

Assessing Palestinian Property in West Jerusalem

Dalia Habash and Terry Rempel

At the time of the UN Partition Plan in November of 1947, Palestinian Arabs individually owned as much as 40 percent of the property in the new city of Jerusalem as compared to the 26 percent owned by individual Jews. The remainder of the property in the new city was held by religious communities and the British Mandate government.¹ In the course of the 1948 war which followed the decision of the United Nations to partition Palestine into a Jewish and an Arab state, Palestinian Arab residents from the western neighbourhoods and villages of Jerusalem were expelled and evacuated, leaving behind most of their property and belongings to which they hoped to return after the end of the war.

When the war did come to an end, however, the newly established state of Israel, which controlled the western areas of Jerusalem, refused to allow the refugees to return to their homes and lands. Zionist leaders refused initially to compensate refugees for their properties, many of which were subject to vandalism, looting and demolition. All credits, including demand deposits, savings accounts, guarantee funds, financial instruments of all sorts, jewels and other valuables in safety deposit boxes belonging to the refugees were frozen. Henry Cattán, a Palestinian lawyer from western Jerusalem, described the events that took place during the 1948 war as of one the “greatest mass robberies in the history of Palestine.”²

Soon after the eviction of the Palestinian Arabs from their homes in West Jerusalem, the property was placed under the authority of the Israeli Custodian of Abandoned and later Absentee Property, appointed by the newly formed government of Israel. The Custodian was not only in charge of administering the property, but also in distributing the property to any prospective Jewish buyer. Hirst characterized the role of the Custodian as one who was not in charge of preserving the property for its rightful owner, but of depriving the owner of his property.³ In other words,

Palestinian Arab refugee property controlled by the state of Israel was expropriated in order to transfer its tenure from Arab to Jewish ownership, even though the 1947 Partition Plan expressly stated that no land owned by Arabs in the Jewish State was to be expropriated except for public purposes.

This chapter, based on documents of the Palestine Conciliation Commission and several secondary sources, examines the work of the United Nations immediately after the 1948 war concerning restitution of Palestinian refugees from Jerusalem. The chapter examines the shortcomings of the UN effort as well as subsequent evaluations of Palestinian property which attempt to provide a more accurate and inclusive evaluation of refugee losses. While some of these studies assign specific monetary values to types of property losses in Jerusalem, most studies concentrate on aggregate evaluations of property losses in all of Palestine. Wherever possible, the chapter attempts to extrapolate evaluations specific to Jerusalem in order to provide a general picture of the scope of Palestinian losses in the city in 1948.

Restitution and the Palestine Conciliation Commission

The return of Palestinian Arab refugees and compensation for damage or losses to their property was raised by the United Nations well before the conclusion of the 1948 war. In his report of 28 June 1948, the UN-appointed Mediator Count Folke Bernadotte stated that “recognition [should] be accorded to the right of residents of Palestine to return to their homes without restriction and to regain possession of their property.”⁴ Later that summer the Mediator attempted to apply this principle by calling for the return of some 1,600 refugees from Ajanjul and Buweiriya northwest of Jerusalem just inside the Ramleh sub-district.⁵ In his first Progress Report to the UN General Assembly, the Mediator wrote:

No settlement can be just and complete if recognition is not accorded to the right of the Arab refugee to return to the homes from which he has been dislodged [...] It would be an offence against the principles of elemental justice if these innocent victims of the conflict were denied the right to return to their homes while Jewish immigrants flow into Palestine, and, indeed, at least offer the threat of permanent replacement of the Arab refugees who have been rooted in the land for centuries.⁶

While the United Nations had failed to implement General Assembly Resolution 181 (the Partition Plan), which affirmed the protection of Arab and Jewish property rights and the principle of compensation, it adopted other measures to protect the property rights of Palestinian Arab refugees.⁷ These measures were, in large part,

based on the recommendations of the UN Mediator, and became the basis of General Assembly Resolution 194, the primary legal document concerning Palestinian Arab refugees. In the conclusion of his September 1948 report, Bernadotte noted that,

The right of the Arab refugees to return to their homes in Jewish-controlled territory at the earliest possible date should be affirmed by the United Nations, and their repatriation, resettlement and economic and social rehabilitation and payment of adequate compensation for the property of those choosing not to return should be supervised and assisted by the UN Conciliation Commission.⁸

The right of refugees to return to their properties was mentioned no less than nine times in the Mediator's first report. It was, according to Bernadotte, an "unconditional right" of the refugees "to make a free choice [which] should be fully respected."⁹ The report also noted that despite Israeli claims for indemnities from Arab states, the government of Israel was responsible for the provision of compensation to Palestinian Arab refugees whose properties were damaged during the war.¹⁰ The Mediator based his recommendations on established principles of international law as well as reports which he had received describing unnecessary plunder, looting and the destruction of Palestinian Arab villages by Zionist forces.

