

P. 0357

JEWISH RIGHTS  
IN  
A JEWISH LAND

*by*

*Dr Joseph Solomon*

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HEBREW STUDIES

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Published by  
The Oxford Centre for Postgraduate Hebrew Studies  
45 St. Giles', Oxford, England

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*Phototypeset in 10-point Times  
at Oxford University Computing Service  
Printed in Great Britain*

Dr Joseph Solomon is a most unusual man, as his long list of honours, medals and awards testify. The son of Russian-Jewish migrants, he went to work at an early age without finishing elementary school. Determined to become an attorney, in one year he qualified for admission to Law School.

After graduation from New York Law School, Dr Solomon began a distinguished career which saw him making his mark in estate law. As executor and legal advisor for many eminent men and as a devoted patron of education, Dr Solomon has been instrumental in providing substantial funding, including four endowed Chairs, at major educational institutions.

His breadth of view and the scope of his interests are seen in the text published here, which was to have been Dr Solomon's lecture to the Governors and Fellows of the Oxford Centre for Postgraduate Hebrew Studies, in October 1987. Unfortunately, circumstances made it impossible for him to attend. However, his message is such that the Centre is grateful to be allowed to make available to those who believe, like him, that the law can 'allow us to fashion just results ...'.

## Jewish Rights in a Jewish Land

**D**ear friends, there are no words adequate enough to express to you my gratitude for giving me the privilege of addressing you this day. During the earliest days of my life, when all my experience was bounded by the Lower East Side of New York, the very word 'Oxford' seemed as much of a fantasy as the Round Table of King Arthur. In the words of the Psalmist, 'I have been young, and I have grown old.' And for some seventy years I have never ceased to be fascinated by the human saga—by a history of humankind marked by success and by failure, by grief and by joy. There seems to be no absolute consistency to human history. Rather are there ebbs and flows, peaks and valleys, and all else between. I believe it was Jean Paul Sartre who taught us that the history of every man is the history of a failure, and that the question is not whether we shall fail or succeed, but rather whether we shall fail nobly or ignobly.

That thought came to mind as I was following the news, several months ago, of the Cardinal Archbishop of New York's trip to Jordan and to Israel. You may recall that, in late December and early January of 1987, John Cardinal O'Connor of New York travelled to those two countries with a lofty purpose in mind. All in all, for a variety of reasons, and most of them not of his own doing, the Cardinal's trip was a noble failure. He is, throughout it all, a noble and kind human being.

What strikes me most as a practitioner of law is that I am not convinced that the Cardinal in New York, or the entire non-Jewish world, or even most of the Jewish world, have a well-formulated and completely convincing argument to make for a sovereign, independent, and Jewish Israel. Of course, this is not to say that our ties with our brothers and sisters there, and everywhere they may live, are not vital and strong. However, it is to say that, throughout the years, we ourselves have not been convinced on every intellectual and legal level that the land which ceased being ruled by our people in 70 of the common era—nearly two thousand years ago—should again be considered Jewish land, with a Jewish government.

Certainly, had we ourselves formulated a legally tight argument then the propaganda which issued from the other side—of an indigenous Palestinian

population, of Palestinian rights, and of Palestinian self-determination—would never have been as effective as it was, capturing so much of the world's attention and sympathy. True, that sympathy is not as strong as it was ten or fifteen years ago. Arab terrorism has not endeared itself to most people. Yet there still exists in most minds the fundamental conviction that the Palestinian argument is a cogent one; that Palestinian national aspirations must be addressed, and that the entire key to the Middle Eastern Problem is to be found in a solution to the Palestinian problem.

It has never ceased to amaze me that the Palestinian plight has received so much sympathy, but the essential argumentation of our people has never been as appealing. If our argument was that the Jews were entitled to the land because it was promised by God to Abraham and his descendants, we were told not to stake our claims on mythologies. I always thought it fascinating that in a world where most people have a faith in a miraculous virgin birth and in a no less miraculous resurrection, they will deny the Jewish appeal to the supernatural. Be that as it may: this is not a religiously or theologically consistent world.

Neither does it seem that the plight and suffering of European Jewry has made a complete and lasting impression, for already there are those who tell us that the Holocaust was not a unique event, that it was a response to the pressures the Germans were facing on the Eastern front; there are some who claim it is a falsification, and there are many who note that, even if European Jewry met with such a tragic fate, why should the Arabs of Palestine have been made to suffer as a consequence?

Several decades ago, we took a certain pride in the fact that the Jews were restoring desert lands to fertility. This was a line of reasoning which held that, although the Arabs had been settled on the soil of Palestine for centuries, they let it fall into disuse and neglect, while the Jewish pioneers were more productive, and hence the rightful owners. Legally speaking, it is a weak theory.

