEDIS**

**COMMENTARIUM OFFICIALE**

**ACTA PII PP. XII**

**EPISTULA ENCYCLICA**

**VENERABILES FRATRES PATRIARCHAS, PRIMATES, ARCHIEPISCOPOS, EPISCOPOS ALIOSQUE LOCORUM ORDINARIOS, PACEM ET COMMUNIONEM CUM APOSTOLICA SEDE HABENTES: DE SACRIS PALAESTINAE LOCIS.**

Redemptoris nostri cruciatus, qui per sacrae huius hebdomadis dies veluti praesentes oculis proponuntur nostris, christianorum mentes summa reverentia affectas ad Terram illam convertunt, quae providentis Dei consilio Incarnati Verbi patria delecta fuit, et in qua Christus Iesus terrestrem suam vitam traduxit effusoque sanguine diem obiit supreum.

In praesens tamen, dum Sacra ea Loca incensiore pietate recolimus, acerrima anxitudine animus oppletur Noster, ob difficiles eorum atque incertas condiciones.

Iam superiore anno, semel iterumque datis Litteris, vehementer vos, Venerabiles Fratres, adhortati sumus, ut publicae omnibus haberentur preces, quibus et conflictationis finis impetraretur, quae Terram illam humana caede vastabit, et res inibi ad iustitiae normas ita componerentur, ut plena catholicorum libertas in tuto poneretur, simulque sacerrima ea Loca sarta tectaque servarentur.

Quandoquidem autem dimicationes hodie cessavere, vel saltem, ob pactas recens inducias, intermissae sunt, maximas Deo grates ex animo agimus, ac valde eorum probamus operam, qui nobili nisu ad pacem conciliandam adlaborarunt.

Attamen, quamvis iam debellatum sit, nihil secius multum abest ut ordinis tranquillitas in Palaeastina plane restituta sit. Namque adhuc ad Nos ab iis questis deferuntur, qui iure meritoque sive sacras aedes atque imagines beneficientiaeque domicilia profanata deplorant, sive pacifcas religiosarum sodalitatum domos dirutas commiserantur. Plurimi adhuc ad Nos misere clamant,
cuiusvis aetatis, cuiusvis condicionis profugi, qui ob calamitosum bellum ad exterar regiones coacti sunt, atque adeo in custodiae locis exsulem vitam agunt, inopiae, morborum contagiones omneque genus periculos obnoxii.

Haud Nobis incompertum est quantopere vel publica instituta vel privati cives contulerint ad aerumnosae huius multitudinis sortem relevandam; ac Nosmet ipsi in illis caritatis inceptis perseverantes, quae inde a suscepto Pontificatu inivimus, quidquid pro facultate potuimus non praetermisimus, ut gravioribus infelicis eiusmodi multitudinis necessitatibus consuleremus.

At horum exsulum status tam ances tamque instabilis est, ut diutius idem protrahi nequeat. Dum igitur auctores omnibus sumus, quoquot magno nobilique sunt animo, ut his extorribus maerore atque inopia affectis auxiliari pro viribus velint, vehementer eos appellamus, quorum res est, ut iustitia praebatur omnibus, qui bellii turbine longe a patriis laribus expulsi, nihil magis percupiunt quam tranquillum iterum ducere vitam.

Hoc Nos per sanctos hos dies maxime optamus, unaque Nobiscum christiani populi universi optant, ut tandem aliquando pax ibi effulget, ubi qui a sacris vatibus «Princeps pacis» atque ab Apostolo gentium Pax ipsa renuntiatus est, aetatem degunt suumque profudit sanguinem.

Quam quidem solidam verique nominis pacem Nos etiam atque etiam implorare numquam destitimus; utque quam primum maturaretur ac firmaretur, per Encyclicas Litteras «In multiplicibus» iam asseveravimus: «opportunum nempe omnino esse ut Hierosolymae ac vicinitati, ubi Divini Redemptoris vitae ac mortis veneranda servaturum monumenta, regimen tribuatur «internationali» jure statutum ac solidatum, quod in praesentibus rerum adiunctis satius aptiusque videtur sacra eadem monumenta tueri posse».

Facere autem non possimus quin eandem heic asseverationem iteremus, eo etiam consilio ducti ut filii Nosstris incitamento sit: ipsi nempe ubicumque commorantur iusta quavis ratione dent operam, ut publici Civitatum moderatores iique omnes, quorum est tanti momenti causam dirimere, sibi persuadeant Hierosolymae eiusque viciniae iuridicum tribuere statum, cuius stabilitatem, in hisce rerum condicionibus, coniunctio tantum atque conspiratio Nationum, pacem amantium iuraque observantium aliquorum, tutam firmamque reddere possunt.

At praeterea necessarium omnino est debitam incoluitatem ac tutelam cunctis sacris Palaestinae Locis sancire, quae non solum Hierosolymae sed in ceteris quoque regionis illius urribus atque pagis habentur.

________________________

696 Is., 9, 6.  
Horum non paucā ob bellicas vicissitudines vastationesque gravia discrimina ac detrimenta perpessa sunt. Oportet igitur eadem — cum tam magna religionis monumenta cuique veneranda servent, christianorumque pietatem nutriant ac foveant — consentaneo modo muniantur ac certo iure, quod «internationalis» pacta consensus corroboret.

Novimus profecto filiis Nostris in flagrantissimis votis esse illuc ex more tradito iterum peregrinari, unde res fere ubique perturbatae eos iam diu prohibuere. Quae quidem vota incensoria facit piacularis, qui instat, annus, quod per illius temporis decursum par est christifideles magis cupere Terram eam invisere, quae divinae redemptionis veluti theatrum fuit. Ac faxit Deus ut huiusmodi optata quam primum effecta dentur.

Attamen ut id feliciter eveniat, opus profecto est ea omnia decernere, quibus liberē peregrinantibus liceat sacra illa adire aedificia; suam quisque pietatem palam nulloque impedimento profiteri; atque illic remotis periculis remotaque formidine commorari. Neque injuria vacare arbitramur, si iidem regionem illam cernant indignis judicris vitiorumque oblectamentis profanatam; quod sane Divinum Redemptorem christianorumque conscientiam offendit.

Valde praeterea optamus ut quae plurima in Palaestina sunt indigentibus adiuvandis, educandae iuventuti, hospitibus excipiendis catholica instituta, eadem possint, ut aequum est, nullis praepedita repagulis, operam praestant operam praestare suam, qua anteaoptata quam primum effecta dentur.

Haec sunt, Venerabiles Fratres, ad quae Nobis in animo erat mentes vestras convertere. Facite igitur ut christifideles, vestrae sollicitudini demandati, Palaestinae condicione maiori in dies curae habeant, et sua vota suaque iura Civitatum rectoribus palam affirmateque declarent. At praecipue inundo precandoque ab eo opem impetrant, qui homines Nationesque moderatur. Utinam Deus mundum universum atque imprimis Terram illum Incarnati Verbi cruore irroratem benignus aspiciat, ut odia simulantesque Jesu Christi caritas evincat, quae una potest tranquillitatem ac pacem afferre.

Caelestium interea munerum sit auspex Nostraeque voluntatis testis Apostolica Benedictio, quam vobis, Venerabiles Fratres, gregique cuiusque vestro, amantissime impertimus.

Datum Romae, apud S. Petrum, die xv mensis Aprilis, feria sexta in Parasceve, anno MCMXXXIX. Pontificatus Nostri undecimo.

PIUS PP. XII
3. APOSTOLIC EXHORTATION SOLEMNIBUS DOCUMENTIS, 8 NOVEMBER 1949

ACTA APOSTOLICAE SEDIS
COMMENTARIUM OFFICIALE

ACTA PII PP. XII

ADHORTATIO APOSTOLICA

AD VENERABILES FRATRES PATRIARCHAS, PRIMATES, ARCHIEPISCOPOS,
EPISCOPOS, ALIOSQUE LOCORUM ORDINARIOS PACEM ET COMMUNIONEM CUM
APOSTOLICA SEDE HABENTES: ITERUM INDICUNTUR SUPPLICATIONES PRO
SACRIS PALAESTINAE LOCIS.

PIUS PP. XII

Venerabiles Fratres, salutem et Apostolicam Benedictionem. —Sollemnibus
documentis ac factis viva voce verbis quotiescumque opportunitas fuit, postremis
hisce temporibus filios Nostros e quavis terrarum orbis parte adhortati sumus, ut
supplies ad Deum preces funderent pro sacra regione illa, «ex qua tanta
gentibus omnibus veritatis lux inde ab obscura antiquitate est orta».

Hodie vero dum in publicis coetibus de futuro agitur Palaestinae statu eiusque
ordinatione, Nos, pro Apostolici Ministerii Nostri officio, vehementer optamus ut
una Nobiscum coniuncti, quotquot christiani gloriantur nomine, ab Omnipotenti
Deo pacis, caritatis, iustitiaeque munera sacris illis locis instantionibus
supplicationibus impetrent.

Norunt enim omnes ad Bethlehemiticum specum Angelos, gloriam Deo
cocinctentes, pacem nuntiavisse hominibus bonae voluntatis; norunt per
Palaestinae urbes, oppida, pagos Eum pertransiisse beneficiendo qui
mortalibus sicut ovibus errantibus absque pastore suum non modo

praeceptum, sed etiam exemplum amoris impertiit, norunt denique in Golgotha monte Hominem Deumque Christum, dum immaculatam se victimam obtulit pro peccatis omnium, sincerae libertatis ac iustitiae triumphum suo profuso cruore promeruiisse.

Si grata igitur tam grandium beneficiorum memoria cum hac sacra regione arctissime coniungitur, hodie procul dubio, si quamquam alias, grave officium est incensas ad Caelum admoveere preces pro terra illa, quae per saeculorum decursum christianos fere innumerous, ad se pietatis causa peregrinantes excepit; quae inflammatos eorum animos ad quaevis fortiter toleranda commovit; quae olim, quae in praesens quoque, jure meritoque eorum mentem eorumque amorem peculiari modo excitavit atque excitat.

Atque utinam — quod fore confidimus impenseque optamus — Dei para Virgo Maria, immaculati sui Cordis bonitate permota, id a Divino Redemptore impetret, ut hac nova prece contentione eveniat ut quam primum Hierosolymae universaeque Palaestinae eiusmodi tribuatur ordinatio, quae ex verae iustitiae normis oriatur; quae reapse dimicationum ruinorumque discrimina prohibeat; quae loca illa, utpote sacra habenda, incolia servet Iesu Christi sectorum venerationi atque amor; cuius denique vi, iura omnia in tuto ponantur, quae Ecclesiae filii, tam incensa pietate, tam actuoso studio operosaque navitate elapsi temporis spatium catholicco orbi universo adepti sunt.

Qua dulci spe freti, vobis singulis universis, Venerabiles Fratres, ac gregibus vestrae curae demandatis Apostolicam Benedictionem, quae supernarum sit gratiarum auspex Nostraeque benevolentiae testis, amantissime in Domino impertimus.

Datum ex Arce Gandulphi, prope Romam, dic viii mensis Novembris anno MDCCCCXXXXIX, Pontificatus Nostri undecimo.

PIUS PP. XII
4. DECLARATION *NOSTA AETATE*, 28 OCTOBER 1965

PAULUS EPISCOPUS
SERVUS SERVORUM DEI
UNA CUM SACROSANCTI CONCILII PATRIBUS
AD PERPETUAM REI MEMORIAM

DECLARATIO DE ECCLESIAE HABITUDINE AD RELIGIONES NON-CHRISTIANAS

1. Nostra aetate, in qua genus humanum in dies arctius unitur et necessitudines inter varios populos augentur, Ecclesia attentius considerat quae sit sua habitudo ad religiones nonchristianas. In suo munere unitatem et caritatem inter homines, immo et inter gentes, fovendi ea imprimis hic considerat quae hominibus sunt communia et ad mutuum consortium ducunt.

Una enim communitas sunt omnes gentes, unam habent originem, cum Deus omne genus hominum inhabitare fecerit super universam faciem terrae,702 unum etiam habent finem ultimum, Deum, cuius providentia ac bonitatis testimonium et consilia salutis ad omnes se extendunt,703 donec uniantur electi in Civitate Sancta, quam claritas Dei illuminabit, ubi gentes ambulabunt in lumine eius.704 Homines a variis religionibus responsum expectant de reconditis nae aenigmatibus, quae sicut olim et hodie corda hominum intime commovent: quid sit homo, quis sensus et finis vitae nostrae, quid bonum et quid peccatum, quem ortum habeant dolores et quem finem, quae sit via ad veram felicitatem obtinendum, quid mors, iudicium et retributio post mortem, qui demum illud ultimum et ineffabile mysterium quod nostram existentiam amplectitur, ex quo ortum sumimus et quo tendimus.

2. Iam ab antiquo usque ad tempus hodiernum apud diversas gentes invenitur quaedam perceptio illius arcanae virtutis, quae cursui rerum et eventibus vitae

703 Cf. Sap. 8, 1; Act. 14, 17; Rom. 2, 6-7; 1 Tim. 2, 4.
humanae praesens est, immo aliquando agnitiio Summi Numinis vel etiam Patris. Quae perceptio atque agnitiio vitam earum intimo sensu religioso penetrant. Religiones vero cum progressu culturae connexae subtiliaribus notionibus et lingua magis exculta ad easdem quaeestiones respondere satangut. Ita in Hinduismo homines mysterium divinum scrutantur et exprimunt inexhausta fecunditate mythorum et acutis conatibus philosophiae, atque liberationem quae sunt ab angustiiis nostrae condicionis vel per formas vitae asceticæ vel per profundam meditationem vel per refugium ad Deum cum amore et confidentia. In Buddhismo secundum varias eius formas radicalis insufficientia mundi huius mutabilis agnoscitur et via docetur qua homines, animo devoto et confidente, sive statum perfectae liberationis acquirere, sive, vel propriis conatibus vel superiore auxilio inni, ad summam illuminationem pertingere valeant. Sic ceteræ quæ religiones, quae per totum mundum inveniuntur, inquietudini cordis hominum variis modis occurrere nituntur proponendo vias, doctrinas scilicet ac præcepta vitae, necnon ritus sacros.

Ecclesia catholica nihil eorum, quæ in his religionibus vera et sancta sunt, reicit. Sincera cum observantia considerat illos modos agendi et vivendi, illa praecepta et doctrinas, quae, quamvis ab iis quae ipsa tenet et proponit in multis discrepent, haud raro referunt tamen radium illius Veritatis, quae illuminat omnes homines. Annuntiat vero et annuntiare tenetur indesinenter Christum, qui est «via et veritas et vita» (Io. 14, 6), in quo homines plenitudinem vitae religiosae inveniunt, in quo Deus omnia Sibi reconciliavit. 705

Filios suos igitur hortatur, ut cum prudentia et caritate per colloquia et collaborationem cum asseclis aliarum religionum fidem et vitam christianam testantes, illa bona spiritualia et moralia necnon illos valores socio-cultural, quae apud eos inveniuntur, agnoscant, servent et promoveant.

3. Ecclesia cum aestimatione quoque Muslims respicit qui unicum Deum adorant, viventem et subsistentem, misericordem et omnipotentem, Creatorem caeli et terrae, 706 homines allocutum, cuius occultis etiam decretis toto animo se submittere student, sicut Deo se submisit Abraham ad quem fides islamica libenter sese referit. Iesum, quem quidem ut Deum non agnoscat, ut prophetam tamen venerantur, matremque eius virginalem honorant Mariam et aliquando eam devote etiam invocant. Diem insuper iudicii expectant cum Deus omnes homines resuscitatos remunerabit. Exinde vitam moralem aestimant et Deum maxime in oratione, eleemosynis et ieiunio colunt.