Most of the refugees left practically all their possessions behind [...] Moreover, while those who had fled in the early days of the conflict had been able to take with them some personal effects and assets, many of the late-comers were deprived of everything except the clothes in which they stood, and apart from their homes (many of which were destroyed) lost all furniture and assets, and even their tools of trade.¹¹

Based on Bernadotte's recommendations, the United Nations moved to secure the property rights of the Palestinian Arab refugees who had hoped to return to their homes and lands when the war ended. With Bernadotte's report in hand, the UN General Assembly adopted UN Resolution 194 (III) on 11 December 1948, nearly a year after the first Palestinian Arabs were expelled from Jerusalem. Paragraph 11 of the Resolution outlined the guidelines for refugee restitution,

refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date [while] compensation should be paid for the property of those choosing not to return and for loss or damage to property which,

under principles of international law or in equity, should be made good by the Governments or authorities responsible.¹²

The Resolution, which terminated the position of the UN Mediator also called for the establishment of a Palestine Conciliation Commission (PCC) whose purpose was to assume the functions accorded to the Mediator and “[t]o carry out the specific functions and directives given to it by the present resolution and such additional functions and directives as may be given to it by the General Assembly or by the Security Council.”¹³ This included Paragraph 11 which called for the return and compensation of Palestinian Arab refugees and the implementation, as regards Jerusalem, of the *corpus separatum*. By March 1949, the Commission had taken steps to secure the services of an expert to carry out preparatory studies and work concerning the refugees. The Commission also held the first of several meetings with heads of refugee committees (including the Congress of Refugees of Ramallah and the Jaffa and District Inhabitants Committee), non-governmental organizations, and government officials from the region.

In the spring of 1949, the Commission presented several proposals for safeguarding the rights and properties of the refugees to be presented at a conference in Lausanne, Switzerland. These included measures to facilitate the return of orange groves along with necessary laborers, the reuniting of refugee families and the unfreezing of refugee bank accounts and other safe deposit assets blocked by Israel. The Commission proposed several further measures to protect refugee properties and rights. It called for the abrogation of the Israeli Absentees’ Property Law, the suspension of all measures of requisition and occupation of Arab houses, and the unfreezing of *waqf* property.¹⁴ By September 1949, the Commission reported progress on family reunification and the unfreezing of refugee accounts, but noted that Israel had refused the Commission’s entreaties to allow owners of orange groves to return to look after their crops.¹⁵ The Israeli government also informed Commission officials that it was unable to abrogate the Absentee Law or suspend measures it was taking concerning refugee property.¹⁶ At the end of 1949 the UN adopted Resolution 302 (IV) which established the United Nations Relief and Works Agency to address the second part of Paragraph 11 of Resolution 194 which called for assistance in the resettlement and social and economic rehabilitation of the refugees.¹⁷

The Commission also recommended that a mixed group, supervised by the United Nations or by a neutral expert, be established to study the issue of property and compensation.¹⁸ The group would be responsible for the supervision or conservation of existing properties including orange groves, the determination of ownership of properties, and the evaluation of property damages. The group was instructed to begin gathering documents such as microfilms of the property registers

of the British Mandate government from the British Colonial Office in London. The Secretariat of the UN further provided the Conciliation Commission, composed of France, Turkey and the United States, with several Working Papers with respect to the meaning of Paragraph 11 of Resolution 194 and the concomitant responsibilities and obligations rendered thereof by the Commission.

The first Paper, dated October 1949, dealt with the legal interpretation of the operative Paragraph 11 of Resolution 194 concerning compensation.¹⁹ The Secretariat noted that the Resolution affirmed two types of compensation: payment to refugees not choosing to return to their homes; and, payment for the loss of or damage to property which under principles of international law or in equity should be made good by the governments or authorities responsible. As regards the meaning of the latter, the Secretariat stated that while the Resolution did not affirm compensation for ordinary war damages, its legislative history implied that the Resolution affirmed compensation for “looting, pillaging, and plundering of private property and destruction of property and villages without military necessity.” These acts, stated the Secretariat, were all violations of the laws and customs of war on land as defined by the Hague Convention of October 1907.²⁰ In a Paper, dated March 1950, the Secretariat furnished the Commission with a list of historical precedents for restitution of property or payment of compensation to refugees.²¹

Still attempting to gain Israeli compliance with Paragraph 11 of 194, the Commission proposed the establishment of a mixed committee in early 1950 to look into Egyptian proposals of the previous fall for the return of some refugees residing in Gaza to cultivate their lands.²² While the Palestinian Arab inhabitants of Abasan and Akhzah were eventually allowed to cultivate land in Israel-held territory with the creation of a special zone, the return of the refugees at large was rejected by Israel.²³ The Commission was informed by Israel that apart from limited repatriation the real solution lay in resettlement of the refugees outside the territory held by Israel.²⁴ The Commission did make progress, however, concerning the estimated 4 to 5 million Palestinian pounds in blocked refugee accounts in Israel.²⁵ A decision was made to release an advance of 100 pounds on all accounts until the procedures for the release of the accounts were finalized.²⁶ With little apparent progress being made concerning Paragraph 11 of Resolution 194 two years after the establishment of the Commission, however, the UN General Assembly adopted a resolution at the end of December 1950 calling upon the PCC once again “to make such arrangements as it may consider necessary for the assessment and payment of compensation in pursuance of Paragraph 11 of Resolution 194 [...] and to take measures for protection of the rights, property, and interests of the refugees.”²⁷

General Assembly Resolution 394 also called for the creation of Refugee Office to facilitate the implementation of Paragraph 11 of Resolution 194. The Office

would be furnished with a legal expert, economic expert and a land specialist. The Commission also asked Israel for assurances that no measures would be taken which would impair the tasks of the Refugee Office. No reply was received from Israeli officials in response to the Commission request. Ten days earlier, the General Assembly adopted Resolution 393 which established, without prejudice to Resolution 194, a so-called reintegration fund to which Israel later offered to contribute 1 million Israeli pounds on account of refugee compensation, provided that payment into the fund would release Israel from all individual Palestinian Arab refugee claims.²⁸ The Israeli government maintained, however, that compensation could not be imposed on the state and that any conclusions reached by the Refugee Office would not prejudice Israel's compensation policy.

