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LETTER DATED 23 FEBRUARY 1968 FROM THE PERMANENT REPRESENTATIVE  
OF JORDAN ADDRESSED TO THE SECRETARY-GENERAL

For the information of the members of the General Assembly and the Security Council, I am transmitting a report entitled:

"Report of the Commission appointed by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland, with the approval of the Council of the League of Nations, to determine the rights and claims of Moslems and Jews in connection with the Western or Wailing Wall at Jerusalem". 1/

This report embodies the findings and decisions of the Commission that was appointed to determine the rights and the claims of both the Moslems and the Jews in connexion with the Wailing Wall in Jerusalem. The Commission consisted of three jurists from Sweden, Switzerland and the Netherlands, namely:

ELIEL LOFGREN, formerly Swedish Minister for Foreign Affairs, Member of the Upper Chamber of the Swedish Riksdag (to act as Chairman);

CHARLES BARDE, Vice-President of the Court of Justice at Geneva, President of the Austro-Roumanian Mixed Arbitration Tribunal, and

C.J. VAN KEMPEN, formerly Governor of the East Coast of Sumatra, Member of the States-General of the Netherlands.

The Commission held twenty-three meetings, during which it heard arguments and engaged in hearing evidence. It heard fifty-two witnesses, twenty-one presented by the Jewish side and thirty by the Moslem side, and one British official called by the Commission. It examined all reports, dispatches, memoranda, minutes relative to matters connected with the Wailing Wall.

The Commission has established the following important facts:

\* Also issued under the symbol A/7057.

1/ To be circulated in the original language only under the symbols A/7057/Add.1 and S/8427/Add.1.

1. That the ownership of the Wall as well as the possession of it and of those parts of its surroundings belong to the Moslems and that the Wall itself, as an integral part of Al-Haram-Esh-Sharif area, is Moslem property.

2. That in no stage of the examination of this matter did the Jewish side make any claim of ownership either to the Wailing Wall or to the Magharba Quarter or to any part of the areas now subjected to Israeli usurpation or so-called "Israeli development projects". The Commission stressed that the Jewish side, when making their claim, expressly stated that they "do not claim any property right to the Wall" (page 17 of the report, para. 3).

3. That no matter how the Jewish claim is construed, it does not exceed a claim for a privilege to visit the Wall and that this privilege has even resulted from Moslem tolerance.

4. That even the pavement and the area coincident with it were Moslem property and constituted Moslem Waqf by Afdal, the son of Saladin, in 1193 A.D., i.e. Moslem religious endowment owned in perpetuity by the Moslem community.

5. That the Magharba Quarter buildings, which were recently bulldozed by the Israeli authorities, were put up in 1320 A.D. "to serve as lodgings to Moroccan pilgrims" and were also made a Moslem Waqf by Abu Madian.

6. That the Moslems of Jerusalem were always alert to the Jewish attempt to exploit Moslem tolerance in order to claim at a later stage, a right to ownership. In 1911, the Guardian of the Abu Madian Waqf (Magharba Quarter) complained that the "Jews, contrary to usage, had placed chairs on the pavement, and he requested that 'in order to avoid a future claim of ownership' the present state of affairs should be stopped". The Arab side argued that after stools would come benches, the benches would then become fixtures and before long the Jews would have established a legal claim to the site. As a direct result of the complaint, the British Administrative Council decided that it was not permissible to place any article on the pavement that could "be considered as indications of ownership".

7. That the British Government stated to Parliament in the White Paper of November 1928 that the Western or Wailing Wall "is legally the absolute property of the Moslem Community and the strip of pavement facing it is Waqf property, as is shown by documents preserved by the Guardian of the Waqf".

The above findings make it unmistakably clear that the recent Israeli measures amount to naked aggression and make nonsense of the cynical allegations that these were simply "administrative measures" or "development projects".

The Israeli bulldozing of Arab property in the Magharba Quarter defies well established Arab rights which were adjudicated and affirmed by recognized and competent authorities, including a competent body constituted with the approval of the League of Nations. It also makes a mockery of the two Jerusalem resolutions which called upon Israel "to rescind all measures already taken and to desist forthwith from taking any action which would alter the status of Jerusalem". It is an obvious encroachment on the second holiest place in Islam, the Aqsa Mosque and Al-Haram-Esh-Sharif, and a violation of the Geneva Convention of 12 August 1949. Article 53 of the Geneva Convention has expressly prohibited any destruction of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or co-operative organizations. Since their occupation of Jerusalem the Israelis have never ceased their acts of destruction of private and public property.

On 5 January 1968, I brought to Your Excellency's attention the fact that the Israeli authorities are embarking on a plan for changing the sacred character of the Moslem Holy Places, religious buildings and religious sites in the Arab city of Jerusalem.

A new project for the Wailing Wall and the adjacent area is now in progress. It embodies enlargement of the western area of the Wall by four metres and plantation of trees at a width of 150 metres. It also embodies additional constructions near the Wailing Wall. As has been explained in the report quoted above, the Wailing Wall and the entire adjacent area are an integral part of Al-Haram-Esh-Sharif, and its ownership has already been determined as Moslem property. The demolition of the Magharba Quarter is an obvious act aiming at impairing the sacred character of the area, and apart from posing an open challenge and defiance to the feeling and beliefs of millions of Moslems around the world, it is undermining both the rights of ownership and possession.

The recent illegal expropriation of 838 acres (3,345 dunums) of the areas adjacent to the Old City of Jerusalem is but another sinister attempt to uproot the Arab inhabitants. The leaders of Jerusalem have shown that they are alert to methods used by the Zionists to change the status quo of the Wailing Wall and the

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adjacent area. This continued defiance of international law and of the General Assembly resolutions on Jerusalem constitutes a serious and continuing menace to peace and calls for immediate action.

The leaders of Jerusalem, including the Mayor, Mr. Rouhy El-Khatib, counsellors, cabinet ministers, judges, lawyers and several religious dignitaries protested and challenged the validity of the Israeli requisitioning order. Copies of their requests were sent to the United Nations and foreign embassies. The Jerusalem Post of 19 January 1968 quoted Government sources as saying that the Israeli authorities "planned to carry out the development project for which the land was requisitioned".

One of the first Israeli projects, it should be made clear, is a housing estate of 1,000 flats. The estate according to the Jerusalem Post of 12 January 1968 would consist of "a self-contained community with shops, schools and synagogues".

The Israelis are proceeding with their plans of annexation, utterly disregarding United Nations injunctions. The United Nations resolutions have not been complied with so far and the situation is worsening considerably and is fraught with danger. My Government views the situation with utmost concern and gravity and requests Your Excellency to take urgent steps to put an end to these serious Israeli violations and illegal practices.

My Government is most anxious that all Member States should have an accurate and clear appreciation of the facts of the present situation as it is developing and shall be grateful if Your Excellency will circulate copies of this communication, together with copies of the report of the Commission referred to in the first paragraph above, to delegations of all Member States as General Assembly and Security Council documents.

Please accept, etc.

(Signed) Muhammad H. EL-FARRA  
Ambassador  
Permanent Representative

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