Quodsi in decursu saeculorum inter Christianos et Muslims non paucæ dissensiones et inimicitiae exortae sint, Sacrosancta Synodus omnes exhortatur, ut, praeterita obliviscentes, se ad comprehensionem mutuam sincere exerceant

705 Cf. 2 Cor. 5, 18-19.
et pro omnibus hominibus iustitiam socialem, bona moralia necnon pacem et libertatem communiter tueantur et promoveant.

4. Mysterium Ecclesiae perscrutans, Sacra haec Synodus meminit vinculi, quo populus Novi Testamenti cum stirpe Abrahae spiritualiter coniunctus est.


Semper quoque prae oculis habet Ecclesia verba Apostoli Pauli de cognatis eius, «quorum adoptio est filiorum et gloria et testamentum et legislatio et obsequium et promissa, quorum patres et ex quibus est Christus secundum carnem» (Rom. 9, 4-5), filius Mariae Virginis. Recordatur etiam ex populo iudaico natos esse Apostolos, Ecclesiae fundamenta et columnas, atque plurimos illos primos discipulos, qui Evangelium Christi mundo annuntiaverunt.

Teste Sacra Scriptura, Ierusalem tempus visitationis suae non cognovit, atque Iudaei magna parte Evangelium non acceperunt, immo non pauci diffusioni eius se opposuerunt. Nihilominus, secundum Apostolum, Iudaei Deo, cuius dona et vocatio sine paenitentia sunt, adhuc carissimi manent propter Patres. Una cum Prophetis eodemque Apostolo Ecclesia diem Deo soli notum expectat, quo populi omnes una voce Dominum invocabunt et «servient ei umero uno» (Soph. 3, 9).

Cum igitur adeo magnum sit patrimonium spirituale Christianis et Iudaeis commune, Sacra haec Synodus mutuam utriusque cognitionem et aestimationem, quae praesertim studiis biblicis et theologicis atque fraternis colloquios obtinetur, fovere vult et commendare.

---

709 Cf. Eph. 2, 14-16.
710 Cf. Lc. 19, 44.
711 Cf. Rom. 11, 28.
713 Cf. Is. 66, 23; PS. 65, 4; Rom. 11, 11-32.
Etsi auctoritates Iudaeorum cum suis asseclis mortem Christi urserunt,\footnote{Cf. Io. 19, 6} tamen ea quae in passione Eius perpetrata sunt nec omnibus indistincte Iuddaeis tunc viventibus, nec Iudaes hodiernis imputari possunt. Licet autem Ecclesia sit novus populus Dei, Iudaei tamen neque ut a Deo reprobati neque ut maledicti exhibeantur, quasi hoc ex Sacris Litteris sequatur. Ideo curent omnes ne in catechesi et in verbi Dei praedicatione habenda quidquam doceant, quod cum veritate evangelica et spiritu Christi non congruat.

Praeterea, Ecclesia, quae omnes persecutiones in quosvis homines reprobat, memor communis cum Iudaeis patrimonii, nec rationibus politicis sed religiosa caritate evangelica impulsa, odio, persecutiones, antisemitismi manifestationes, quovis tempore et a quibusvis in Iudaeos habita, deplorat.

Ceterum Christus, uti semper tenuit et tenet Ecclesia, propter peccata omnium hominum voluntarie passionem suam et mortem immensa caritate obiit, ut omnes salutem consequantur. Ecclesiae praedicantis ergo est annuntiare crucem Christi tamquam signum universalis Dei amoris et fontem omnis gratiae.

5. Nequimus vero Deum omnium Patrem invocare, si erga quosdam homines, ad imaginem Dei creatos, fraterne nos gerere renumus. Habitudo hominis ad Deum Patrem et habitudo hominis ad homines fratres adeo connectuntur, ut Scriptura dicit: «qui non diligit, non novit Deum» (I Io. 4, 8).

Fundamentum ergo tollitur omni theoriae vel praxi quae inter hominem et hominem, inter gentem et gentem, discrimen quoad humanam dignitatem et iura exinde damantia inducit.

Ecclesia igitur quamvis hominum discriminationem aut vexationem stirpis vel coloris, condicionis vel religionis causa factam tamquam a Christi mente alienam, reprobat. Proinde, Christifideles Sacra Synodus, vestigia Sanctorum Apostolorum Petri et Pauli premens, ardenter obsecrat ut «conversationem... inter gentes habentes bonam» (I Pt. 2, 12), si fieri potest, quod in eis est cum omnibus hominibus pacem habeant,\footnote{Cf. Rom. 12, 18.} ita ut vere sint filii Patris qui in caelis est.\footnote{Cf. Mt. 5, 45.}

Haec omnia et singula quae in hac Declaratione edicta sunt, placuerunt Sacrosancti Concilii Patribus. Et Nos, Apostolica a Christo Nobis tradita potestate, illa, cum Venerabilibus Patribus, in Spiritu Sancto approbamus, decernimus ac statuimus et quae ita synodaliter statuta sunt ad Dei gloriam promulgari iubemus.

Romae, apud S. Petrum die XXVIII mensis octobris anno MCMLXV.

Ego PAULUS Catholicae Ecclesiae Episcopus

\footnote{Cf. Io. 19, 6} \footnote{Cf. Rom. 12, 18.} \footnote{Cf. Mt. 5, 45.}
5. APOSTOLIC EXHORTATION *NOBIS IN ANIMO*, 25 MARCH 1974

An. et vol. LXVI 30 Aprilis :1974 N. 4

**ACTA APOSTOLICAES SEDIS**

**COMMENTARIUM OFFICIALE**

*Directio*: Palazzo Apostolico — Città del Vaticano — *Administratio*: Libreria Editrice Vaticana

**ACTA PAULI PP. VI**

**ADHORTATIO APOSTOLICA**

Ad Episcopos, Sacerdotes et Christifideles totius catholici orbis: de auctis Ecclesiae necessitatibus in Terra Sancta.

PAULUS PP. VI

VENERABLES FRATRES AC DILECTI FILII,

SALUTEM ET APOSTOLICAM BENEDICTIONEM

Nobis in animo est ad vos, Venerabiles Fratres ac dilecti Filii, adhortationem adhibere vestraeque considerationi proponere commune nostrum officium eo spectans, ut ecclesialis caritatis sensum, quo omnes invicem coniungimur, christianis Terrae Sanctae communitatibus testificemur.

Hierosolymitana enim Ecclesia singularem prorsus locum obtinet inter sollicitudines Sanctae Sedis interque curas universi christiani orbis; eodemque tempore etiam apud gravissimos Nationum Consessus maximosque Internationales Coetus studia in Loca Sancta conferuntur, peculiarique modo in urbem Ierusalem, hoc quidem proposito, ut eorundem locorum incolimitati consulatur atque in tuto ibi ponatur libera religionis cultusque professio. 717

717 Cfr. Pacta Conventa habita in urbis Wien, Sèvres, Montreux; Societas Nationum; Foederatio Nationum Unitarum (ONU).
Haec animi attentio hodie impensiore studio urgenda est propter graves, quae illic occurrunt, quaestiones ad rem religiosam, politicam et socialem spectantes; nam de quaestionibus agitur implexis sane atque magni momenti, quae convictum populorum in ea regione degetium respiciunt eorumque concordiam, itemque de quaestionibus indolis religiosae, civilis et humanae, quae ad vitam attinent variarum communitatum, quae in Terra Sancta commorantur.

Animo adhuc anxii, quamvis spe quadam erecti, id ipsum communemus quod nuper asseveravimus, nempe prolatam hominum contentionem in Medii Orientis regionibus — cum tamen nondum ea consilia capiantur, quae tandem ad componendam pacem conducant — grave continuu quamque periculum pra se ferre, quo in discrimen vocantur non solum tranquillitas et securitas populorum illius terrae, immo pax universi terrarum orbis sed etiam quaedam bona, quae summopere cordi sunt diversas ob causas, tam magnae hominum parti. Praeterea, si magis magisque invalescant rerum status haud innixi certo ac legitimo fundamento, quod internationali iure agnoscat atque muniatur, id profecto, nesum faciliiores reddat magis arduas efficet aequas ac probabiles pacis condiciones, quibus debita ratio habeatur iurium uniuscuiusque gentis: peculiari modo hic Nos trium reliquum Ierusalem, Urbs Sancta uniusque Dei religionis Caput, ad quam hisce diebus christianorum cogitatio vehementius advolat et in qua, haud perinde atque Hebraei et Musli mi, plene «cives» se ipsi sentire debent.718 Ad Nos quod attinet, facere non possimus, quin in memoriam revocemus peregrinationem, quam Nosm cris locis, ubi Christus natus est, vixit et e morte resuscitatus ad Caelum ascendit, praecipua salutis nostrae mysteria praesentes recoleremus.719 Neque e memoria Nostra excedere potest ille, quem habuimus, occursus sive cum religiosis Auctoritatibus Christianis — inter quas meminisse iuvat Patriarcham Graeum et Patriarcham Armenorum Hierosolymitanum — sive cum credentium multitudinis, quae circumstipantes quasi effuso quodam fidei caritatisque amplexu Nos exceperunt.

Hoc propositum Patribus Conciliaribus nuntiantes, etiam mentem Nostram aperuimus: persuasum enim habeabamus pias supplicationes esse susci piandas et opera multiplicanda720 ad felicem exitum Concilii. Quare statuimus Nosmetipsos, peregrinatoris in modum, in regionem ilam, patriam Domini Nostri Jesu Christi, conferre.721 Terram inquimus, in qua olim nostri in fide Patres vixerunt; terram, ubi vox resonuit Prophetarum, qui locuti sunt nomine Dei Abraham, Isaac ac Jacob; terram, denique ac potissimum, quae praesentia ipsius Christi sancta sacraque iam reddita est christianis omnibus, immo, affirmare licet, universo

720 Ibid.
721 Ibid.
hominum generi. 722 Nemo oblivisci potest Deum, cum factus homo patriam, linguam, familiam in hoc mundo sibi eligere velit, haec omnia ab Oriente sumpsisse. 723

Videmur Nos arcanam quandam reperire necessitudinem atque affinitatem inter terram illam et Iesum Christum et Petrum et euis successionem et urbem Romam: sic elocuti sumus eo ipso vespere, quo ex Nostra in Terra Sancta peregrinatione in Urbem redivimus. 724

Haec itaque sacrata terra facta est, certo quodam modo, spirituale patrimonium totius orbis christianorum, qui quidem vehementer cupiunt eam semel saltem in vita, tamquam pii peregrinatores, invisere, ut suae pietati satisfaciant suumque ostendant amor em erga Deum factum Infantulum Bethlehemi, erga divinum Adulescentem et Opificem in Nazarethana urbe, erga Praeceptorem divinum et miraculorum Auctorem per omnem eam regionem, erga divinum Crucifixum in Calvariae loco, ac denique erga Redemptorem Resuscitatum ex sepulcro, quod nunc inventur in «Templo Resurrectionis» (ό ναὸς τοῦ αναστάσεως), ut illud christiani fratres qui Graece loquuntur opportuna dictione appellant.

Verum. eadem haec terra quoque est, in qua, propeTempla et Loca Sacra, commoratur atque operatur Ecclesia viva, Communitas nempe credentium in Christum. De Communitate agitur, quae progredientibus aetatibus res adversas paene innumerabiles perpessa est, quaecae acerbis fortunae vicissitudinis fuit obnoxia interiores dissensiones, vexationes exteriores et paulo superius etiam migrationes eam adeo infirmaverunt, ut si bimet ipsa diutius nequeat providere, nostraque propterea egeat benevolentia atque adiumento tam ad animum suum confirmandum, quam ad opes comparandas.

Hi fratres nostri, qui ibi vivunt ubi vixit Iesus, et qui circum ipsa Loca Sacra successerunt primae illi et priscae Ecclesiae, quae cunctas post se peperit Ecclesias, 725 egregia sibi cumulaverunt coram Deo merita et nos omnes officio quodam spirituali devinzerunt: namque insigniter et cotidie partem habent Christi dolorum, et congruenter nomini christiano se gerunt, declarantes fidem vivam, caritatem sinceram veramque paupertatem secundum Evangelii morem. Si praesentia ipsorum aliquando penitus deficeret, tunc fervor testificationis viventis apud ipsa celebrata Templa exstingueretur et Loca Sacra christianorum sive in urbe Jerusalem sive per totam Terram Sanctam plane fierent museis similia. Iam

alias aperte confessi sumus quantopere sollicitaremur, quod christianorum numerus magis magisque imminueretur in antiquis illis regionibus, quae fidei nostrae incunabula fuerunt.\footnote{Cfr. Allocutio ad Em.mos Patres Cardinales: A.A.S. 62 (1970), P. 47.}

Ab ipso dominicae Resurrectionis die, cum fidissimi Magistri divini sectatores concurrerunt ad eius inspiciendum seplurum, maxima laus fuit pristini illius coetus Iudaeorum-Christianorum conservare ac perpetuare memoriam praecipuorum Locorum Sanctorum, atque eorum vestigia et reliquias demonstrare peregrinatoribus, qui paululo post coeperant illa frequentare.

Fidei ac pietatis sensus impulerunt priscos christianos, ut praesentes inspectare et veluti contractare possent ipsa Loca Sacra, ibidemque liturgicos ritus singulari quodam splendore concelebrare.

Etsi nemo sane negat christianam religionem prorsus universalem esse neque ullius nationis circumscribi finibus, atque ipsius asseclas \textit{adorare Patrem in spiritu et veritate},\footnote{Cfr. Io 4, 23.} nihilominus ipsa clare innititur alicui revelationi historicae. Iuxta \textit{«historiam salutis}} nimirum constat \textit{geographiam salutis}} adesse. Quapropter, excellens inest Locis Sacris praestantia, quod fidei ipsi praebent inexpugnabile quoddam praesidium, cum christianis permittant, ut directo attingant circumiacentia rerum adiuncta, in quibus \textit{Verbum caro factum est et habitavit in nobis}.\footnote{Io 1, 14.}


Sanctus ipse Hieronymus, cum in Palaestina moraretur et Bibliorum investigationibus stimulus adiceret, mirum simul in modum excitavit studium totius orbis christiani occidentalis regionum et virorum eruditorum erga Iesu Christi terram: ea omnino tempore Bethlehemi aedificata sunt duo coenobia et deversorium, quae luculentum signum et documentum exstant conspiciuae frequentiae peregrinorum.\footnote{Cfr. T.Tobler-A. Moliner, Itinera latina bellis sacris anterioria, I, 1877, pp. 43-47; II, 1880, pp. 133-142.}

Etiam deinceps Terra Sancta numquam cessavit ad sese allicere piorum viatorum turmas, quamquam iter ipsum pluribus obnoxium erat periculos atque paqua et lenta valde vehicula. Quare, coenobia et templum, opitulantibus liberalibus et beneficis hominibus, multiplicata sunt: urbes atque ipsae solitudines repletae sunt a monachis et paenitentibus viris omnis gentis ac ritus, qui in terra Domini vitae christianae fontes et capita novo veluti modo detegebant.

Per hominum aetates peregrinorum celebritas e variis historiae casibus pependit, atque adeo faustiora minusve laeta tempora experta est. A superiore autem saeculo res ipsa fuit in incremento, idque iugiter, cum eam recentius inducta vehicula iuvarent et magis conscius fidei sensus gigneret.