In August 1951, the Commission brought forward another proposal for the consideration of the Israeli and Arab delegations who had agreed to attend a second conference in Paris in September 1951. The Commission was already beginning, however, to scale back its efforts with regard to Paragraph 11 due to Israel's consistent rejection of the Paragraph and Israeli measures to actively prevent the return of refugees by creating a *fait accomplis* on the ground. The Commission noted that,

[w]hen, in 1948, the General Assembly first resolved that the refugees should be permitted to return to their homes, the land and houses which these people had abandoned in their flight were considered to be still, for the most part, intact and unoccupied. [...] all that would have been necessary was for those refugees who wished to do so to undertake the journey of return [...] The physical conditions [...] have changed considerably since 1948. The areas from which the refugees came are no longer vacant, and any movement of return would have to be carefully worked out and executed with the active cooperation of the Government of Israel.²⁹

Around 85 percent of the 531 Palestinian Arab villages depopulated in the course of the 1948 war were almost completely destroyed with, at most, one house standing. Apart from depopulated Palestinian Arab urban neighbourhoods which, by and large, remained intact, the vast majority of Jewish immigrants were settled in areas in which Jews lived prior to 1948.³⁰ The work of the Refugee Office was further complicated in March 1951 after the Iraqi government froze all assets of Iraqi Jews who were leaving to settle in the new Jewish state. The Israeli government informed the Commission that the value of Jewish assets in Iraq would be deducted by Israel from any claims made by the Palestinian Arab refugees. Nevertheless the Commission and the UN General Assembly continued to call for the full implementation of Resolution 194.

The Commission proposal for the September Paris conference called for a cancelation of war damages for both Israel and the Arab states; Israeli acceptance of specified number of refugees who would be integrated into the economy; Israeli acceptance of the obligation to pay, based on its ability; the unfreezing of all bank accounts in the region and an agreement in principle regarding armistice agreements.³¹ Israel, however, had already made it clear to the Commission that it rejected the return of refugees while compensation would be contingent on considerable international financial aid and only be considered by the state as part of a global peace settlement. Both Israel and the Arab states rejected key components of the proposal, most notably the suggestion that consideration of war damages be disregarded. The Refugee Office, meanwhile, was able to obtain little more than the promise of assistance from the Israeli government with regard to the evaluation of abandoned property.

By the time of the Paris Conference, the PCC had established its Refugee Office, retained the services of J.M. Berncastle, who held the post of Chief Land Valuer in the Department of Land Settlement under the Mandate government, and had nearly completed the global evaluation of refugee losses. In November 1951, Berncastle completed the global assessment of Palestinian Arab refugee losses and submitted his report which was tabled in the UN General Assembly. The report included a description of methods and a summary of the final results. He concluded that a total of 16,324 sq. km out of a total area of 26,320 sq. km were abandoned Arab lands.³² This included approximately 280 sq. km of rural land in the Jerusalem sub-district and over 7 sq. km in urban Jerusalem lands or combined about 18 percent of the Jerusalem sub-district.³³ Jewish-owned land in the area of the sub-district occupied by Israel amounted to 26 sq. km.³⁴ The remainder of the sub-district which totaled 1,570 sq. km fell under Jordanian control. The term “lands” included not only the land but “anything attached to land,” such as buildings and trees according to relevant Ordinances of the British Mandate government.³⁵

The Refugee Office considered four methods of identification of land ownership. These included a refugee questionnaire which would be checked against the Land Registers of the Mandate government; the Land Registers; records of the Custodian of Absentee Property appointed by the Israeli government; and, *Village Statistics 1945* issued by the British Mandate government. The Refugee Office decided to base its estimates on *Village Statistics* as it felt that both the Registers and a questionnaire would not provide a complete factual record. The use of the Custodian records, furthermore, would be inappropriate, it felt, as Israel was an interested party. *Village Statistics* on the other hand, provided a record of the extent of land by village and town, the nature and use of land and type of ownership (Arab, Jewish, State, etc.). It also provided figures for rural and urban property tax payable in

each town and village.

In its evaluation the Office considered the use of prices recorded in the Land Registers supplemented by inspection on the ground; the tax assessments for rural and urban property in *Village Statistics*; and, a combination of Arab and Israeli expert opinion along with the knowledge of the UN appointed land specialist. The use of the Registers was once again disregarded due to the absence of an accurate and complete correlation between the registration of land parcels and their value on the date of registration as well as the considerable fluctuation of land values. The evaluation used by the Refugee Office was therefore based on *Village Statistics* and the opinions of the Refugee Office land specialist along with the opinions of Arab and Israeli experts. Furthermore, the Office adopted several principles to guide its evaluation. The Office felt that the valuation should be based on the existing use value; speculative elements which exceed the normal should be ignored; the date of valuation should be 29 November 1947, the partition date under UN Resolution 181; and, uncultivable land would not be assigned a value.³⁶ Using this formula, Berncastle assessed the value of the abandoned Palestinian Arab land at 100,383,784 Palestinian pounds or 280 million dollars at the dollar-pound exchange rate in 1951.³⁷ This was divided into 70 million pounds in rural property with the remainder as urban property.³⁸

As regards refugee property in Jerusalem, which the Office dealt with separately because of the division of the city into three zones, Berncastle based his assessment on the register compiled by the Israeli Custodian of Absentee Property which contained a list of 3,660 separate parcels.³⁹ The register gave a number and description to each parcel and an assessment of the capital value. In total, these lands were assessed at 9,250,000 Palestinian pounds.⁴⁰ The built-on areas of villages, tax category 4, was assigned a value of 150 pounds per dunum. Based on a total built-on area of 1,435 dunums in the four western villages that were later annexed to Jerusalem, namely Deir Yasin, Lifta, 'Ayn Karim and al-Malha, the valuation of these lands was afixed at just over 200,000 pounds.