And so my purpose in speaking with you today is to speak to you as an attorney. You know, friends, life is a finite affair. I would have loved the opportunity to have studied more of our own Jewish tradition. Such blessings were not to be mine. I was only able to prepare for the ceremony which marked my becoming a Bar Mitzvah four years ago. What I offer you this afternoon cannot be the erudition of a scholar of Judaism. It will, however, be a word of practical and legal advice, and what I hope is a presentation of a legally and historically valid claim of the Jewish people to the land of its ancestors.

The first thing I did to prepare this argument was to do a little historical probing, to see just who controlled this area, and when.

Of course, I knew of the period of the First Temple and the Second Temple. I was aware that Jews had been sovereign in that territory, in varying degrees, for the better part of two thousand years. However, the events after the Roman destruction of Jerusalem fascinated me, and I wished that I had time to learn more: I read of Byzantine rule over the land of Israel, of a subsequent Persian invasion in the seventh century, and then of the great Arab conquests of the entire Middle East. Then I came across the Ummayyads of Damascus, and the Abbassids of Baghdad—both of which controlled this entire region, and then these two caliphates were followed by Tulunids, Fatimids, and then the Seljuk Turks. Throughout this entire period of different Arab empires—up to the Seljuks, who were not even Arab but Turkish, I could not fail to notice that there was never such a thing again as an independent state existing in Palestine. It may have been part of a larger empire, but since the times that the Jews ceased being sovereign and independent this territory was never again a separate entity, with its own government.

I was fascinated also to learn that the Crusades were inspired not by Arab, but by Turkish control over Asia Minor, which included, of course, Palestine. And little did I know that Saladin, who drove the Crusaders out of the region, was not an Arab, but a Kurd—a member of that large minority in the Middle East who are today despised in Syria, in Iraq, in Turkey, and in Iran. If we want to talk about persecution, we ought to raise the issue of the Kurds in the Middle East. Tragically, these are a people who are out of sight, and therefore out of conscience.

Even the Mamluks, who dominated the area from 1291 to 1516, were not Arabs, but Turks. And so I kept asking myself, 'Where is this independent Arab state of Palestine? What is its historical basis?' Up to this point in my research, I could not find one!

But then, on 29 May 1453, a fantastic thing happened. For centuries, Islamic rulers and armies had attempted to take the great city of Constantinople. This was the majestic city of imperial tradition, and its conquest had always been a goal of the great caliphs. On 29 May 1453, it happened. What was, at that time, perhaps the greatest city in the world was conquered by Islam—not by the Arabs, but by the Ottoman Turks.

And here begins an enormous history in and of itself. What interested me most about this conquest of Constantinople and the establishment of the Ottoman Empire was the manner in which non-Muslim subjects were

treated. Quickly, Mehmed II, who was the Sultan who conquered Constantinople, established the *millet* system. A *millet* was a community or nation of people with a particular religion within the Ottoman Empire. Each *millet* or nation had the legal right to use its own language, develop its own religious, cultural and educational institutions, collect taxes and render them to the imperial treasury, and maintain its own courts. Each *millet* had a leader who was responsible to the sultan for the payment of taxes from the *millet* and for the good behaviour and loyalty of members of his community. And who were the three groups recognized first by Mehmed II for such status? They were Christians, Armenians, and Jews. In other words, there was a time when Islam itself recognized the national character and distinctiveness of the Jewish people that lived within its own borders—and at the time of its greatest size, the Ottoman Empire was larger than the Roman Empire. The leader of the Jewish *millet* was called the Chacham Bashi. He lived in Jerusalem, and upon his death Jewish delegations from all over the Ottoman Empire—from Salonica, from Cairo, from Damascus, from Baghdad—these delegations would meet in Jerusalem to elect a successor.

So, for certain, from 1453 until 1917, we had a situation in the Middle East where dozens and dozens of minority groups were subsumed under Turkish dominion, with many of them enjoying a quasi-independent status. The *millet* system expanded, with the result that, from the original three groups, nearly twenty were in existence by 1917. This meant that, for more than 400 years, the Jews of the Ottoman Empire were co-citizens with everyone else in Turkey, including the Arabs. They were a recognized national and religious community, and therefore, under Ottoman-Muslim law, entitled to their own rights.

Still, throughout this period there is, of course, no independent Arab state of Palestine. During Ottoman rule, the area that we associate as being the Holy Land was called the Vilayet of Damascus, meaning the Ottoman region of Damascus. But a careful reading of history shows us that Palestine, as an Arab nation, never existed. Arabs, of course, may have lived in that area, but they never regarded themselves, nor were regarded by others, as being Palestinians. It seems that the only independent state that ever existed in that area was a Jewish state, and it existed, as I said previously, with varying degrees of independence for nearly 2000 years. But an independent Arab state of Palestine—never.