Hoc maiore consideratione dignum videtur, quod inter Concilii Vaticani II tempus plures fuerunt Patres, qui Loca Sancta peterent; neque parum solacii affert, quod haud pauci tum Sacerdotes, tum religiosi Sodales amant dies nonnullos Jerusalem transigere suis colligendi gratia, sacrae Ordinationis vel peculiaris alicuius eventus nacti opportunitatem. Quas nimirum peregrinationes et commorationes in Terra Sancta planeovere volentes, iussimus hospitium a Domina Nostra (a « Notre-Dame » dicunt) in urbe Jerusalem patere iterum idemque destinae etiam ad Sacerdoturn coetus congregandos.

Huiusmodi peregrinationes idcirco valuerunt ad favendum concursui populorum diversam religionem profitterium, propterea quod ad illam beatissimam Terram, maxime vero Jerusalem, aspiciunt et confluunt tamquam ad suum culuisque spirituale centrum, non solum christianae communitates, acatholicis haud exceptis, sed etiam Hebraeorum atque Muslimorum multitudines.

Nos autem flagrantia suscipimus vota, ut id generis concursus incrementis augeantur, atque adeo conferant — ita enim et opinamur et ominamur — ad ampliorem aliorum cum aliis cognitionem, ad mutuam eorum observantiam, ad artiorem necessitudinem inter fratres, qui unius eiusdemque Patris sunt filii, nec non ad pleniorem intellegentiam primarii postulati de pace inter populos stabilienda.

Iam S. Paulus Palaestinensium fidelium causam alacri animo ipse suscepit auctorque fuit perdiligens colligendae stipis pro illis, qui ex Hierosolymitanis
fratribus pauperiores erant. Cuius invitationis Ecclesiae in Macedonia, in Achaia largiter libenterque responderunt. Unusquisque vero christianorum, pro sua facultate, sibi propositum opem subsidiaque mittere

fratribus, qui in Iudaea commorabantur. Communitates enim, quae ex gentibus erant, quodam quasi obligatione sese devinctas censebant erga illius Ecclesiae membra, unde caelestium divitias bonorum acceperant, quas ipsae vicissim suae fructu caritatis rependerent. Tunc Apostolus ipse auxilia tulit in Civitatem sanctam, cum in collecta stipe vinculum quoddam unitatis agnosceret inter novas credentium communitates et Ecclesiam matrem, quae in Jerusalem erat.733

Non certe sine aliquo providentis Dei consilio res, quae saeculo tertio decimo gestae sunt, causa fuerunt cur Ordo Fratrum Minorum in Terram Sanctam ingrederetur.

Quo ex tempore Sancti Francisci filii — per continuam annum seriem — in terra Iesu permanserunt, ut Ecclesiae illi inservirent et Loca christianorum Sancta custodirent, restituerent, tutarentur. Eorum quidem fidelitas erga Conditoris sui optata atque Sanctae Sedis mandata saepius fuit pulcherrimis mirabilis virtutis et magnanimitatis factis confirmata.

Fratres Minores autem ipsos sive nobilioris sive humilioris ordinis homines adierunt, ut stipem colligerent; sodales, huic munere addiciti, publico titulo «Procuratorum» seu «Commissariorum pro Terra Sancta» appellati sunt.734 Attamen, cum decursu temporis necessitates increscerent et eorum opera non satis esset, Romani Pontifices idcirco, paterna ducti sollicitudine, suam auctoritatem interposuerunt, «Collectam pro Locis Sanctis» imperantes simulque etiam proposita et tempora et modos praefinientes, quibus per Ordinarios collationes ad eos pervenirent, ad quos oporteret.735

Iam inde vero a praeteriti saeculi meditatae, magno in incremento fuerunt Opera pastoralia, socialia, ad subsidium pertinentia animique culturam, in bonum destinata eius terrae incolarum, nullo habito discrimine, atque ecclesialium Terrae Sanctae communitatum.

733 Cfr. Act 11, 29; 24, 17; Rom 15, 25-31; 1 Cor 16, 1-4; 2 Cor 8, 1-0; Gal 2, 10.
Ecclesia localis, pro dolor, necessariis opibus est destituta atque laborat assiduis gravibusque belli illius consecutariis, quod — licet affirmare — aliquot iam decennia ibidem perseverat. Fieri igitur nequit, ut congruae ab iis fidelibus collationes poscantur, cum vix ea quae ad vitam sustentandam sunt necessaria plerumque habeant.

Quapropter, ut christianorum illa communitas, duo fere milia agens annorum propter originem suam praeuentamque in Palaestina, non solum superesse valeat, sed etiam magis in dies vigere ea actuosa efficientique ratione, qua possit aliiis etiam subvenire communitatibus, quibuscum ipsum et vivendum est, opus est ut universi orbis christiani sese largos ac liberales praebant, studentes ut ad Hierosolymitanam Ecclesiam perveniant sive suarum caritas precum, sive affectus propensae suae voluntatis, sive denique certum manifestumque indicium coniuncti animi sui.

Hac praeterea data opportunitate, vota Nostra et hortamenta enixe redintegramus, ut sincero animo ac sedulo ad iustum celaremque pacem componendam intendatur, aequum etiam servatis atque legitimis omnium, quorum intersit, populorum optatis.

Neminem enim fugit multiplices, qui per saeculorum decursum in Terra Sancta orit sint civiles cultus, ita inter se conspirare debere, ut hominum coetus, ad eodem cultus pertinentes, etsi certas ob causas diversi, sociam ineant operam in eademque, velut in \( \text{συντέχω} \) stabiles maneant, ut Graeco vocabulo altam «una simul ambulandi» declaremus significationem.

In huiusmodi rerum ad unum vergentium processu, commixta in Terra Sancta Christianorum, Hebraeorum et Muslimorum praesentia multum conferre potest ad concordiam et pacem; idque nobis praestertim catholicis summi momenti est, quique qui fore confidamus futuram humanitatis sortem in iliorum manibus reponi, qui posteris generationibus vivendi et sperandi rationes tradere valent.\(^{736}\)

Hoc tamen inceptum Nostrum nihil prorsus aliud sibi vult, quam ut religionis mutuique subsidii rationibus prospeicit, etiamsi facere non possimus, quin iniciamus mentionem de peculiari illius quaestionis momento, quae ad urbem Ierusalem et Loca Sancta spectat quaeque in aliis sollemnioribus pontificalis actis pertractata est.

Rogatibus igitur accedentes, qui ab illa Terra ad Nos afferuntur, et pastoralis officii Nostri studio ducti, normas redintegramus et amplificamus, a Nostris Decessoribus latas, easque praesertim quas Leo XIII et Ioannes XXII ven. mem. edixerunt. Haec igitur quae sequuntur statuimus:

1. In omnibus templis et oratorii, clero sive dioecesano sive religioso concreditis, semel in anno — feria VI Hebdomadae Sanctae in Passione Domini, vel alia ab Ordinario loci designata die — praeter peculiare preces pro fratribus

nositris Terrae Sanctae fidelibus effundendas, stipis etiam collatio fiat, iisdem destinandae. Congruum ante tempus, certiores fideles fiant eiusmodi stipem non solum ad Loca Sancta tuenda impensum iri, sed etiam ad ea praecipe fovenda pastoralis, subsidiarii, institutorii et socialis indolis Opera, quae catholica Ecclesia in Terrae Sanctae regionibus alit pro christianis fratribus ceterisque incolis loci.

2. Collaticiae hae stipes a Parochis ecclesiarumque et oratoriorum Rectoribus ad proprium quemque Ordinarium tempestive mittantur, qui eas mox tradet proximo Terrae Sanctae Commissario (cuius quidem navitas, ut antea tam egregia fuit, ita et in praesenti Nobis efficax peraptaque esse videtur), vel alia opportunaque via reddendas curabit.

3. Sacra Congregatio pro Ecclesiis Orientalibus, iuxta directorias normas a Nobis editas, hoc potissimum providere studebit, ut Terrae Sanctae Custodia et eiusdem loci Hierarchia, firmis manentibus utriusque potestatis finibus, sua exercere Opera valeant, eaque corroborare ulteriusque provehere, mutua inter se concordia agentes artamque servantes coniunctionem cum ceteris Institutis, quibus et peculiares cum Terra Sancta necessitudines intercedunt et illius, quae ibidem exstat, Ecclesiae sortes cordi sunt.

Una enim cum Terrae Sanctae Custodia alia etiam Opera sunt, ut voveantur et adiuentur dignissima, quorum in numero Pontificiam Missionem memoramus.737

Nosmetipsi, dum hanc facimus adhortationem, valde exoptamus, ut totius orbis fideles, sua quisque dona augentes pro Collecta, quae translaticio nomine a Locis Sanctis appellatur, numquam desesse sinant tributa et adiumenta liberalitatis suae cunctis Ecclesiae Operibus in ipsa Dominica terra, eo nempe consilio ducti, ut vivax ibi Evangelii testimonium perseveret stabiliorque evadat circa illa Templa praesentia discipulorum Christi.

In hac igitur opportunitate, ad omnia eiusmodi Instituta sinceram ex animo gratulationem itemque incitamentum adhibemus, quo eorum caritatis testificationem tum erga domesticos fidei, tum erga quemlibet hominem, qui rerum prematur inopia, efficaciorem reddamus.

Nostram, denique, laudem Nostraque consensionis favorem patefacere iuvat iis omnibus Sodaliciis de subsidiis ferendis atque omnibus bonae voluntatis hominibus, cum suam impensam dent operam ad graves sublevandas acerbitates eorum gentium, quibus adhuc timor imperat ob dubia asperaque temporis futuri. Faxis Deus ut benefica, quae ab iis accurantur, incepta pace tandem — ut in omnium est votis — restituta laetiores concilient dies Terrae Sanctae habitatoribus.

Qua spe suffulti, vobis, Venerabiles Fratres ac dilecti Filii, Apostolicam Benedictionem peramanter impertimus.

737 Pontificia Missio pro Palaestina, cuius Praeses hoc tempore munere quoque fungitur Secretarii Nationalis sodalitatis v.d. C.N.E.W.A. USA.

btcadg
Datum Romae, apud Sanctum Petrum, die xxv mensis Martii, in Annuntiatione Domini, anno MCMLXXIV, Pontificatus Nostri undecimo.

PAULUS PP. VI
6. APOSTOLIC LETTER REDEMPTIONIS ANNO, 20 APRIL 1984

An. et vol. LXXVI 2 Iulii 1984 N. 7

ACTA APOSTOLICAЕ SEDIS
COMMENTARIUM OFFICIALE

Directio: Palazzo Apostolico – Città del Vaticano – Administratio: Libreria Editrice Vaticana

ACTA IOANNIS PAULI PP. II
EPISTULA APOSTOLICA

Ad totius Ecclesiae Catholicae Patriarchas, Archiepiscopos, Episcopos, Sacerdotes, Religiosas Familias et Christifideles: de urbe Ierusalem quae est omnibus in Deum credentibus bonum sacrum atque optatus concursionis locus ad pacem conciliandam pro populis regionis Mediae Orientalis.

IOANNES PAULUS PP. II

VENERABLES FRATRES AC DILECTI FILII,
SALUTEM ET APOSTOLICAM BENEDICTIONEM

Redemptionis Anno Iubilaeo exeunte, animum convertimus ad singularem illam terram, quae ibi est posita, quo Europa, Asia et Africa confluent, in qua generis humani Redemptio «semel» consummata est.738

Terra est, quam sanctam appellamus, quippe quae terrestris patria fuerit Christi, qui eam circumiit «praedicans Evangelium Regni et sanans omnem languorem et omnem infirmitatem».739

738 Cfr. Rom 6,10; Hebr 7, 27; 9, 12; 10, 10.
739 Mt 4, 23.
Hoc praesertim anno Nobis dulce erat eodem animi motu eodemque affici gaudio, quo Decessor Noster Paulus PP. VI, cum anno MCMLXIV in Terram Sanctam et Ierusalem se contulit.

Si corpore ibi esse nequivimus, spiritu tamen Nos sentimus in ea terra peregrinantes, in qua nostra est acta cum Deo reconciliatio, ut a Principe Pacis imploremus pretiosum redemptionis donum et pacis, quam hominum corda, familiae, populi et imprimis gentes vehementer exoptant, quae eam ipsam incolunt regionem.

De urbe Ierusalem potissimum cogitamus, ubi Iesus, suam offerens vitam «fecit utroque unum et medium parietem maceriae solvit ...interficiens inimicitiam in semetipso».740

Ierusalem, ante quam civitas Iesu Redemptoris, locus historicus fuit biblicae Dei revelationis, quasi locus occursus caeli et terrae, in quo magis quam in quovis alio loco est sermo Dei cum hominibus collatus.

Eam Christiani religioso et sollicito studio respiciunt, quia ibi verbum Christi multotiens resonavit, ibi magni Redemptionis eventus peracti sunt, nempe passio, mors et resurrectio Domini. In urbe Ierusalem orta est prima christiana communitas, et per saecula mansit, etsi difficultatibus affecta, ecclesialis praesentia continua.

Eam, multis vestigiis et monumentis copiosam inde a temporibus David, qui eam caput elegit, et Salomonis, qui ibi Templum aedificavit, Hebraei ardenter amant et in omne tempus eius recolunt memoriam. Exinde ad eandem animos dirigunt, licet affirmare, cotidie, et eam tamquam nationis suae indicant signum.

Etiam Muslimi «sanctam» vocant Ierusalem, acri cum amore, qui ab origine macometanae doctrinae repetituri et ex hoc gignitur, quod multa illic habent peculiaria loca sacris peregrinationibus destinata, et plus iam mille anni intercesserunt, ex quo fere continenter ibidem habitant.

Praeter haec eximiam habent, et praestantitiam munimenta, Ierusalem vivas credentium communitates continet, quarum praezientiam totius orbis terrarum gentes pro signo habent et fonte spei, eae quidem quae Civitatem Sanctam animadvertunt esse suum quodammodo patrimonium spirituale ac pacis et concordiae figuram.

Namque, utpotest patria cordium omnium ex spiri filiorum Abrahae, qui eam carissimam habent, et locus quo coëunt, secundum fidem infinita Dei transcendentia et res creatae, Ierusalem exstat symbolum conventus, coniunctionis et pacis universae humanae familiae.

740 Eph 2, 14, 16.
Civitas Sancta igitur toti humano generi firme pacem suadet, praeiectim adoratoribus unius et magni Dei, populorum Patris misericordis. At profitendum est Ierusalem pergere esse diurnae contentionis, violentiae et propriarum cuiusque vindicationem causam.

Eiusmodi condicio et cogitationes faciunt, ut ex ore haec prophetae exequant verba: «Propter Sion non tacebo, et propter Ierusalem non quiescam, donec egrediatur ut splendor iustitiae eius, et salus eius ut lampas accendatur». 741

Diem cogitamus et expetimus, quo vere omnes simus ita «docibiles Dei», 742 ut eius reconciliationem et pacis nuntium audiamus. Diem cogitamus, quo Hebraei, Christiani et Musli mi inter se consulent in urbe Jerusalem, ea pacis salutatione, qua Christus post resurrectionem discipulos salutavit: «Pax vobis ».743

Romani Pontifices, maxime hoc saeculo, trepidanti semper cum sollicitudine acerbos eventus observaverunt, qui Jerusalem multa per decennia illigaran, et attenta cura prosecuti sunt Institutorum internationalium declarationes, quae de Sanctae Civitatis sorte egerunt.