Table 1 PCC Evaluation of Palestinian Arab Village Lands in Western Jerusalem ⁴¹

Village	Area (dunums)	Evaluation (Palestinian pounds, 1947)
'Ayn Karim	13,667	561,049
Deir Yasin	2,704	12,455
Lifta	5,396	86,010
al-Malha	5,904	153,316
TOTAL	27,671	812,830

Table 2 Palestinian Arab Village Land Distribution According to Tax Category (dunums)⁴²

Village	1-3	4	5-8	9-13	14-15	16A	16B
'Ayn Karim		1,024	7,953	1,175		3,332	183
Deir Yasin		12		601	155	1,933	3
Lifta		313		2325		2,626	132
al-Malha		86	2613	711	302	2,087	107

Assessment of the remaining land of these villages which fell under Israeli control, according to rates per tax category, amounted to around 600,000 pounds. As Berncastle only included individual owned property, this estimate excluded 37 percent of the land of these villages defined as uncultivable or used for roads etc., that fell, respectively, under tax categories 16 A and B.

Berncastle also assigned an estimate of 21,570,000 Palestinian pounds to movable lost property. The Office considered three approaches which were used without attaching greater significance to one or the other. These included a calculation based on a percentage of the immovable property⁴³; a calculation based on a percentage of the national income⁴⁴; and, a calculation based on the aggregate values in 1945 of various descriptions of property grouped under the heading of movable.⁴⁵ The use of a random sample survey of refugees who would fill out a questionnaire listing the extent and value of their movable and immovable property in order to work out a relationship between movable and immovable property from which an estimate evaluation could be ascertained was rejected because of difficulties in verifying refugee questionnaires. Using these methods, losses in movable property from Jerusalem and the four western villages were estimated to be between one and a half and three and a half million Palestinian pounds.

Table 3 PCC Estimates of Movable Property (Palestinian pounds, 1947)⁴⁶

Type	Total	of which Jerusalem
% of value of immovable property	21,570,000	3,482,010
% of national income	18,600,000	1,653,540
1945 estimate of movable property	19,100,000	1,697,990

The Office requested information from Israeli authorities as regards expropriated movable property in September 1951 but received no response. Berncastle acknowledged, however, that the figures derived for Palestinian Arab refugee losses

in movable property only represented an estimate. The Office felt that some property did not lend itself to global evaluation while it was difficult to determine how much movable property the refugees had taken with them, how much had been looted and how much had been expropriated by the Israeli government.

With little progress to show outside of the global assessment completed by Berncastle, the Commission finally obtained the compliance of the Israeli government in 1952 to a scheme for the gradual release of Palestinian refugee assets held in financial institutions. The release scheme had been held up by Israel due to the linkage it made with the release of Jewish accounts in Iraq and what Israel viewed as the “Arab’s uncooperative attitude.”⁴⁷ By 1953 Israel had turned over a first installment of nearly three-quarters of a million Palestinian pounds. By the end of May 1953 1,000 forms had been filed by refugees from Lebanon, Syria and Egypt seeking the release of their frozen accounts. By August the number of claims for frozen accounts had more than tripled.⁴⁸ Despite some complications in August of 1954 when the Israeli government suddenly requested negotiations with the depositors, the accounts were slowly released to the refugee account holders.

Table 4 Release of Refugee Bank Account Assets Frozen by Israel, 1953-1966 ⁴⁶

Date of Release	Accumulative Amount (Palestinian pounds, 1947)
December 1955	2,538,642
August 1956	2,633,175
April 1958	2,658,691
June 1959	2,781,164
June 1960	2,783,433
June 1961	2,790,045
July 1962	2,771,680
July 1965	2,801,008
July 1966	2,802,110
First Installment 1953	740,408
TOTAL as of 1966	3,595,160

Under the scheme, however, Israel imposed a 10 percent compulsory national loan while significant fees for administration of the accounts were exacted by the Israeli Custodian of Absentees’ Property. In response to inquiries by the Commission, Israel claimed that refugees would receive a refund on all accounts and that the transfer of accounts greater than 500 pounds to the Custodian of Absentees’ Property

would not impair the return of the assets.⁵⁰ The League of Arab States, however, provided some examples of the fees levied on Palestinian refugee assets. A statement on one refugee account from Barclay's Bank in Haifa, for example, showed deductions of 342 pounds for the national loan and 2,577 pounds for the Custodian on a balance of 3,420 pounds.⁵¹ A scheme was also devised for the release of refugee assets, such as safety deposits held in Israeli banks.