In 1917, Ottoman Turkey became a thing of the past. Already in the nineteenth century, various national groups within the Ottoman Empire were clamouring for independence—the Greeks, the Serbs, the Slavs. Out of



the corpse of Ottoman Turkey, who can even count the number of countries and peoples that achieved independence? We have Rumania, Yugoslavia, Bulgaria, Albania, Greece, virtually all the countries of North Africa, Syria, Lebanon, Yemen, Iraq. Even Jordan was brought into existence. This was a work of art. In March 1921, Winston Churchill, who was then Colonial Secretary, held a lengthy conference in Cairo with most of the British Middle Eastern experts, including Sir Herbert Samuel and Sir Percy Cox, who were the High Commissioners for Palestine and Iraq. These fellows hatched a scheme that put King Faysal, who had been ousted by the French from Damascus, on the throne of Iraq, and then they carved from the part of Palestine east of the Jordan the state of Transjordan for Prince Abdallah, who originally had been promised Iraq. A state centering around Damascus we can understand. It reminds us of the Ummayyad Caliphate. The same holds true for a state around Baghdad. It harkens back to Abbassid times. But who ever heard of a state of Jordan? If anyone wishes to talk of inauthentic nationalisms in the Middle East, and the historic right of states to exist, he or she ought to take a fresh look at Jordan—an absolute fiction.

The process of carving viable states from the body of Ottoman Turkey was not an easy one. The exchanges of populations entailed in re-designing borders were arduous. One only has to remember the Treaty of Lausanne of 1923 between Turkey and Greece, when these two countries decided to exchange populations and to repatriate their own nationals. This situation was repeated all over the Ottoman Empire and it was often a slow process, taking decades to accomplish.

Throughout this metamorphosis, we may ask, 'What of the Jews?' And by this I mean not 'What of the Jews of Russia and Poland', but rather, 'What of the Jews who lived throughout the Ottoman Empire for over four centuries—the large Jewish communities of Morocco, Algeria, Tunis, Libya, Egypt, Lebanon, Syria, Yemen, and Iraq?'

The answer is simple. By establishing the State of Israel within the area which once was Ottoman Turkey, and by gathering in the Jews of the Ottoman Empire into that area, the national rights of the Ottoman Jews, which were recognized even by the Caliphate and Sultan—these national rights are now fulfilled. Many of us have been to Israel. It is a well-known fact that the significant majority of that country's people are not Ashkenazic or European Jews, but rather Jews whose grandparents and great-grandparents lived in greater Turkey. What has happened, ever since 1948, is that a population exchange has taken place, as it has in other parts of the Middle East. Beginning in 1948, and throughout the next decade, some

700,000 Jews from the Middle East left their homes, their properties and their fortunes, as they were driven from areas where they had been for so many centuries. It has always been the Palestinian argument that 600,000 Palestinian Arabs were driven from their homes, leaving behind 336 million dollars' worth of land and blocked bank accounts. Everyone seems to forget that the Jews of the Middle East who found their way to Israel left behind over a billion dollars' worth of the same.

What we have failed to realize is that both Arab and Jew have national rights that are rooted in both peoples having been citizens of the Ottoman Empire. The Arabs have had their national aspirations fulfilled within that region at least twenty times. To the Jewish *millet* there has been granted one state—and, logically, this state exists in the same area where an independent Jewish state once existed for nearly 2000 years.

What has now happened is that another fiction has been brought into the picture. As if Jordan were not enough, we have been told for the last twenty years that Palestinian rights exist, and that Palestinian nationalism is valid.

Let us take an analogy from another part of Ottoman Turkey. In 1923, Turkey and Greece agreed on an exchange of populations. This was no easy issue. There were Greeks living in Turkey ever since the eighth century before the common era, and the Turks who lived in the area of West Thrace, in Greece, had been there for centuries.

In fact, in 1923 there were more Turks in West Thrace than there were ever Arabs in all of Palestine, and they were the wealthiest and best educated Turks in that part of the world. Kamal Attaturk, the most prominent post-World War One leader and dictator of Turkey, was not born in Turkey at all! He was born in West Thrace, in Greece. Without a doubt, the Turks certainly had firm roots in Greece.

Now, in 1923 the Turks could have done the same thing that the Arabs are now doing in the Middle East. They too could have formented a phoney Turkish West-Thracian nationalism, and caused incredible problems. The Greeks in Turkey could have done the same thing. In fact, they are both doing just that right now, but in Cyprus.

But in 1923 both peoples accepted the verdict of history, and they gathered in their own.

This is to say that there is absolutely no refugee problem in the Middle East at all! The problem is clearly one of repatriation. The Jews have repatriated all of the Jewish *millet* of Turkey into the Land of Israel. The Arabs are refusing to repatriate their own.

So, as an attorney, I come to several conclusions. The first is that the State of Israel is absolutely a legitimate entity because it fulfils the rights of the Jewish *millet* of Turkey to their own national embodiment. Sadly, throughout the last forty years, we have never heard a claim for Jewish rights, based on the very history of that region. Secondly, the very notion of Palestinian nationalism is a fiction, a sad fiction, which prevents the world from seeing a true picture of the problem and process of repatriation.

It is time for someone to tell the truth, the whole truth, and nothing but the truth. So help us, God. And, dear friends, thank you so much for your attention. \*

\* Acknowledgement: I thank my many friends for their useful suggestions in the preparation of this text.