Multis in occasionibus Sancta Sedes ad considerationem provocavit et hortata est ut huic implicatae et difficili quaestioni dirimendae apte prospeceretur. Quae quidem fecit, quia de populorum pace sollicita erat, non minus quam de causis spiritualibus, historicis et doctrinae propriis, ad religionem pertinentibus.

Universum genus humanum, et imprims populi et nationes quibus in urbe Ierusalem sunt fratres in fide, Christiani, Hebraei et Musli mi, habent cur se sentient hac causa implicatos et pro viribus operam dent, ut huius Civitatis indolem sacram, unicum et irrepetibilem, servent. Non sola monumenta vel loca sancta, sed tota Ierusalem historic et communitatum religiosarum existentia earumque condicio et futura non possunt omnes non tangere atque cordi esse omnibus.

Re vera, inveniatur oportet, voluntate bona atque in longitudinem consulenti, ratio solida et aequa, qua dissimilia studia atque appetitiones congruenter firmiterque componantur atque in tuto collocentur modo consentaneo et efficaci, per peculiare Statutum cui re internationali ac gentium consortione caveatur, ita ut nulla pars valeat eam ad discrimen adducere.

Nostrum etiam putamus, et quidem non differendum munus commemorandi, coram Christianis communitatibus atque iis qui fidem in unum Deum profitentur quique in se recipiunt praecipuarum hominis dignitatum tutelam, Hierosolymae quaestionem primas agere partes ad pacem constabil lendum iustam in Media regione Orientali.

741 Is 62, 1.
742 Io 6, 45.
743 Io 20, 19.
Nobis persuasum habemus Civitatis religiosam identitatem atque praesertim communis fidei monotheisticae consuetudinem componere posse viam ita ut concordia promoveatur inter eos quicumque varia ex ratione Sanctam Civitatem ut suam habent.

Probe novimus neglectam inquisitionem dignae compositionis problematis Hierosolymitani, sic ut eiusdem desidem dilatationem, acrius in discrimen adducere exoptatam quietam aequamque pactionem contentionis totius regionis Mediae Orientalis.

Recolimus nunc, sicut sane sermo fert, eadem in regione duos populos, Palaestinum et Israeliticum intra proxima decennia oppositos esse simultate quae videtur redigi non posse.

Ecclesia, in Christum Redemptorem oculos convertens eiusque imaginem in unoquoque homine dignoscens, pacem invocat atque reconciliationem pro populis illius terrae, quae Ipsi fuit.

Pro populo Hebraico qui vitam degit in Natione Israelitica quique eadem in regione custodit tam pretiosa testimonia suae historiae suaeque fidei, imploramus optatam securitatem atque iustam tranquillitatem quae est praecipua uniuscuiusque nationis atque vitae profectus condicio pro quacumque societate.

Palaestinus populus, qui illa in regione invenit historicam suam originem et intra decennia vivit vagus, ius habet naturale, ex iustitia, inveniendi patriam atque aetatem agendi concorditer et aequo animo eum ceteris populis eiusdem regionis.

Omnes regionis Mediae Orientalis gentes, virtutum spiritualium patrimonium suum custodientes, vices tragicas quibus implicantur superare non valebunt — de Libano excruciato dicimus — nisi historiae suae rationem veram detegerint, quae per fidem in unum Deum eas provocat ad consociationem in concordia et mutua cooperatione.

Cupimus, praeterea, admonere viros politicos, quotquot ad populorum gubernacula sedent vel praesunt Institutionibus internationalibus, de urbis Ierusalem condicio deque communitatibus in ea aetatem agentibus. Neminem fugit enim multiplices fidei cultusque humani significationes, quae in Sancta Civitate inveniuntur, ad concordiae pacis pacisque causam admodum conferre posse.

Hac in hebdomadis sanctae feria sexta, qua sollemniter recolimus Salvatoris nostri passionem et mortem, vos omnes invitamus, Venerabiles Fratres in Episcopatu, omnes Presbyteros, Viros ac Mulieres religiosas, Christifideles omnes per orbem terrarum dispersos, ut inter preces peculiarem teneat locum implroratio pro iusta compositione quaestionis Hierosolymitanae et totius Regionis Sanctae, et ut pax reddatur regioni illi Mediae Orientali.

Redemptionis Anno Iubilaeo exeunte, quem magno cum spirituali gaudio sive Romae celebravimus sive omnibus in catholicae Ecclesiae dioecesibus, Ierusalem exstitit meta optima ac vera, in quam prospeciebant cogitationes nostrae amoris
et animi grati ob grande donum Redemptionis, quam in Sancta Civitate Filius Hominis operatus est pro omnibus hominibus.

Quoniam vero redemptionis fructus est hominis cum Deo reconciliatio atque uniuscuiusque hominis cum fratribus suis, hac de causa nobis implorandum est, ut etiam Hierosolymae, in Regione Sancta Iesu, credentes in Deum, post tam tristes dissipationes et dissensiones, reconciliationem inveniant et pacem.

Haec pax a Christo Iesu declarata, in nomine Patris qui in Caelis sedet, constitutam Ierusalem signum vivum magnae spei unitatis, amicitiae atque concursiones inter populos, iuxta perspicua verba libri Isaiae: «Ibunt populi multi et dicent: venite et ascendamus ad montem Domini, ad domum Dei Iacob, et doceat nos vias suas et ambulemus in semitis eius».744

Apostolicam denique Benedictionem Nostram libenti animo impertimus.

Datum Romae, apud Sanctum Petrum, die xx mensis Aprilis, feria sexta hebdomadis sanctae, anno MCMLXXXIV, Pontificatus Nostri sexto.

JOANNES PAULUS PP. II

744 Is 2,3.
7. CONVENTIO INTER APOSTOLICAM SEDEM ATQUE ISRAELIS STATUM, 30 DECEMBER 1993

CONVENTIO INTER APOSTOLICAM SEDEM ATQUE ISRAELIS STATUM

FUNDAMENTAL AGREEMENT BETWEEN THE HOLY SEE AND THE STATE OF ISRAEL

Preamble

The Holy See and the State of Israel,

Mindful of the singular character and universal significance of the Holy Land;

Aware of the unique nature of the relationship between the Catholic Church and the Jewish people, and the historic process of reconciliation and growth in mutual understanding and friendship between Catholics and Jews;

Having decided on 29 July 1992 to establish a "Bilateral Permanent Working Commission", in order to study and define together issues of common interest, and in view of normalizing their relations;

Recognizing that the work of the aforementioned Commission has produced sufficient material for a first and Fundamental Agreement;

Realizing that such Agreement will provide a sound and lasting basis for the continued development of their present and future relations and for the furtherance of the Commission's task,

Agree upon the following Articles:

Article 1

§ 1. The State of Israel, recalling its Declaration of Independence, affirms its continuing commitment to uphold and observe the human right to freedom of religion and conscience, as set forth in the Universal Declaration of Human Rights and in other international instruments to which it is a party.

§ 2. The Holy See, recalling the Declaration on Religious Freedom of the Second Vatican Ecumenical Council, Dignitatis humanae, affirms the Catholic Church's commitment to uphold the human right to freedom of religion and conscience, as set forth in the Universal Declaration of Human Rights and in other international instruments to which it is a party. The Holy See wishes to affirm as well the Catholic Church's respect for other religions and their followers as solemnly stated by the Second Vatican Ecumenical Council in its Declaration on the Relation of the Church to Non-Christian Religions, Nostrae aetate.
Article 2

§ 1. The Holy See and the State of Israel are committed to appropriate cooperation in combating all forms of antisemitism and all kinds of racism and of religious intolerance, and in promoting mutual understanding among nations, tolerance among communities and respect for human life and dignity.

§ 2. The Holy See takes this occasion to reiterate its condemnation of hatred, persecution and all other manifestations of antisemitism directed against the Jewish people and individual Jews anywhere, at any time and by anyone. In particular, the Holy See deplores attacks on Jews and desecration of Jewish synagogues and cemeteries, acts which offend the memory of the victims of the Holocaust, especially when they occur in the same places which witnessed it.

Article 3

§ 1. The Holy See and the State of Israel recognize that both are free in the exercise of their respective rights and powers, and commit themselves to respect this principle in their mutual relations and their cooperation for the good of the people.

§ 2. The State of Israel recognizes the right of the Catholic Church to carry out its religious, moral, educational and charitable functions, and to have its own institutions, and to train, appoint and deploy its own personnel in the said institutions or for the said functions to these ends. The Church recognizes the right of the State to carry out its functions, such as promoting and protecting the welfare and the safety of the people. Both the State and the Church recognize the need for dialogue and cooperation in such matters as by their nature call for it.

§ 3. Concerning Catholic legal personality at canon law the Holy See and the State of Israel will negotiate on giving it full effect in Israeli law, following a report from a joint subcommission of experts.

Article 4

§ 1. The State of Israel affirms its continuing commitment to maintain and respect the "Status quo" in the Christian Holy Places to which it applies and the respective rights of the Christian communities thereunder. The Holy See affirms the Catholic Church's continuing commitment to respect the aforementioned "Status quo" and the said rights.

§ 2. The above shall apply notwithstanding an interpretation to the contrary of any Article in this Fundamental Agreement.

§ 3. The State of Israel agrees with the Holy See on the obligation of continuing respect for and protection of the character proper to Catholic sacred places, such as churches, monasteries, convents, cemeteries and their like.
§ 4. The State of Israel agrees with the Holy See on the continuing guarantee of the freedom of Catholic worship.

Article 5

§ 1. The Holy See and the State of Israel recognize that both have an interest in favouring Christian pilgrimages to the Holy Land. Whenever the need for coordination arises, the proper agencies of the Church and of the State will consult and cooperate as required.

§ 2. The State of Israel and the Holy See express the hope that such pilgrimages will provide an occasion for better understanding between the pilgrims and the people and religions in Israel.

Article 6

The Holy See and the State of Israel jointly reaffirm the right of the Catholic Church to establish, maintain and direct schools and institutes of study at all levels; this right being exercised in harmony with the rights of the State in the field of education.

Article 7

The Holy See and the State of Israel recognize a common interest in promoting and encouraging cultural exchanges between Catholic institutions worldwide, an educational, cultural and research institutions in Israel, and in facilitating access to manuscripts, historical documents and similar source materials, in conformity with applicable laws and regulations.

Article 8

The State of Israel recognizes that the right of the Catholic Church to freedom of expression in the carrying out of its functions is exercised also through the Church's own communications media; this right being exercised in harmony with the rights of the State in the field of communications media.

Article 9

The Holy See and the State of Israel jointly reaffirm the right of the Catholic Church to carry out its charitable functions through its health care and social welfare institutions; this right being exercised in harmony with the rights of the State in this field.
Article 10

§ 1. The Holy See and the State of Israel jointly reaffirm the right of the Catholic Church to property.

§ 2. Without prejudice to rights relied upon by the Parties:

a) The Holy See and the State of Israel will negotiate in good faith a comprehensive agreement, containing solutions acceptable to both Parties, on unclear, unsettled and disputed issues, concerning property, economic and fiscal matters relating to the Catholic Church generally, or to specific Catholic Communities or institutions.

b) For the purpose of the said negotiations, the Permanent Bilateral Working Commission will appoint one or more bilateral subcommissions of experts to study the issues and make proposals.

c) The Parties intend to commence the aforementioned negotiations within three months of entry into force of the present Agreement, and aim to reach agreement within two years from the beginning of the negotiations.

d) During the period of these negotiations, actions incompatible with these commitments shall be avoided.

Article 11

§ 1. The Holy See and the State of Israel declare their respective commitment to the promotion of the peaceful resolution of conflicts among States and nations, excluding violence and terror from international life.

§ 2. The Holy See, while maintaining in every case the right to exercise its moral and spiritual teaching-office, deems it opportune to recall that, owing to its own character, it is solemnly committed to remaining a stranger to all merely temporal conflicts, which principle applies specifically to disputed territories and unsettled borders.

Article 12

The Holy See and the State of Israel will continue to negotiate in good faith in pursuance of the Agenda agreed upon in Jerusalem, on 15 July 1992; likewise on issues arising from Articles of the present Agreement, as well as on other issues bilaterally agreed upon as objects of negotiation.

Article 13

§ 1. In this Agreement the Parties use these terms in the following sense:

a) "The Catholic Church" and "The Church" —including, inter alia, its Communities and institutions;
b) "Communities" of the Catholic Church —meaning the Catholic religious entities considered by the Holy See as Churches *sui iuris* and by the State of Israel as Recognized Religious Communities;

c) "The State of Israel" and "the State" —including, *inter alia*, its authorities established by law.

§ 2. Notwithstanding the validity of this Agreement as between the Parties, and without detracting from the generality of any applicable rule of law with reference to treaties, the Parties agree that this Agreement does not prejudice rights and obligations arising from existing treaties between either Party and a State or States, which are known and in fact available to both Parties at the time of the signature of this Agreement.

*Article 14*

§ 1. Upon signature of the present Fundamental Agreement and in preparation for the establishment of full diplomatic relations, the Holy See and the State of Israel exchange Special Representatives, whose rank and privileges are specified in an Additional Protocol.

§ 2. Following the entry into force and immediately upon the beginning of the implementations of the present Fundamental Agreement, the Holy See and the State of Israel will establish full diplomatic relations at the level of Apostolic Nunciature, on the part of the Holy See, and Embassy, on the part of the State of Israel.

*Article 15*

This Agreement shall enter into force on the date of the latter notification of ratification by a Party.

Done in two original copies in the English and Hebrew languages, both texts being equally authentic. In case of divergency, the English text shall prevail.

Signed in Jerusalem, this thirtieth day of the month of December, in the year 1993, which corresponds to the sixteenth month of Tevet, in the year 5754.

**FOR THE HOLY SEE**

Mgr. CLAUDIO M. CELLI
FOR THE GOVERNMENT OF THE STATE OF ISRAEL

Dr. YOSSI BEILIN

*ADDITIONAL PROTOCOL*

1. In relation to Art. 14 § 1 of the Fundamental Agreement, signed by the Holy See and the State of Israel, the "Special Representatives" shall have, respectively, the personal rank of Apostolic Nuncio and Ambassador.
2. These special Representatives shall enjoy all the rights, privileges and immunities granted to Heads of Diplomatic Missions under international law and common usage, on the basis of reciprocity.

3. The Special Representative of the State of Israel to the Holy See, while residing in Italy, shall enjoy all the rights, privileges and immunities defined by Art. 12 of the Treaty of 1929 between the Holy See and Italy, regarding Envoys of Foreign Governments to the Holy See residing in Italy. The rights, privileges and immunities extended to the personnel of a Diplomatic Mission shall likewise be granted to the personnel of the Israeli Special Representative’s Mission. According to an established custom, neither the Special Representative, nor the official members of his Mission, can at the same time be members of Israel's Diplomatic Mission to Italy.

4. The Special Representative of the Holy See to the State of Israel may at the same time exercise other representative functions of the Holy See and be accredited to other States. He and the personnel of his Mission shall enjoy all the rights, privileges and immunities granted by Israel to Diplomatic Agents and Missions.

5. The names, rank and functions of the Special Representatives will appear, in an appropriate way, in the official lists of Foreign Missions accredited to each Party.

Signed in Jerusalem, this thirtieth day of the month of December, in the year 1993, which corresponds to the sixteenth month of Tevet, in the year 5754.