Table 5 Release of Other Refugee Assets Frozen by Israel in Aggregate Total, 1956-65⁵²

Date	Boxes and Parcels	Dossiers of Palestinian Bearer Bonds	Dossiers of Other Bonds	Lockers (Safe Deposit Boxes)
August 1956	24	250	203	102
December 1957	29	291	246	119
June 1959	29	297	263	121
August 1965	48	274	332	178
Balance to be released December 1965	12	526	102	35

Following the completion of the global assessment and with still no success on facilitating the return of the refugees, the land specialist of the Refugee Office was instructed to seek out the possibility of embarking on an assessment of individual refugee losses using the Land Registers of the British Mandate, the Rural Tax Distribution Lists and the Urban Field Evaluation Sheets.⁵³ In May 1954, the Commission established a sub-office in Jerusalem to help move its work forward on identification and evaluation of individually owned Palestinian refugee property due to omissions and illegible print in the microfilmed registers obtained from the British Colonial Office. The Refugee Office examined the following documents:

- (a) Microphotographs of registers of title supplemented by the original registers when the microfilm was missing or defective;
- (b) Registers of deeds;
- (c) Tax distribution lists and, failing these, taxpayers' registers;
- (d) Field valuation sheets and, failing these, valuation lists and taxpayers' registers;
- (e) Schedule of rights (only in respect of blocks for which no registers of title had been prepared);
- (f) Parcel classification schedules;
- (g) Land registrars' returns of dispositions;
- (h) Village maps and block plans.

Two years previously, the Commission recruited Sami Hadawi as Land Specialist. Hadawi had also worked for the British Mandate government in the Department of Land Settlement responsible for the assessment of urban property and classification of rural lands for taxation. Frank Jarvis, a British citizen, took over the work as Land Expert in 1956 and followed it through to completion in 1964.

In order to establish more detailed data, record forms were prepared for each parcel of land (RP/1) owned by Palestinian Arab individuals, including property owned in partnerships, companies and cooperatives. The following information was extracted from documents examined by the Refugee Office:

- (a) Location (sub-district, town or village, locality, registration or fiscal block number, parcel number);
- (b) Area (in metric dunums and sq. meters);
- (c) Description (nature of the land, e.g. arable, plantation, building, etc., description of buildings with number of rooms, etc.);
- (d) Names of owner or owners;
- (e) Shares (where there was more than one owner the share of each partner is given in the form of a fraction);
- (f) Rural property tax category (under the Rural Property Tax Ordinance, rural land was divided for taxation purposes into seventeen categories, ranging from the most valuable, i.e. citrus plantations, to the least valuable, i.e. uncultivable land);
- (g) Urban property tax assessment (under the Urban Property Tax Ordinance, urban property was assessed for taxation on the basis of its net annual value; where the land was not built upon its net annual value was a prescribed percentage of its capital value as building land);
- (h) Encumbrances (including charges such as mortgages, leases and attachments);
- (i) Particulars of any sale which took place between 1 January 1946 and 29 November 1947, whether of the property as a whole or of shares in it, including the financial consideration as declared by the parties and as assessed by the registrar of lands.

Separate forms were prepared to record land owned by religious bodies. The Land Expert also prepared lists (RP/3) to record land classified as state domain, Jewish and other parcels of land not owned by Arabs.⁵⁴

The Refugee Office examined two types of land, settled and non-settled. Settled land referred to land which had been registered under the Land (Settlement of Tithe) Ordinance.⁵⁵ Information regarding refugee properties in this category could be retrieved from the microfilm copies of the Registers of Tithe and from other

records. The Office also examined unsettled land or land which had not been identified by cadastral survey. Information regarding refugee properties in this category was retrieved where possible from Tax Lists and taxation data. These documents however, did not always produce definitive ownership title to particular properties. Due to the absence of a registration system, lands in the Negev were examined separately. In the urban areas most property did not fall within the settled category. In general, the Jerusalem sub-district, unlike coastal sub-districts such as Jaffa and Haifa, was comprised primarily of unsettled land.

Table 6 Jerusalem Sub-District, Settled and Non-Settled Areas by Land Category (dunums) ⁵⁶

	1-2		3		4		5-8	
	RP/1	RP/3	RP/1	RP/3	RP/1	RP/3	RP/1	RP/3
Settled						148	1,391	1,673
Non-settled		31			1,512	2,233	29,633	1,165
Total		31			1,512	2,381	31,024	2,838
% settled	0	0	0	0	0	6.2	4.5	58.9

	9-13	14-15	16A	16B				
	RP/1	RP/3	RP/1	RP/3	RP/1	RP/3	RP/1	RP/3
Settled	3,048	13,916	143	569	1,458	3,383		533
Non-settled	45,711	14,094	22,008	1,447	116,578	34,340		1,929
Total	48,759	28,010	22,151	2,016	118,036	37,723		2,462
% settled	6.3	49.7	0.6	28.2	1.2	9.0	0	21.6

In the Jerusalem sub-district, approximately 9 percent of the land was determined to be settled of which 23 percent was Arab-owned (RP/1) with the remaining 73 percent classified as State, public authority, Jewish ownership or other non-Arab ownership (RP/3). On average less than three percent of RP/1 lands in the sub-district were settled while slightly more than 25 percent of RP/3 lands were settled. No man's land in the Jerusalem-Ramleh area and demilitarized zones in the northern region were also included in the identification process. In Jerusalem, this meant the inclusion of some 800 additional dunums of land along with 150 buildings. Where the Land Ordinance had been applied to a village, those parts which fell within Israel were included and in villages not surveyed under the Ordinance, all Arab-owned land in fiscal blocks cut by the Armistice line was included.

By the end of May 1958 some 353,000 forms had been completed in the

Jerusalem office with an additional 74,600 forms completed in New York.⁵⁷ By May of 1964, the Refugee Office had completed its work having collected 453,000 records amounting to some 1,500,000 holdings.⁵⁸ The total refugee lands surveyed by the Refugee Office included 10,480 registered fiscal blocks each composed of an average of 766 dunums with an average of 43 parcels and between 6 and 500 holdings per block, excluding the Negev. In 8,156 blocks the Office determined that ownership was judicially investigated and registered in the Land Ordinance of 1928.⁵⁹ Up to the end of May, the Office had completed 9,920 blocks of the 10,480 while in the Beersheba sub-district, 94 basic taxation documents remained unaccounted for out of a total of 560. Jarvis identified close to 5.2 million dunums of rural land as individual Arab-owned, not including Beersheba and Ramleh. This included nearly 300,000 dunums in the area of the Jerusalem sub-district that came under Israeli control.

Table 7 Refugee Rural Lands by Category, Jerusalem Sub-District (dunums)⁶⁰

1-3	4	5-8	9-13	14-15	16A	16B	Total
31	2,433	32,458	71,520	23,677	150,286	2,073	281,878

Total vacant sites of urban land determined by Jarvis amounted to 26,490 dunums to which was assigned a value of 217,707 pounds. This included 4,976 dunums in Jerusalem. The net annual value of buildings in Jerusalem was determined to be 349,393 Palestinian pounds.⁶¹

No overall values were released by the Refugee Office. The Office also noted that there were several weaknesses in the identification and assessment of individual refugee properties. Tax records which were used for the identification of unsettled rural lands often gave the names of the 'reputed' rather than actual owners while other names were not recorded in full. The areas of the parcels were often approximate and there was no record of encumbrances on the lands. Uncultivable and some marginal land in rural areas was placed in Category 16 under the Rural Property Tax Ordinance and therefore not liable for taxation.⁶² Because land in this category was used in common, records often did not record if the land was held privately or communally. Finally, the Office noted that it encountered serious problems regarding the identification and assessment of refugee lands in the Beersheba sub-district. The Office noted that tax records could not be used for evaluation as land in the sub-district was exempt from the Rural Property Tax Ordinance. Furthermore the Office was unable to recover the tithe records which it

had hope to use to identify and assess the land. In the Register of Deeds, only 200,000 records existed of some 300,000 parcels totaling 64,000 dunums for Arab-owned property. This accounted for less than 2 percent of the sub-district.⁶³

In the immediate years following the completion of the individual refugee property identification and evaluation, the Office received inquiries from individual refugees who wanted to know if their properties had been registered. Several states in the region, Egypt and Jordan, along with the PLO eventually requested and were granted copies of the PCC records which included microfilm of British Mandate government land registers, the RP/1 forms, and the index of refugee owners' names. Despite the completion of the global assessment and Jarvis' more detailed identification and valuation of refugee property losses, the Commission was unable secure compensation for Palestinian Arab refugees who maintained that compensation could not be implemented in the absence of the right of return. The state of Israel, meanwhile, adopted several legal measures to exact compensation for refugees who remained within the territory of the state of Israel but no measures were adopted or implemented with regard to the compensation of the vast majority of refugees dispossessed in 1948. In 1961 Joseph E. Johnson, President of the Carnegie Foundation for International Peace, was requested by the Commission to visit the region and explore options relevant to restitution of refugees. Johnson failed to make advances, however, and resigned in 1963 for personal reasons.

Technical Problems with the PCC Assessment

Subsequent studies of Palestinian refugee losses criticized the PCC findings as too narrow in scope and the valuations as exceptionally low. According to Hadawi, the PCC studies had failed to adhere with directives of the General Assembly in Resolution 194 (III) and 394 (V), and ignored the guidelines of the Working Papers of the UN Secretariat.⁶⁴ Not a single Palestinian was invited to participate in the evaluation process despite requests for participation. Both Hadawi and Atif Kubursi who carried out a detailed economic analysis of refugee losses argue that many of the deficiencies of the PCC assessment are related to the inherent problems in land registration and tax assessment (both of which were used as key determinants in the valuation process) in Palestine which date back to the Ottoman administration prior to the British Mandate. As a body composed primarily of foreign, non-Palestinian staff, Hadawi contends that the PCC was unable to comprehend nor sufficiently account for these problems in its work; principles for assessment which were applicable in England, states Hadawi, could not work in Palestine.⁶⁵

Deficiencies were discovered in the identification and valuation of all types of properties. As regards rural settled land, which would have included the western

villages of Jerusalem, the PCC's valuation did not include a complete stock of all immovable property. The Land Expert only evaluated individually-owned Arab property. Hadawi argues, however, that common or communal lands should have been included as they were not considered to be government-owned but "nominally held by the government for the benefit of the inhabitants of the village as a whole."⁶⁶ This was the position held by the Mandate government which had always claimed that only a small portion of the entire lands of Palestine could be considered State Domain. At the end of 1943, Mandate figures list only 1,542,680 dunums as State Domain out of a total land area of some 26 million dunums.⁶⁷ The land excluded from the evaluation included some 10,400 dunums classified in land categories 16A and B in the villages of 'Ayn Karim, Deir Yasin, Lifta and al-Malha accounting for 38 percent of the total lands of these villages, along with 3,425 dunums in the western areas of Jerusalem that fell under Israeli control. Hadawi suggests that even if the Mandate government was considered to be the legal owner of the property, "logic decrees that on the termination of the Mandate, the property and assets of the departing foreign authority should be divided between the legal inhabitants in proportion to either their numbers or holdings."⁶⁸ Instead, the PCC classified all property that was not individually Arab-owned as non-Arab owned.