Mgr. CLAUDIO M. CELLI
FOR THE HOLY SEE

Dr. YOSSI BEILIN
FOR THE GOVERNMENT OF THE STATE OF ISRAEL

Conventio rata est ab Israelis Statu anno 1994 die XX mensis Februarii, eodemque die Apostolica Sedes de hac re est edocta. Comprobatio ab Apostolica Sede facta est die VII mensis Martii anno 1994, atque Status Israelis edoctus est die X eiusdem mensis, quo die Conventio ipsa auctoritatem incepit.
AGREEMENT BETWEEN THE HOLY SEE AND THE STATE OF ISRAEL
PURSUANT TO ARTICLE 3 § 3 OF THE FUNDAMENTAL AGREEMENT BETWEEN THE HOLY SEE AND THE STATE OF ISRAEL
(ALSO REFERRED TO AS THE "LEGAL PERSONALITY AGREEMENT")

Article 1

This Agreement is made on the basis of the provisions of the "Fundamental Agreement between the Holy See and the State of Israel", which was signed on 30 December 1993, and then entered into force on 10 March 1994 (hereinafter: the "Fundamental Agreement").

Article 2

Recalling that the Holy See is the Sovereign Authority of the Catholic Church, the State of Israel agrees to assure full effect in Israeli law to the legal personality of the Catholic Church itself.

Article 3

§ 1. The State of Israel agrees to assure full effect in Israeli law, in accordance with the provisions of this Agreement, to the legal personality of the following:

(a) these Eastern Catholic Patriarchates: the Greek Melkite Catholic, the Syrian Catholic, the Maronite, the Chaldean, the Armenian Catholic (hereinafter: "the Eastern Catholic Patriarchates");

(b) the Latin Patriarchate of Jerusalem, id est the Latin Patriarchal Diocese of Jerusalem;

(c) the present Dioceses of the Eastern Catholic Patriarchates;

(d) new Dioceses, wholly in Israel, Eastern Catholic or Latin, as may exist from time to time;

(e) the "Assembly of the Catholic Ordinaries of the Holy Land".
§ 2. The Holy See states, for the avoidance of doubt, that the listing in § 1 does not prejudice in any way the established order of precedence of the Heads of the various entities, according to their personal rank and as it is fixed by traditional usage and accepted by them.

§ 3. For the avoidance of doubt, it is stated that the question of assuring full effect in Israeli law to the legal personality of any new cross-border Diocese is left open.

§ 4. For the purposes of this Agreement, a Parish is an integral part of the respective Diocese, and, without affecting its status under the canon law, will not acquire a separate legal personality under Israeli law. A Diocese may, subject to the canon law, authorize its Parishes to act on its behalf, in such matters and under such terms, as it may determine.

§ 5. In this Agreement, "Diocese" includes its synonyms or equivalents.

Article 4

The State of Israel agrees to assure full effect in Israeli law, in accordance with the provisions of this Agreement, to the legal personality of the Custody of the Holy Land.

Article 5

The State of Israel agrees to assure full effect in Israeli law, in accordance with the provisions of this Agreement, to the legal personality of the following, as they exist from time to time in Israel:

(a) the Pontifical Institutes of Consecrated Life of the kinds that exist in the Catholic Church, and such of their Provinces or Houses as the Institute concerned may cause to be certified;

(b) other official entities of the Catholic Church.

Article 6

§ 1. For the purposes of this Agreement, the legal persons referred to in Articles 3-5 (hereinafter, in this Article: "legal person"), being established under the canon law, are deemed to have been created according to the legislation of the Holy See, being Sovereign in international law.

§ 2. (a) The law which governs any legal transaction or other legal acts in Israel between any legal person and any party shall be the law of the State of Israel, subject to the provisions of sub-paragraph (b).
(b) Any matter concerning the identity of the head, of the presiding officer or of any other official or functionary of a legal person, or their authority or their powers to act on behalf of the legal person, is governed by the canon law.

(c) Without derogation from the generality of sub-paragraph (b), certain kinds of transactions by a legal person concerning immovable property or certain other kinds of property, depend on a prior written permission of the Holy See in accordance with Its written Decisions as issued from time to time. Public access to the aforesaid Decisions will be in accordance with the Implementation Provisions.

§ 3. (a) Any dispute concerning an internal ecclesiastical matter between a member, official or functionary of a legal person and any legal person, whether the member, official or functionary belongs to it or not, or between legal persons, shall be determined in accordance with the canon law, in a judicial or administrative ecclesiastical forum.

(b) For the avoidance of doubt, it is stated: the provisions of § 2 (a) shall not apply to disputes referred to in the above sub-paragraph (a).

§ 4. For the avoidance of doubt, it is stated:

(a) A legal person, whose legal personality is given full effect in Israel, is deemed to have consented to sue and be sued before a judicial or administrative forum in Israel, if that is the proper forum under Israeli law.

(b) Sub-paragraph (a) does not derogate from any provision in Articles 6-9.

Article 7

The application of this Agreement to any legal person is without prejudice to any of its rights or obligations previously created.

Article 8

§ 1. For the avoidance of doubt, nothing in this Agreement shall be construed as supporting an argument that any of the legal persons to which this Agreement applies had not been a legal person prior to this Agreement.

§ 2. If a party makes a claim that such a legal person had not been a legal person in Israeli law prior to this Agreement, that party shall bear the burden of proof.

Article 9

Should a question with regard to the canon law arise in any matter before a Court or forum other than in a forum of the Catholic Church, it shall be regarded as a question of fact.
Article 10

The terms "ecclesiastical" and canon law refer to the Catholic Church and Its law.

Article 11

§ 1. Without derogating from any provision, declaration or statement in the Fundamental Agreement, the ecclesiastical legal persons in existence at the time of the entry of this Agreement into force are deemed as being legal persons in accordance with the provisions of this Agreement, if listed in the ANNEXES to this Agreement, which are specified in § 4.

§ 2. The ANNEXES form, for all intents and purposes, an integral part of this Agreement.

§ 3. The ANNEXES will include the official name, respective date or year of establishment in the Catholic Church, a local address and, if the head office is abroad, also its address.

§ 4. (a) ANNEX I lists the legal persons to which Article 3 § 1 (a, b, c, e) and Article 4 apply, as the case may be;

(b) ANNEX II lists the legal persons to which Article 5 (a) applies;

(c) ANNEX III lists the legal persons to which Article 5 (b) applies.

Article 12

The other matters on which the Parties have agreed are included in the Schedule to this Agreement, named "Implementation Provisions" which forms, for all intents and purposes, an integral part, of this Agreement, and references to the Agreement include the Schedule.

Article 13

This Agreement shall enter into force on the date of the latter notification of ratification by a Party.

Done in two original copies in the English and Hebrew languages, both texts being equally authentic. In case of divergence, the English text shall prevail, except where explicitly provided otherwise in the Schedule.

Signed in Jerusalem. this 10th day of the month of November in the year 1997, which corresponds to the 10th day of the month of Heshvan in the year 5758.
THE ANNEXES (Article 11)

ANNEX I (Article 11 § 4.a)
Ref: Article 3 § 1 (a)

GREEK MELKITE CATHOLIC PATRIARCHATE OF ANTIOCH
   Head: His Beatitude Patriarch Maximos V HAKIM
         Bab Touma P.O.B. 22249 - Damascus - Syria
         Local address: P.O.B. 14130 - Greek Catholic Patriarchate Street 91141 Jerusalem

SYRIAN CATHOLIC PATRIARCHATE OF ANTIOCH
   Head: His Beatitude Patriarch Ignace Antoine II HAYEK
         Rue de Damas P.O.B. 116-5087 - Beyrouth - Lebanon
         Local address: P.O.B. 19787 - Chaldeans Street, 6 91191 Jerusalem

MARONITE PATRIARCHATE OF ANTIOCH
   Head: His Eminence and Beatitude Patriarch Nlasrallah Pierre Cardinal SFEIR
         Bkerké - Lebanon
         Local address: P.O.B.14219 - Maronite Convent Street, 25 Jerusalem

CHALDEAN PATRIARCHATE OF BABYLON
   Head: His Beatitude Patriarch Raphael BIDAWID
         Al Mansour P.O.B. 6112 - Baghdad - Iraq
         Local address: P.O.B. 20108 - Chaldeans Street, 5 91200 Jerusalem

ARMENIAN CATHOLIC PATRIARCHATE OF CILICIA
   Head: His Beatitude Patriarch Jean Pierre XVIII KASPARIAN
         rue de l’Hôpital Libanais, Jeitaoui  2400 Beyrouth - Lebanon
         Local address: P.O.B. 19546 - Via Dolorosa, 41 Jerusalem
Ref: Article 3 § 1 (b)

LATIN PATRIARCHATE OF JERUSALEM ID EST LATIN PATRIARCHAL DIOCESE OF JERUSALEM
established by the Holy See in 1847
Head: His Beatitude Patriarch Michel SABBAH
P. O. B. 14152 - Latin Patriarchate Street 91141 Jerusalem

Ref: Article 3 § 1 (c)

GREEK MELKITE CATHOLIC PATRIARCHAL EXARCHATE OF JERUSALEM
established in 1834, by the Greek Melkite Catholic Patriarch of Antioch
Head: His Excellency Archbishop Lutfi LAHAM
P. O. B. 14130 - Greek Catholic Patriarchate Street 91141 Jerusalem

GREEK MELKITE CATHOLIC ARCHEPARCHY OF AKA, ST. JOHN OF ACRE, PTOLEMAIS
established in 1752, by the Greek Melkite Catholic Patriarch of Antioch
Head: His Excellency Archbishop Maximos SALLOUM
P. O. B. 279 - 32 Hagefen Street 31002 Haifa

GREEK MELKITE CATHOLIC ARCHEPARCHY OF BANIYAS, CAESAREA PHILIPPI, PANEAS
established in 1964, by the Greek Melkite Catholic Patriarch of Antioch
Head: His Excellency Archbishop Antoine HAYEK
Archevêché de Paneas, Jdeidet Marjeyoun, Lebanon
Local address: The Greek Melkite Catholic Parish, Metulla

SYRIAN CATHOLIC PATRIARCHAL EXARCHATE OF JERUSALEM
established in 1845, by the Syrian Catholic Patriarch of Antioch
Head: His Excellency Bishop Pierre ABDEL-AHAD
P. O. B. 19787 - Chaldeans Street 6 91191 Jerusalem

MARONITE ARCHEPARCHY OF HAIFA AND THE HOLY LAND
established in 1996, by the Maronite Patriarch of Antioch
Head: His Excellency Archbishop Paul Nabil SAYyah
Local address: P.O.B. 1442 - Roubin Street 5 31000 Haifa

MARONITE PATRIARCHAL EXARCHATE OF JERUSALEM
established in 1895, by the Maronite Patriarch of Antioch
Head: His Excellency Archbishop Paul Nabil SAYYAH
P. O. B. 14219 - Maronite Convent Street, 25 Jerusalem

ARMENIAN CATHOLIC PATRIARCHAL EXARCHATE OF JERUSALEM
established in 1356, by the Armenian Catholic Patriarch of Cilicia
Head: His Excellency Bishop André BEDOGLOUYAN
P. O. B. 19546 - Via Dolorosa, 41 Jerusalem
Ref: Article 3 §1 (e)

THE ASSEMBLY OF THE CATHOLIC ORDINARIES OF THE HOLY LAND
established in 1992, by the Holy See
Presiding Officer: The Latin Patriarch of Jerusalem pro tempore

c/o Notre Dame of Jerusalem Center
P. O. B. 20531 91204 Jerusalem
Ref: Article 4

THE CUSTODY OF THE HOLY LAND (CUSTODIA TERRAE SANCTAE)
established in 1342, by the Holy See
Presiding Officer: The Custos of the Holy Land

Most Rev. Father Giuseppe NAZZARO, OFM.
P O B. 186 - Saint Francis Street, 1 91001 Jerusalem

ANNEX II (ARTICLE 11 § 4.B)
Ref: Article 5 (a)

AUGUSTINIANS OF THE ASSUMPTION (ASSUMPTIONISTS)
established in 1864
Local address: Shrine of Saint Peter in Gallicantu
Ma’aleh Hashalom - Mount Zion
P. O. B. 31653 -91316 Jerusalem

Head Office: Via San Pio V, 55 - 00165 Rome, Italy

BASILIAN ORDER OF THE MOST HOLY SAVIOUR (OF THE MELKITES) (SALVATORIANS)
established in 1717
Local address: Aïn Dor Street 23
P.O.B.9133 - 31091 Haifa

Head Office: Couvent Mar Elias - Jiita - Lebanon

BASILIAN SISTERS “CHOUÉRITES”
established in 1734
Local address: Nabaa Street
P.O. B. 99 - 16000 Nazareth

Head Office: Couvent Notre-Dame de l’Annonciation Zouk-Michael - Lebanon

BENEDICTINE ABBEY OF THE DORMITION
established in 1906
P.O.B. 22, Mount Zion - Jerusalem

BENEDICTINE CONGREGATION OF SAINT MARY OF MOUNT OLIVET
established in 1344
Local address: Resurrection Church - Abu Gosh
P. O. B. 407 - 91003 Jerusalem

Head Office: Abbazia di Monte Oiiveto Maggiore 53020 Chiusure - Italy

BENEDICTINE SISTERS OF OUR LADY OF CALVARY
established in 1621
Local address: Mount of Olives P. O. B. 19338 - 91192 Jerusalem

Head Office: 65 Avenue de Verdun 45801 St Jean de Braye - France

BENEDICTINE SISTERS OF THE EUCHARISTIC KING
established in 1986
Local address: Benedictine Priory of Tabgha P.O.B. 52 - 14100 Tiberias

Head Office: 30 Banahaw St. – Cubao 1109 Quezon City - Philippines

BETHANY SISTERS OF THE IMITATION OF CHRIST
established in 1950
Local address: Saint Thomas Church P.O.B. 19787 - 91191 Jerusalem

Head Office: Bethany Convent, Kalathipady - Vadavathoor - 686010 Kerala- India
CARMELITE SISTERS OF “SAINTE THÉRÈSE DE FLORENCE”
established in 1874

Local address: Italian Street 10 P.O.B. 9037 - 33266 Haifa

Head Office: Via Bernardo Rucellai, 1 - 50123 Firenze - Italy

CARMELITE SISTERS OF SAINT JOSEPH
established in 1872

Local address: Carmel Saint Joseph P.O.B. 8 - 30090 Isfia - Mount Carmel

Head Office: 71118 Saint Martin Belle Roche - France

CHRISTIAN BROTHERS DE LA SALLE
established in 1725

Local address: Collège des Frères - Yefet Street 23 P.O.B. 8251 - 61082 Jaffa

Head Office: Via Aurelia 476 - C.P. 9099 - 00100 Rome - Italy

CISTERCIAN ORDER OF THE STRICT OBSERVANCE (TRAPPISTS)
TRAPPIST ABBEY “NOTRE DAME DES DOULEURS”
established in 1890

Local address: Abbaye de Latroun- Poste mobile - Shimshon 99762

Head Office: Viale Africa, 33 - 00144 Rome - Italy

COMPANY OF THE DAUGHTERS OF CHARITY OF ST. VINCENT DE PAUL
established in 1633

Local address: Allenby Street 13 P.O.B. 2106 - 33092 Haifa

Head Office: 140, rue du Bac - 75340 Paris - France

CONGREGATION OF THE MISSION (LAZARIST FATHERS)
established in 1632

Local address: Lazarist Fathers Convent - 20 Agron Street P.O.B. 1144 - 91010 Jerusalem

Head Office: Via dei Capasso, 30 - 00164 Rome - Italy

CONGREGATION OF THE PASSION OF JESUS CHRIST (PASSIONIST FATHERS)
established in 1741
Local address: Ash-Shayyah St. - Bethany P.O.B. 19087 - 91190 Jerusalem

Head Office: Piazza SS. Giovanni e Paolo 13 00184 Rome - Italy

DAUGHTERS OF MARY AUXILIATRIX (SALESIAN SISTERS)

established in 1872

Local address: P. O. B. 73 - Nazareth

Head Office: Via dell’Ateneo Salesiano 81 - 00139 Rome - Italy

DAUGHTERS OF OUR LADY OF MOUNT CALVARY

established in 1827

Local address: Mount of Olives P.O.B. 19199 - 91191 Jerusalem

Head Office: Via Emanuele Filiberto, 104 - 00185 Rome - Italy

DAUGHTERS OF OUR LADY OF SORROWS

established in 1930

Local address: Abu Diss P.O.B.19257 - 91192 Jerusalem

Head Office: Maison Marie Saint Frai - 65000 Tarbes - France

DAUGHTERS OF SAINT ANNE

established in 1866

Local address: Meir Street 11 P.O.B. 9127 - 35056 Haifa

Head Office: Via Merulana 177 - 00185 Rome - Italy

DISCALCED CARMELITE SISTERS = MONASTERY “NOTRE DAME DU MONT CARMEL”

established in 1892

Tchernikhowski Road, 2 P.O.B. 9047 - 31090 Haifa

DISCALCED CARMELITE SISTERS = MONASTERY “PATER NOSTER”

established in 1873

Mount of Olives P.O.B. 19064 - 91190 Jerusalem

DISCALCED CARMELITE SISTERS = MONASTERY “SAINTE FAMILLE”

established in 1910

Street 125/4 P. O. B. 22 - 16100 Nazareth

DOMINICAN SISTERS OF CHARITY OF TOURS, OF THE PRESENTATION OF THE BLESSED VIRGIN

established in 1696
Local address: Maison d’Abraham - Ras el-Amoud P. O. B. 19680 - 91196 Jerusalem

Head Office: Via Valdieri,4 - 00135 Rome - Italy

Franciscan Missionary Sisters of Mary (White Sisters)
established in 1877

Local address: Givat Yam 4/34 - Herzl Street 59301 Bat - Yam

Head Office: Via Giusti, 10 - 00185 Rome - Italy

Franciscan Missionary Sisters of the Immaculate Heart of Mary (Sisters of Egypt)
established in 1868

Local address: P. O. B. 302 - Nazareth

Head Office: Via Caterina Troiani 90 - 00144 Rome - Italy

Franciscan Sisters of the Eucharist
established in 1973

Local address: Mount of Olives Road, 42 P. O. B. 230 - Jerusalem

Head Office: 405 Allen Avenue - Meriden - Connecticut 06450 - USA.

Franciscan Sisters of the Heart of Jesus
established in 1946

Local address: Saint Saviour Convent - New Gate P. O. B. 186 - Jerusalem

Head Office: House of Charity - Palm Street - Victoria Gozo - Malta

Franciscan Sisters of the Holy Cross of Lebanon
established in 1967

Local address: St. Francis Street, 13 P. O. B. 4558 - 91145 Jerusalem

Head Office: Couvent de la Croix - Jall-Eddib - (Meten) - Lebanon

Fraternity of the Little Sisters of Jesus
established in 1949
Province of the Holy land

Local address: Paul VI Street, 42 P. O. B. 1531 - Nazareth
Province of Israel

Local address: Bethlehem Road 17 P.O.B. 10203 - 16115 Jerusalem

Head Office: Tre Fontane - Via di Acque Salvie, 2 00142 Rome - Italy

HOSPITALLER ORDER OF ST. JOHN OF GOD (FATE BENE FRATELLI)

established in 1571

Local address: Holy Family Hospital - Road 727/1 P. O. B. 8 - 16100 Nazareth

Head Office: Via della Nocetta, 263 - 00164 Rome - Italy

INSTITUTE OF THE BLESSED VIRGIN MARY (MARY WARD SISTERS)

established in 1703

Local address: Nablus Road 2 P.O.B. 19070 - 91190 Jerusalem

Head Office: Via Nomentana 250 - 00162 Rome - Italy

LEBANESE MARONITE ORDER (BALADITES)

established in 1695

Local address: Couvent Saint Antoine - Hadolfin Street, 22 P. O. B. 41077 - 68034 Jaffa

Head Office: Couvent Saint Antoine - Gazir - Lebanon

LITTLE BROTHERS OF JESUS

established in 1957

Local address: Givat Hamore P.O.B. 523 - 18105 Afula

Head Office: 97 Sudbourne Road - London SW2 5AF - England

MARONITE ANTONINE ORDER

established in 1742

Local address: Ash-Shayyah Street - Bethany P. O. B. 803 - Jerusalem

Head Office: Saint Roch - Dekwaneh - Beirut - Lebanon

MARONITE ANTONINE SISTERS

established in 1940

Local address: Ramallah Street, Beit Hanina, Jerusalem

Head Office: Couvent Mar Doumith - B. P. 84 - Roumie - Lebanon
MISSIONARIES OF AFRICA (WHITE FATHERS)
established in 1878

*Local address:* Shrine of Saint Anne P.O.B. 19079 - 91190 Jerusalem
*Head Office:* Via Aurelia, 269 - C.P. 9078 - 00165 Rome - Italy

MISSIONARY DAUGHTERS OF CALVARY
established in 1924

*Local address:* Colegio Español de Nuestra Señora del Pilar P.O.B. 14250 - 91142 Jerusalem
*Head Office:* Via Marino Campagna 109 - 00140 Rocca di Papa - Italy

MISSIONARY SISTERS OF THE CATECHISM
established in 1939

*Local address:* Casa Nova Street P.O.B. 1321 - 91013 Jerusalem
*Head Office:* Via Mattia de Rossi 2 - 00040 Ariccia - Italy

MISSIONARY SISTERS “PIE MADRI DELLA NIGRIZIA” (SUORE COMBONIANE)
established in 1897

*Local address:* Bethany P.O.B. 19504 - Jerusalem
*Head Office:* Via di Boccea 506 - P.O.B. 9067 - 00166 Rome - Italy

OBLATE NUNS OF THE CONGREGATION OF SAINT MARY OF MOUNT OLIVET
established in 1977

Monastere Ste Françoise Romaine - Abu Gosh P.O.B. 407- 91003 Jerusalem

ORDER OF FRIARS MINOR CAPUCHIN
established in 1528

*Local address:* The Franciscan Capuchin Friary
18 Disraeli Street - Talbiye - 92222 Jerusalem
*Head Office:* Via Piemonte 70 - 00187 Rome - Italy

ORDER OF PREACHERS (DOMINICANS)
established in 1216

*Local address:* Shivtei Israel Road, 8 P.O.B. 298 - 97605 Jerusalem
**Head Office:** Piazza Pietro d’Illiria, 1 - 00153 Rome - Italy

**ORDER OF THE DISCALCED BROTHERS OF THE BLESSED VIRGIN MARY OF MT. CARMEL (CARMELITES)**

established in 1593

**Local address:** “Stella Maris” Monastery P. O. B. 9047 - 31090 Haifa

**Head Office:** Corso d’Italia, 38 - 00198 Rome - Italy

**POOR CLARES = MONASTERY “SAINTE CLAIRE”**

established in 1884

Chanoch Albeck Street, 1 P. O. B. 1013 - 91009 Jerusalem

**POOR CLARES = MONASTERY “SAINTE CLAIRE”**

established in 1884

Poste restante - 16000 Nazareth

**RELIGIEUSES DE L’ASSOMPTION (RELIGIOUS OF THE ASSUMPTION)**

established in 1867

**Local address:** Saint Peter in Gallicantu Ma’aleh Hashalom

P. O. B. 31653 - 91316 Jerusalem

**Head Office:** 17, rue de l’Assomption - 75016 Paris - France

**RELIGIOUS OF NAZARETH**

established in 1853

**Local address:** Near the Basilica, 4/306 P. O. B. 274 - Nazareth

**Head Office:** Via CaterinaFieschi, 6 - 00151 Rome - Italy

**RELIGIOUS OF OUR LADY OF ZION**

established in 1856

**Local address:** “Ecce Homo” Convent - Via Dolorosa, 41

P. O. B. 19056 - 91190 Jerusalem

**Head Office:** Via Garibaldi, 28 - 00153 Rome - Italy

**SACRED HEART FATHERS OF BETHARRAM**

established in 1877

**Local address:** P. O. B. 22 - 16100 Nazareth
Head Office: Via A. Brunetti 27 - 00186 Rome - Italy

SALESIANS OF DON BOSCO

established in 1874

Local address: Beit Jamal P. O. B. 12 - 99101 Bet Shemesh

Head Office: Via della Pisana 1111 - 00163 Rome - Italy

SALVATORIAN SISTERS OF OUR LADY OF THE ANNUNCIATION (OF THE MELKITES)

established in 1940

Local address: House of Providence Allenby Road 36 – Haifa

Head Office: Couvent Saint Sauveur - Saida - Lebanon

SISTERS OF CHARITY OF JESUS AND MARY

established in 1803

Local address: Street Nº 24, 30 P.O.B. 10 - 30090 Isfya

Head Office: 25 rue Saint Bernard - 1060 Bruxelles - Belgium

SISTERS OF CHARITY OF SAINT CHARLES BORROMEO

established in 1652

Local address: St. Charles Hospice - Lloyd George Street 12
P.O.B. 8020 - 91080 Jerusalem

Head Office: Kloster Grafschaft - 57392 Schmallenberg - Germany

SISTERS OF CHARITY OF SAINTS BARTOLOME A CAPITANIO AND VINCENZA GEROSA (SISTERS OF “MARIA BAMBINA”) 

established in 1840

Local address: Holy Family Hospital - Road 727/1 P.O.B. 8– 1 6100 Nazareth

Head Office: Via S. Sofia, 13 - 20122 Milano - Italy

SISTERS OF CHARITY OF THE IMMACULATE CONCEPTION (SUORE D’IVREA)

established in 1904

Local address: Annunciation Convent P.O.B. 214 - 16101 Nazareth

Head Office: Via della Renella, 85 - 00153 Rome - Italy

SISTERS OF OUR DIVINE SAVIOUR (SALVATORIAN SISTERS, SALVATOR MUNDI)

established in 1888
Local address:  P.O.B. 121 - 161011 Nazareth

Head Office:  Viale Mura Gianicolensi 67 - 00152 Rome - Italy

SISTERS OF OUR LADY OF MERCY ("MERCEDARIE")

established in 1864

Local address:  Mount Tabor – Dahbourye P.O.B. 16 - Nazareth

Head Office:  24 Via Ostriana - 00199 Rome - Italy

SISTERS OF SAINT ELIZABETH

established in 1887

Local address:  Dom Polski, Hahoma Hashlishit Street 8 P.O.B. 277 - 91200 Jerusalem

Head Office:  Via Nomentana 140 - 00162 Rome - Italy

SISTERS OF SAINT JOSEPH OF THE APPARITION

established in 1848

Province of Israel

Local address:  Our Lady, Ark of the Covenant Rehov Notre-Dame - Kiryat-Yearin. P O B. 32233 - 91003 Jerusalem

Province of the Holy Land

Local address:  Saint Joseph Hospital  P. O. B. 19264 - 91192 Jerusalem

Head Office:  90 Avenue Foch - 94120 Fontenay sous Bois - France

SISTERS OF THE HOLY CROSS

established in 1841

Local address:  “Mater Ecclesiae” Center - Dona Gracia Street P.O.B. 207- 14101 Tiberias

Head Office:  St. Mary’s Notre Dame - Indiana 46556 - USA

SISTERS OF THE HOLY CROSS “DE CHAVANOD”

established in 1932

Local address:  Betharram House P. O. B . 22 - 16100 Nazareth

Head Office:  8, rue Alcide Zentzer CH - 1211 Geneva 4 - Switzerland

SISTERS OF THE HOLY FAMILY OF NAZARETH

established in 1875
Diplomatic Relations between the Holy See and The State of Israel (1948-1997)

Local address: Latin Vicariate 16100 Nazaret Head Office: Via Nazareth 400 - 00166 Rome - Italy

SOCIETY OF JESUS (JESUITS)

established in 1540

Local address: Emile Botta Street, 3P.O.B. 497 - 91004 Jerusalem

Head Office: Borgo S. Spirito 4 - 00193 Rome - Italy

TEACHING SISTERS OF SAINT DOROTHY (DAUGHTERS OF THE SACRED HEARTS)

established in 1905

Local address: Deir Rafat P.O. B. 275 - 99100 Beit Shemesh

Head Office: Via S. Domenico 23 - 36100 Vicenza - Italy

THE CONGREGATION OF THE ROSARY SISTERS OF JERUSALEM

established in 1885

Acron Street, 14 P. O. B. 54 - 94190 Jerusalem

THE SERVANTS OF CHARITY CONGREGATION (OPERA DON GUANELLA)

established in 1928

Local address: Opera Don Guanella - Paul VI Road P. O. B. 1586 - 16115 Nazareth

Head Office: Vicolo Clementi - 00148 Rome - Italy

ANNEX III (ARTICLE 11 § 4.c)

Ref: Article 5 (b)

a) Institutes of Consecrated Life and Ecclesial Movements:

COMMUNITY OF THE BEATITUDES

established in 1976 under the Archbishop of Alby, France

Local address: 15 Hamefaked Street P. O. B. 32285 - 91322 Jerusalem

Head Office: Couvent Notre-Dame - 81170 Cordes - France

COMMUNITY OF “THE WORK” (DAS WERK)

established in 1975 under the Bishop of Feldkirch, Austria

Local address: Shrine of Saint Anne P. O. B. 19079 - 91190 Jerusalem

Head Office: Thalbachgasse 10 - A. 6900 Bregenz - Austria

btdag
CONSOLERS OF GETHSEMANI
established in 1931 under the Archbishop of Vienna, Austria

*Local address:* Apostolic Delegation-Mount of Olives P. O. B. 19199 - 91191 Jerusalem

*Head Office:* Rennweg 63 - Vienna - Austria

"INSTITUCIÓN TERESIANA"
established in 1924 under the Holy See

*Local address:* Baha El Din Street P.O.B. 19256 - 91192 Jerusalem

*Head Office:* Via Monte Pramaggiore 8 - Rome - Italy

LITTLE FAMILY OF THE ANNUNCIATION
established in 1972 under the Archbishop of Bologna, Italy

*Local address:* Ras El Amoud P. O. B. 20776 - 91200 Jerusalem

*Head Office:* Via Casaglia, 7 - 40043 Marzabotto - Italy

LITTLE FAMILY OF THE RESURRECTION
established in 1986 under the Bishop of Cesena-Sarsina, Italy

*Local address:* Mount of Olives P. O. B. 51398 - Jerusalem

*Head Office:* Valleripa 5, - 47020 Linaro - Italy

MARONITE SISTERS OF “SAINTE THERESE DE L’ENFANT JESUS”
established in 1935 under the Maronite Patriarch of Antioch

*Local address:* Foyer Mar Maroun-Maronite Convent Street 25

P.O.B. 14219 - 91141 Jerusalem

*Head Office:* Kleet - Kesrouan - Lebanon

MISSIONARY SISTERS OF OUR LADY OF FATIMA
established in 1964 under the Archbishop of Rio de Janeiro, Brazil