The PCC studies also failed to fully identify and evaluate all the buildings in rural areas. Kubursi notes that registration procedures under the Mandate Land Ordinance were discontinued at an early date with regard to the built up area of villages, including those villages west of Jerusalem. Therefore there was no hard data to identify if a particular parcel of land had a building on it. This problem affected over 500 Palestinian Arab villages.⁶⁹ Hadawi claims that it would not be unreasonable, therefore, to assume an increase in the total area affected both outside urban limits and within and outside built-up areas of the villages. This total area would include 54 percent of refugee village lands in the Jerusalem sub-district that came under Israeli control.⁷⁰ In non-settled rural areas neither buildings nor communal land was taxable and therefore their value was not recorded. The PCC study which relied extensively on tax records therefore excluded the value which should have been assigned to these buildings and lands. In the case of land which was planted with orange groves, for example, the fixtures or buildings added to the land parcel were often greater in value than the fallow land itself.⁷¹ Furthermore, in non-settled rural land, taxes were not assigned according to the assessed value of the parcel of land. Rather, the tax distribution committee levied taxes among the landowners paying little attention to the area of each holding.

Both Hadawi and Kubursi detailed a list of further problems not taken into account by the PCC assessment. In the case of village lands divided by the 1949 Armistice Line, those that fell under Israeli control were roughly estimated but

in other cases the Armistice Line was ignored giving the impression that the entire lands of a particular Palestinian Arab village were under Israeli control. The PCC also failed to recognize inherent problems in using tax assessments to affix a value to property. Hadawi notes that Palestinian Arabs who never approved of the Mandate had an interest in keeping their tax assessments low.⁷² Very often conflicts would develop between the two official and the two non-official members of the assessment committee regarding the net annual value of properties, with each trying to please their supervisors or taxpayers respectively. Hadawi also notes that even when the assessment committee had evidence of the actual rental value of properties, it was still often under-assessed.⁷³ If the assessed property was occupied by the owner, the assessment tended to be nominal as it was argued that the owner was receiving nominal financial benefits from the property. The same applied to vacant land. No value was assigned to uncultivable land adjacent to urban areas. Kubursi points out that the use of tax assessments did not allow for the potential development value of the property.⁷⁴

The PCC assessment also contained discrepancies due to inaccuracies derived from rental and sales data. During WWII and until 1948, the law in Palestine stipulated that rents should not exceed their pre-war levels. In the meantime, however, the value of the currency depreciated while costs of construction tripled and quadrupled. The net annual value in the tax records, therefore, did not represent the true picture of rental values.⁷⁵ As regards the use of sales data, Hadawi suggests that it was not unusual for the buyer to arrive at a sale price he was willing to offer by calculating the market value of the land plus what he considered would be the cost of construction thereon. Prior to 1939, building costs per square meter were between two and four Palestinian pounds while after the war the costs had jumped to 20-25 Palestinian pounds. Assessments based on the net annual value before the war were, therefore, low.⁷⁶ Buyers and sellers of land also had an interest in reporting a sale price lower than the actual price at which the property was sold in order to obtain a lower registration fee.

There were other land registration problems inherent in the system in place in Palestine in 1948 which, unaccounted for in the PCC study, gave rise to an under-evaluation of refugee losses. Land registered under the Ottoman system identified land parcels according to boundaries fixed without reference to a cadastral survey. While the the British Mandate had instituted land surveys under the 1928 Land Settlement Ordinance, by 1948 less than a third of the country was surveyed, and the latter included areas that were taken over by Israel's Custodian of Absentee Property, including the Jerusalem area.⁷⁷ According to the identification process completed by the Refugee Office, only 6,040 dunums of Palestinian Arab lands in the Jerusalem sub-district had been surveyed by 1948.⁷⁸ The Refugee Office did

not record a single dunum of urban registered land in the Jerusalem sub-district.

Land was also sold without registration in the Register of Deeds, thus making the identification of ownership quite complex. Last, but not least, land inheritance divided the ownership into yet more fractions, which were also not recorded in the Register of Deeds.⁷⁹ The PCC study contained several additional general discrepancies. In terms of the value of property, according to tax category, Hadawi noted that the land surveyor who was responsible for assessing property, did not recognize the difference in categories, such as cultivated and cultivable and uncultivated and uncultivable.⁸⁰ While nearly half a million records for properties owned by Palestinian Arabs were prepared, no computer data was ever generated leading to probable errors with data management.⁸¹ The PCC documents, moreover, apparently contain a significant amount of figures that are crossed out as well as amendments giving rise to uncertainty about the actual meaning of the data. Hadawi also points out that the PCC study did not distinguish between Palestinian Arab property owners who fled their villages and lands and those who remained.⁸² In the Jerusalem sub-district area occupied by Israel, only two villages, Beit Jimal and Qaryet al-'Inab (Abu Ghosh), with a total land area of 11,650 dunums or roughly 4 percent of Palestinian Arab lands under Israeli control in the sub-district, remained partially intact.⁸³

Based on his knowledge of the land issue in Palestine, Hadawi provided several suggestions to the PCC in his role as Land Specialist in order to come up with a more accurate and complete identification and evaluation of refugee losses. These included the publication of schedules of identification of immovable property in refugee camps and other conspicuous places for corrections by the property owners; requesting refugees to submit an itemized list of their losses on an additional form; and, establishing a panel of land valuers to provide an assessment based on the division of Palestine into zones of approximate equal capital value.⁸⁴ These suggestions, however, were not acted upon by the Commission.