*Local address:* Terra Sancta Convent - Bialik Street P.O.B. 19 - 72100 Ramleh

*Head Office:* Rua Mentor Conto 554 - Barro Verunello - San Gusallo

24415 Rio de Janeiro - Brazil
MONKS OF THE THEOPHANY
established in 1980 under the Greek Melkite Catholic Patriarch of Antioch
Monastery “Saint Jean du Désert” P.O.B. 9048 - 91090 Jerusalem

NUNS OF BETHLEHEM AND OF THE ASSUMPTION OF THE VIRGIN
established in 1951 under the Bishop of Gubbio, Italy
Local address: Monastere Notre-Dame de l’Assomption - Beit Jemal
P.O.B. 525 - 99101 Beit Shemesh
Head Office: Monastère Notre-Dame du Buisson Ardent
Currière en Chartreuse 38380 St. Laurent du Pont - France

NUNS OF THE ANNUNCIATION
established in 1958 under the Greek Melkite Catholic Eparch of Akko
Street 5093, Nº 3 P.O.B. 216 - 16101 Nazareth

RELIGIOUS OF ”LAVRA NETOFA”
established in 1963 under the Greek Melkite Catholic Eparch of Akko
Melkite Monastery of Lower Galilee P.O.B. 211 - 24973 Deir Hanna

RELIGIOUS OF OUR LADY OF SION
established in 1855 under the Archbishop of São Paulo, Brazil
Local address: Shmuel Hanaggid Street 26 P.O.B. 768 - Jerusalem
Head Office: Rua Costa Aguiar 1264 04204001 São Paulo - Brazil

SISTERS OF HOLY CROSS OF JERUSALEM
established in 1963 under the Bishop of Beauvais, France
Local address: St. John in Montana - Ein Karem P.O.B.1704 – 95744 Jerusalem
Head Office: Le Prieuré - 60820 Boran sur Oise - France

THE SILENT WORKERS OF THE CROSS
established in 1960 under the Bishop of Ariano-Irpino, Italy
Local address: “Mater Misericordiae” House - Ash-Shayyah Street P.O.B. 19638 - Jerusalem
Head Office: Via dei Bresciani, 2 - 00186 Rome - Italy

WORK OF MARY - FOCOLARE / OPERA DI MARIA - FOCOLARE

established in 1964 under the Holy See

* Women’s branch  Local address: Iskandar Khoury Street 5 P.O.B. 472 - 91003 Jerusalem

* Men’s branch  Local address: Nablus Road 5 P. O. B . 1794 - 91017 Jerusalem

Head Office: Via di Frascati 302 - 00040 Rocca di Papa - Italy

b) Institutes of Higher Education:

ECUMENICAL INSTITUTE FOR THEOLOGICAL STUDIES (“TANTUR”)

established in 1966 under the Holy See

Local address: Hebron Road - Ha Rosmerin P.O.B. 19556 - 91194 Jerusalem

Head Office: University of Notre Dame, Notre Dame - Indiana 46556 - USA

INSTITUT SAINT PIERRE DE SION - RATISBONNE

established in 1873 under the Holy See

Shmuel Hanagid Street, 26 P.O.B. 7336 - 91072 Jerusalem

PONTIFICAL BIBLICAL INSTITUTE

established in 1927 under the Holy See

Local address: Emile Botta Street, 3P.O.B. 497 - 91004 Jerusalem

Head Office: Pontificio Istituto Biblico Via della Pilotta, 25 - 00187 Rome - Italy

PONTIFICAL UNIVERSITY OF SALAMANCA

established in 1940 under the Holy See

Local address: Institut Biblique et Archeologique Espagnol

Sheyah Street - P.O.B. 19030 - 91190 Jerusalem

Head Office: Compañia 5 - 37008 Salamanca - Spain

PONTIFICIUM ATHENAEUM “ANTONIANUM”

established in 1901 under the Holy See

Local address: Studium Biblicum Franciscanum
Diplomatic Relations between the Holy See and The State of Israel (1948-1997) 251

Via Dolorosa - P.O.B. 19424 - 9119, Jerusalem

**Head Office:** Via Merulana 124 - 00185 Rome - Italy

**PONTIFICIUM ATHENAEUM “SANT’ANSELMO”**

established in 1914 under the Holy See

**Local address:** “Theologisches Studienjahr Jerusalem Dormition Abbey”

Mount Zion - P.O.B. 22 - Jerusalem

**Head Office:** Piazza dei Cavalieri di Malta, 5 - 00153 Rome - Italy

**SALESIAN PONTIFICAL UNIVERSITY**

established in 1940 under the Holy See

**Local address:** Salesian Center of Theological Studies

Cremisan - P.O.B. 10457 - 91104 Jerusalem

**Head Office:** Piazza dell’ Ateneo Salesiano, 1 - 00139 Rome - Italy

**THE FRENCH BIBLICAL AND ARCHAEOLOGICAL SCHOOL OF JERUSALEM**

“ECOLE BIBLIQUE ET ARCHÉOLOGIQUE FRANÇAISE DE JÉRUSALEM”

established in 1892 under the Holy See

Nablus Road, 6 P.O.B. 19053 - 91190 Jerusalem

c) Other Official Entities:

**ARCHDIOCESE OF COLOGNE**

established in VIII century under the Holy See

**Local address:** Shrine of Tabgha “Mensa Christi” P. O. B. 52 - 14100 Tiberias

**Head Office:** Marzellenstrasse 32 - Cologne I - Germany

**ARCHDIOCESE OF WARSAW**

established in 1798 under the Holy See

**Local address:** Dom Polski - 8 Hahoma Hashlishit Street

P. O. B. 277 - 91200 Jerusalem

**Head Office:** ul. Miodowa 17, 00-246 Warsaw - Poland

“ASSOCIAZIONE NAZIONALE PER SOCCORERE I MISSIONARI ITALIANI” (A.N.S.M.I.)

established in 1886 under the Holy See

**Local address:** Lohamey Hagettaot Street 12 31091 Haifa
Head Office: Via Cavour, 256 - 00184 Rome - Italy

AUSTRIAN HOSPICE OF THE HOLY FAMILY
established in 1853 under the Archbishop of Vienna
Local address: Via Dolorosa P. O. B. 19600 - 91194 Jerusalem
Head Office: Wollzeile 2, A- 1010 Vienna - Austria

CARITAS JERUSALEM
established in 1967 under the Latin Patriarch of Jerusalem
Shivtei Israel Road, 8 - P. O. B. 20894 97200 Jerusalem

“CASA DE SANTIAGO”
established in 1996 under the Spanish Bishops’ Conference
Local address: Sheyah Street P.O. B. 19030 - 91190 Jerusalem
Head Office: Añastro, 1 - P. O. B. 29075 - 28033 Madrid - Spain

ORDER OF MALTA
established in the XII century under the Holy See
Local address: Pro Tantur - Hebron RoadP. O. B. 1763 – 9 1017 Jerusalem
Head Office: Palazzo Malta, Via Condotti, 68 - 00187 Roma - Italy

PERSONAL PRELATURE OF THE HOLY CROSS AND OPUS DEI (OPUS DEI)
established in 1982 under the Holy See
Local address: Gihon Street 11-B - 93547 Jerusalem
Head Office: 73 viale Bruno Buozzi, - 00197 Rome - Italy

PONTIFICAL MISSION FOR PALESTINE
established in 1949 under the Holy See
Local address: New Gate P. O. B. 19642 - 91196 Jerusalem
Head Office: 1011 First Avenue - New York, N. Y.10022 - USA

SAINT THOMAS FOUNDATION
established in 1989 under the Holy See
Local address: Shivtei Israel Road 8 P. O. B. 298 - 97605 Jerusalem
Head Office: Secretariat of State, 00120 Vatican City
"SECOURS CATHOLIQUE” (CARITAS FRANCE)
established in 1946 under the French Bishops’ Conference

Local address: Maison d’Abraham - Ras El’Amoud
P. O. B. 19680 - 91196 Jerusalem

Head Office: 106 rue du Bac - 75341 Paris Cedex 07 - France

UNION OF THE SUPERIORS OF WOMEN RELIGIOUS OF THE HOLY LAND
established in 1993 under the Holy See
Shivtei Israel Road 8 P. O. B. - 298 - 97605 Jerusalem

Signed in Jerusalem, this 10th day of the month of November in the year 1997, which corresponds to the 10 day of the month of Heshvan in the year 5758
For the Holy See Andrea C. L. di Montezemolo
For the Government of the State of Israel David Levy

THE SCHEDULE
(Article 12)

IMPLEMENTATION PROVISIONS

Pursuant to Article 12 of the "Legal Personality Agreement" (hereinafter: the "Agreement"), the following shall be its Implementation Provisions:

1. The application of the relevant provision of the Agreement to legal persons as are referred to in Article 3 § 1 (d) and Article 5, being new in Israel, shall be in accordance with the following sub-provisions:

1.1 (a) In this Provision, the term "pontifical" refers to ecclesiastical legal persons established by the Holy See, including their parts when they too are legal persons.

(b) Where a pontifical legal person has been established, and the Holy See intends that it function in Israel, a Certificate to that effect will be made by the Apostolic Nunciature in Israel. The Certificate will be delivered through the Ministry of Foreign Affairs to the Government of the State of Israel.

(c) The legal personality of the said pontifical legal person shall have full effect in Israeli law on the date of the conveyance of the Certificate by the Government to the Registry, described in Provision 5 or from the ninetyfirst day after the said delivery by the Nunciature — whichever is the earlier.

1.2 Where an ecclesiastical legal person other than a pontifical one has been established, and it is intended that it function in Israel, a Certificate to that effect will be made by the Authority that has established it, being either a Patriarch or a Diocesan Bishop, as the case may be, subject to the following sections:
(a) The Certificate will be delivered by that Authority or on its behalf through the Registry, described in Provision 5, to the Government of the State of Israel.

(b) (i) With reference to Article 3 § 2 of the "Fundamental Agreement", the Government of the State of Israel may request a discussion on the matter with the said ecclesiastical Authority on a mutually agreed level.

(ii) The discussion will take place in a bilateral committee consisting of an equal number of members from each side.

(c) Where such a discussion is not requested, or where agreement has been reached in the aforesaid committee, the legal personality of the said ecclesiastical legal person shall have full effect in Israeli law from the ninety-first day after the delivery of the aforementioned Certificate to the Registry or from the date of the agreement in the said committee, as the case may be.

(d) The above section (b) will not apply to Dioceses.

2.1 A merger of two or more legal persons to which the Agreement applies will have full effect in Israeli law after compliance with the following sections:

(a) If the Authority that has decreed the merger is the Holy See, a Certificate to that effect will be delivered by the Apostolic Nunciature in Israel, through the Ministry of Foreign Affairs, to the Government of the State of Israel.

(b) If the Authority that has decreed the merger is an ecclesiastical Authority other than the Holy See:

(i) that Authority— will deliver a Certificate to that effect to the Registry.

(ii) The Holy See will issue a written Notice to be delivered by the Apostolic Nunciature in Israel in the manner described in section (a) to the effect that the contents of the Certificate are no longer subject to any appeal or recourse to any ecclesiastical forum. The Government shall convey this Notice to the Registry.

(c) The Certificates and the Notice referred to in sections (a) and (b) shall give the names of the two or more merged legal persons, the name of the new legal person, as well as all the other details referred to in Provision 5.3 of each of the merged legal persons and of the new one.

2.2 In case of a merger of two or more legal persons referred to in sub-provision 2.1 (a) or (b), the liability for outstanding obligations other than to ecclesiastical legal persons, whether being legal persons in accordance with the Agreement or not, shall be of the new merged legal person.

2.3 The date on which a merger referred to in sub-provision 2.1 (a) will have full effect in Israeli law shall be the ninety-first day from the delivery of the said Certificate to the Government, or from the date of its conveyance by the Government to the Registry — whichever is the earlier.

2.4 The date on which a merger referred to in sub-provision 2.1 (b) will have full effect in Israeli law shall be the ninety-first day from the delivery of the said
Notice, through the Ministry of Foreign Affairs, to the Government, or from the date of its conveyance by the Government to the Registry — whichever is the earlier.

3.1 A dissolution of a legal person to which the Agreement applies will have full effect in Israeli law after compliance with the following sections:

(a) Liability for outstanding debts or other obligations of the dissolved legal person other than to ecclesiastical legal persons, whether being legal persons in Israeli law or not, shall be of the legal person that had established it as named in accordance with sections (b) (iii) or (c) (ii) below.

(b) if the Authority that has decreed the dissolution is the Holy See:

(i) sub-provisions 2.1 (a) and 2.3 will apply;

(ii) "dissolution" will be substituted for "merger";

(iii) the name of the legal person that had established the dissolved legal person will be included in the said Certificate together with the appropriate details related thereto as mentioned in Provision 5.3.

(c) If the Authority that has decreed the dissolution is an ecclesiastical Authority other than the Holy See:

(i) Sub-provisions 2.1 (b) and 2.4 will apply;

(ii) sections (b) (ii) and (iii) will apply to both Certificate and Notice.

3.2 Without derogating from sub-provision 3.1, outstanding debts or other obligations of the dissolved legal person to others who are not ecclesiastical legal persons, whether being legal persons in Israeli law or not, shall take precedence.

4. The Government of the State of Israel may, if in doubt, request the Apostolic Nunciature in Israel to verify an ecclesiastical document.

5.1 The Government of the State of Israel will establish a Registry for the recording of the following:

(a) documents communicated to the Registry under the Agreement;

(b) such documents as the Holy See or the Government of the State of Israel, or any legal person to which the Agreement applies, may cause to be communicated thereto.

5.2 The Registry shall be open to public inspection and copies authenticated by the Registry or by a notary or advocate licensed to practice in Israel shall be made available.

5.3 (a) The Register entry for any new legal person will include its official name, a local address and, if its head office is abroad, also its address, the name of its head or presiding officer, the date of its establishment by the Catholic Church and the ecclesiastical Authority that established it.
(b) In the case of a Diocese, the Register entry will also include a map showing its territorial jurisdiction.

5.4 Changes in details included in documents recorded under sub-provisions 5.1 and 5.3 (a) will be communicated and recorded in the same manner.

5.5 Documents recorded in the Registry will be prima facie evidence of their contents on the date of the document.

5.6 For the avoidance of doubt, none of the above sub-provisions shall be construed as derogating from any provision in Article 6 of the Agreement.

6.1 The Government of the State of Israel states that, in its opinion, the execution of provisions of this Agreement under Israeli law will require primary and secondary legislation. The Government agrees that the said secondary legislation will be made with the consent of the Holy See.

6.2 For the purposes of the legislation referred to in sub-provision 6.1, the Hebrew text of the Agreement shall prevail.

Signed in Jerusalem, this 10th day, of the month of November in the year 1997, which corresponds to the 10th day, of the month of Heshvan, in the year 5758.

ANDREA C.L. DI MONTEZEMOLO
For the Holy See

DAVID LEVI
For the Government of the State of Israel

Conventio ipsa litterarumque traditio inter Ministrum ab Exteris Negotiis ac Nuntiaturam Apostolicam, die XXVII Septembris anno MCMXCVII et die II Novembris anno MCMXCVII necnon Notarum inter Statum Israelis atque Apostolicam Sedem die X Novembris anno MCMXCVII, ratae habitae sunt a Statu Israeli die XVI Decembris anno MCMXCVIII. Apostolica dein Sedes eadem sanxit documenta die XXI Ianuarii anno MCMXCIX.

Exchange of Letters and of Notes 27 September/2 November and 10 November 1997

APOSTOLIC Nunciature
IN ISRAEL
27 September 1997
N.J727/Q68

Your Excellency,

As you know, on May 1996, the “Permanent Bilateral Working Commission between the Holy See and the State of Israel” approved and initialled the text of a
new Agreement, called the "Legal Personality Agreement”, with the aim of granting civil effects within Israeli legislation for ecclesiastical juridical persons, pursuant to Art. 3 § 3 of the Fundamental Agreement between the Holy See and the State of Israel (signed on 30 December 1993).

The Legal Personality Agreement contains a list of legal ecclesiastical persons existing in Israel who will receive civil recognition once the said agreement has been signed and ratified. However, between May 1996 and the present time, some new ecclesiastical entities have been created within the Catholic Church in Israel. While, on the one hand, I understand that the Government of Israel having recently given its approval to proceed with the signature of the Agreement on the basis of the text initialled in May 1996, it might not be correct to add the new entities now; nevertheless, Your Excellency will surely appreciate that, on the other hand, it is the firm desire of the Holy See that the Legal Personality Agreement should correspond to the situation as it really is on the date in which it is signed.

To overcome this difficulty, I am proposing that now, i.e. prior to the formal, imminent signing of the Legal Personality Agreement, we proceed with an exchange of Letters between this Apostolic Nunciature and the Ministry for Foreign Affairs, stating that as soon as the Legal Personality Agreement will be signed and ratified, and as soon as a Registry will be established (in accordance with N. 5 of the Implementation Provisions, which form part of the same Legal Personality Agreement), the legal entities, which appear in the document herewith attached, will be immediately incorporated in the mentioned Registry, thus granting also to them full recognition within Israeli legislation as far as civil effects are concerned.

Confirmation of this proposal from the Ministry of Foreign Affairs will be highly appreciated, as an expression of mutual agreement.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

[+ Archbishop Andrea di Montezemolo
Apostolic Nuncio in Israel]

To His Excellency Mr. David Levy
Minister of Foreign Affairs
of the State of Israel
Jerusalem

“COMUNITÀ JESUS CARITAS DI CHARLES DE FOUCAULD” established in 1952 under the Bishop of Foligno - Italy Local address: Road Paul VI, 78 P.O.B. 1531 - 16115 Nazareth Head Office: Abbazia di Sassovivo - 05034 Foligno (Perugia) - Italy
EMMANUEL COMMUNITY “COMMUNAUTÉ DE L’EMMANUEL” established in 1982 under the Holy See

Local address: Sanctuaire du Pater Noster Mount of Olives P.O.B. 19064 - 91190 Jerusalem

Head Office: 18, Boulevard du Général Koenig - 92200 Neuilly - France

MOINES DE BETHLÉEM ET DE L’ASSOMPTION DE LA VIERGE established in 1992 under the Archbishop of Perugia - Italy Local address: Tell Gamaliel -Beit Jemal P.O.B. 525 - 99101 Beit Shemesh Head Office: Eremo dell’Assunta Incoronata, Località Monte Corona, 06019 Umbertide (PG) - Italy

“ORPHELINAT JÉSUS ADOLESCENT” established in 1897 under the Superior General of the Salesian Fathers Local address: École technique Don Bosco P.O.B. 5 - 16100 Nazareth Head Office: Opera Don Bosco, Via della Pisana, 1111 - 00163 Rome - Italy
With reference to your Excellency’s Note of September 27 1997 (N.J727/Q68), which reads as follows:

“As you know, on May 1996, the “Permanent Bilateral Working Commission between the Holy See and the State of Israel” approved and initialled the text of a new Agreement, called the “Legal Personality Agreement”, with the aim of granting civil effects within Israeli legislation for ecclesiastical juridical persons, pursuant to Art. 3 § 3 of the Fundamental Agreement between the Holy See and the State of Israel (signed on 30 December 1995).

The Legal Personality Agreement contains a list of ecclesiastical persons existing in Israel, who will receive civil recognition once the said agreement has been signed and ratified. However, between May 1996 and the present time, some new ecclesiastical entities have been created within the Catholic Church in Israel. While, on the one hand, I understand that the Government of Israel having recently given its approval to proceed with the signature of the Agreement on the basis of the text initialled in May 1996, it might not be correct to add the new entities now; will surely appreciate that, on the other hand, it is the firm desire of the Holy See that the Legal Personality Agreement should correspond to the situation as it really is on the date in which it is signed.

To overcome this difficulty, I am proposing now, i.e. prior to the formal imminent signing of Legal Personality Agreement, we proceed with an exchange of Letters between this Apostolic Nunciature and the Ministry of Foreign Affairs, stating that as soon as the Legal Personality Agreement will be signed and ratified, and as soon as a Registry will be established (in accordance with N. 5, of the Implementation Provisions, which form part of the same the Legal Personality Agreement), the legal entities, which appear in the document herewith attached, will be immediately incorporated in the mentioned Registry, thus granting also to them full recognition within Israeli legislation as far as civil effects are concerned.

Confirmation of this proposal from the Ministry of Foreign Affairs will be highly appreciated, as an expression of mutual agreement.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration”.

btdcg
I am pleased to inform Your Excellency that the proposal set forth in your abovementioned Note is acceptable to my Government and that my Government agrees that your Note together with this reply shall be regarded as constituting mutual agreement in this regard.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Yours sincerely

David Levy

APOSTOLIC NUNCIATURE
IN ISRAEL
Jerusalem, 10 November 1997
N. J746/Q68
Your Excellency,

With reference to the “Legal Personality Agreement” -signed today- between the Holy See and the State of Israel, I have the honour of informing you that the Holy See understands that:

1) In case of doubt as to the correspondence between an official name of a legal person appearing in any of the ANNEXES to the aforesaid Agreement, and a name in any register of the State of Israel or in any other document, a Certificate made by the Apostolic Nunciature in Israel shall be evidence that the names are those of the same legal person.

2) After the promulgation of the secondary legislation referred to in Provision 6.1 of the Implementation Provisions of the aforesaid Agreement, the Registrar may request the legal persons listed in the ANNEXES to inform him from time to time of the name of the respective Head or Presiding Officer if it does not appear in the ANNEXES, the same legal persons will inform him accordingly.

3) For the avoidance of doubt, it is recalled that provisions 5.5 and 5.6 of the aforementioned Implementation Provisions shall apply to the contents of paragraphs (1) and (2) above.

Willingly availing myself of this occasion to renew to Your Excellency the assurances of my highest consideration, I am,

Yours sincerely,

+ Archbishop Andrea C. L. di Montezemolo
Apostolic Nuncio in Israel

His Excellency
Mr. David Levy
Minister of Foreign Affairs
Ministry of Foreign Affairs
Jerusalem

btcadg
DEPUTY PRIME MINISTER
AND MINISTER OF FOREIGN AFFAIRS

His Excellency
The Most Reverend Andrea Cordero Lanza di Montezemolo
The Apostolic Nuncio in Israel
10 November 1997

Your Excellency

With reference to the “Personality Agreement” -signed today- between the Holy See and the State of Israel, it is the understanding of the State of Israel that:

1) In case of doubt as to the correspondence between an official name of a legal person appearing in any of the ANNEXES to the aforesaid Agreement, and a name in any register of the State of Israel or in any other document, a Certificate made by the Apostolic Nunciature in Israel shall be evidence that the names are those of the same legal person.

2) After the promulgation of the secondary legislation referred to in Provision 6.1 of the Implementation Provisions of the aforesaid Agreement, the Registrar may request the legal persons listed in the ANNEXES to inform him from time to time of the name of the respective Head or Presiding Officer if it does not appear in the ANNEXES; the same legal persons will inform him accordingly.

3) For the avoidance of doubt, it is recalled that Provisions 5.5 and 5.6 of the aforementioned Implementation Provisions shall apply to the contents of paragraphs (1) and (2) above.

Willingly availing myself of this occasion to renew to Your Excellency the assurances of my consideration, I am,

Yours sincerely,
David Levy

BASIC AGREEMENT BETWEEN THE HOLY SEE AND THE PALESTINE LIBERATION ORGANIZATION

PREAMBLE

The Holy See, the Sovereign Authority of the Catholic Church, and the Palestinian Liberation Organization (hereinafter: PLO), the Representative of the Palestinian People working for the benefit and on behalf of the Palestinian Authority:

Deeply aware of the special significance of the Holy Land, which is inter alia a privileged space for inter-religious dialogue between the followers of the three monotheistic religions;

Having reviewed the history and development of the relations between the Holy See and the Palestinian People, including the working contacts and the subsequent establishment — on October 26, 1994 — of official relations between the Holy See and the PLO;

Recalling and confirming the establishment of the Bilateral Permanent Working Commission to identify, study and address issues of common interest between the two Parties;

Reaffirming the need to achieve a just and comprehensive peace in the Middle East, so that all its nations live as good neighbours and work together to achieve development and prosperity for the entire region and all its inhabitants;

Calling for a peaceful solution of the Palestinian-Israeli conflict, which would realize the inalienable national legitimate rights and aspirations of the Palestinian People, to be reached through negotiation and agreement, in order to ensure peace and security for all peoples of the region on the basis of international law, relevant United Nations and its Security Council resolutions, justice and equity;

Declaring that an equitable solution for the issue of Jerusalem, based on international resolutions, is fundamental for a just and lasting peace in the Middle East, and that unilateral decisions and actions altering the specific character and status of Jerusalem are morally and legally unacceptable;

Calling, therefore, for a special statute for Jerusalem, internationally guaranteed, which should safeguard the following:

a) Freedom of religion and conscience for all.
b) The equality before the law of the three monotheistic religions and their institutions and followers in the City.

c) The proper identity and sacred character of the City and its universally significant, religious and cultural heritage.

d) The Holy Places, the freedom of access to them and of worship in them.

e) The Regime of «Status Quo» in those Holy Places where it applies;

Recognizing that Palestinians, irrespective of their religious affiliation, are equal members of Palestinian society;

Concluding that the achievements of the aforementioned Bilateral Permanent Working Commission now amount to appropriate matter for a first and Basic Agreement, which should provide a solid and lasting foundation for the continued development of their present and future relations, and for the furtherance of the Commission’s on-going task,

Agree on the following Articles:

ART. 1 — 1. The PLO affirms its permanent commitment to uphold and observe the human right to freedom of religion and conscience, as stated in the Universal Declaration of Human Rights and in other international instruments relative to its application.

2. The Holy See affirms the commitment of the Catholic Church to support this right and states once more the respect that the Catholic Church has for the followers of other religions.

ART. 2 — 1. The Parties are committed to appropriate cooperation in promoting respect for human rights, individual and collective, in combating all forms of discrimination and threats to human life and dignity, as well as to the promotion of understanding and harmony between nations and communities.

2. The Parties will continue to encourage inter-religious dialogue for the promotion of better understanding between people of different religions.

ART. 3 — The PLO will ensure and protect in Palestinian Law the equality of human and civil rights of all citizens, including specifically, inter alia, their freedom from discrimination, individually or collectively, on the ground of religious affiliation, belief or practice.

ART. 4 — The regime of the «Status Quo» will be maintained and observed in those Christian Holy Places where it applies.

ART. 5 — The PLO recognizes the freedom of the Catholic Church to exercise her rights to carry out, through the necessary means, her functions and traditions, such as those that are spiritual, religious, moral, charitable, educational and cultural.
ART. 6 — The PLO recognizes the rights of the Catholic Church in economic, legal and fiscal matters: these rights being exercised in harmony with the rights of the Palestinian authorities in these fields.

ART. 7 — Full effect will be given in Palestinian Law to the legal personality of the Catholic Church and of the canonical legal persons.

ART. 8 — The provisions of this Agreement are without prejudice to any agreement hitherto in force between either Party and any other party.

ART. 9 — The Bilateral Permanent Working Commission, in accordance with such instructions as may be given by the respective Authorities of the two Parties, may propose further ways to address items of this Agreement.

ART. 10 — Should any controversy arise regarding the interpretation or the application of provisions of the present Agreement, the Parties will resolve it by way of mutual consultation.

ART. 11 — Done in two original copies in the English and Arabic languages, both texts being equally authentic. In case of divergency, the English text shall prevail.

ART. 12 — This Agreement shall enter into force from the moment of its signature by the two Parties.

BIBLIOGRAPHY

I. SOURCES

Documents of the Second Vatican Council


Documents of the Roman Pontiffs (Chronological Order)

LEO XIII

— Litterae *Domini et Salvatoris*, 26 December 1887, in Acta Sanctae Sedis XX(1887), pp. 419-422.

BENEDICT XV


PIUS XI

PIUS XII


JOHN XXIII


PAUL VI


Allocutions


— *Ad E.mos Patres Cardinales et ad Romanae Curiae Praelatos, per E.mum Sacri Collegii Decanum Summo Pontifici felicia ac fausta ominatos, Nativitatis*
Domini nostri Iesu Christi festo recurrente, 22 December 1967, in AAS LX(1968), pp. 18-33.


— Ad E.mos Patres Cardinales, ad Romanae Curiae et Pontificalisque Domus Praelatos, per E.mum Sacri Collegii Decanum Summo Pontifici felicia ac fausta ominatos, Nativitatis Domini nostri Iesu Christi festo recurrente, 22 December 1975, in AAS LXVIII(1976), pp. 128-143.


Other Documents: Discourses, Declarations and Letters


**JOHN PAUL I**


**JOHN PAUL II**

Allocutions


— Palatum deinde adiit Nationum Unitarium; in quod ingressus, ad earundem Nationum Legatos, 2 October 1979, in AAS LXXI(1979), pp. 1144-1160.


Discourses, Messages, Homilies, Press Conferences and Communiqués


— Audience of the Holy Father with His Excellency, the Foreign Affairs Minister of Israel, 7 January 1982, in «L'Osservatore Romano», 7-8 gennaio 1982, p. 3.


Bilateral Treaties


**Other Documents of the Holy See**


*Orientations et Suggestions pour l'application de la Declaration Conciliare «Nostra Aetate» (n. 4), Commissio pro Religiosis Necessitudinibus cum Hebraeismo Fovendis*, in AAS LXVII(1975), pp. 73-79.


*Noi ricordiamo: una riflessione sulla Shoah, Commissioni per i Rapporti Religiosi con l'Ebraismo, Commissioni per i Rapporti Religiosi con l'Ebraismo*, in «L'Osservatore Romano», 16-17 marzo 1998, p. 4.

*Dichiarazione sul conflitto Israelo-Palestinese, Pontificio Consiglio per il Dialogo Interreligioso*, in «L'Osservatore Romano», 9 novembre 2000, p. 4.

**II. AUTHORS**

**A. BOOKS**


MARTINI, C.; ADAMO, A; ATINGER, D., Gerusalemme patria di tutti (a cura del centro ecumenico europeo per la pace), Dehoniane, Bologna 1995.


**B. JOURNALS**


KIFNER, J., The Holiest City, the Toughest Conflict, the Highest Stakes, in «The Jerusalem Post», 24 July 2000, p. 12.


III. ARTICLES WITHOUT AUTHORS

*Riconoscimento de jure e riconoscimento de facto*, in «L'Osservatore Romano», 17-18 maggio 1948, p. 3.


Pope urges international status for Jerusalem, in «The Jerusalem Post», 24 July 2000, p. 3.