Other Assessments of Palestinian Losses in Jerusalem

According to the League of Arab States which undertook an evaluation of lost properties published in 1956, the total value of Palestinian refugee property was 1,933 million Palestinian pounds in 1948 prices. The value of land and buildings was set at 1,726 million pounds while movable property was assigned a value of 200 million pounds.⁸⁵ As regards Jerusalem, the League estimated that some 50,000 persons were expelled from the city in 1948.⁸⁶ Based on the study's assumption of 5 persons per family, the total number families expelled from Jerusalem would be 10,000. At an average rent of not less than 230 pounds sterling per home, the total value according to rental prices, for Palestinian Arab refugee homes in Jerusalem

(assuming one family per home) would be 2,300,000 pounds sterling in 1948.⁸⁷ Using the same procedure an estimate of Palestinian refugee losses in the western villages that were later annexed to Israeli controlled West Jerusalem can be derived. The League set per annum rent of rural homes at 50 pounds sterling. According to revised figures used by Hadawi, the total population of the four villages later included within the West Jerusalem municipality, namely Lifta, Deir Yasin, 'Ayn Karim and al-Malha, in 1948 was 9,345.⁸⁸ This translates, based on 5 persons per family, into 1,869 homes at a total rental value of 93,450 pounds sterling. The total value of the loss in refugees homes, according to League figures, would be 2,393,450 pounds sterling at 1948 prices. The League also determined that refugee losses included some 10,000 shops and commercial premises valued at 175 pounds sterling per year. A simple calculation based on the percentage of refugees from Jerusalem would set the value of Jerusalem losses in shops and commercial premises at around 120,000 pounds sterling, however, this should be regarded as extremely inaccurate without an exact determination of the number and type of commercial establishments per capita as compared to other cities and towns in Palestine.

In general Kubursi regards the Arab League estimates as inaccurate due to the use of land figures which are at times sketchy and insufficiently detailed.⁸⁹ There is no account of how figures for the total amount of dunums in refugee properties was obtained and description of land use was not precisely related to tax categories of rural land or net annual values of property. Kubursi also suggests that there is a weak relationship between the net revenue figures on rental incomes from property and their asset (capital) value, not to mention the fact that the revenue and rental income figures used by the League were generally arbitrary and differed from real figures.⁹⁰

Yusif Sayigh also made a cursory estimate of Palestinian refugee losses as part of his book on the Israeli economy.⁹¹ Sayigh divided losses into several categories which expanded the scope used by previous studies. These categories included, personal property, Arab share of public property, income opportunities, transitional costs, and separation costs.⁹² Sayigh calculated the value of Palestinian refugee homes based on a unit price which was substantially higher than the rental value assigned by the Arab League. For urban areas, Sayigh attached a value of 2,500 Palestinian pounds per unit. Based on the figure of 10,000 units of property in Jerusalem, the overall value of housing units in urban areas would have been 25,000,000 Palestinian pounds. The value of a unit in the villages was determined to be 250 Palestinian pounds per unit which would bring the total cost of refugee properties in the four villages later annexed to Jerusalem to 467,250 Palestinian pounds or about five times the value as fixed by the Arab League. Sayigh determined per unit values for other types of lost properties included in the table below, however,

any estimate without data concerning the approximate number of each of these types of property in Jerusalem (not defined in the last British Mandate survey of Palestine) would be extremely inaccurate.

Table 8 Per Unit Evaluations of Immovable and Movable Property According to Sayigh ⁹³

Unit	Value per unit (Palestinian pounds)
Religious Buildings	3000
Factories	5000
Offices	3000
Shops rural/urban	400/2500
Restaurants	2000
Hotels	15000
Warehouses	2500
Personal effects rural	25 per refugee
Personal effects urban	400 per refugee

Using evaluations determined by Sayigh for the value per unit type of land, it is also possible to assign some aggregate values for refugee lands in Jerusalem and the adjacent western villages. Overall, urban lands were valued at 400 Palestinian pounds per dunum. The total value of Palestinian lands in Jerusalem, based on land ownership of 7,293 dunums would be approximately three million Palestinian pounds.⁹⁴ The land in built-up areas of villages was assessed at 60 Palestinian pounds per dunum which would bring the total assessed value of this area, using Hadawi's revised Schedule, to 230,000 Palestinian pounds. Other land values, according to tax category, in the villages of Lifta, Deir Yasin, al-Malha and 'Ayn Karim are difficult to calculate as they do not correlate easily with the assessment categories used by Sayigh. The remaining amount of village land according to tax category and the values assigned to land categories by Sayigh are contained in the tables below. In general, the values are higher than those used by Berncastle.

Table 9 Evaluation of Land per Unit Type According to Sayigh ⁹⁵

Unit	Value per unit (Palestinian pounds)
Fruit trees and olive groves	300
Irrigated land	100
Cultivable land (grains)	40
Marginal land	16

Like the Arab League estimate, Sayigh also provided assessed values for Palestinian Arab stocks, the capital stock of offices, hotels, restaurants and cafes. He also calculated the Arab share of income, which was set at 68 million Palestinian pounds in 1948 of which the refugee share would be around 55.2 million pounds with inclusion of rent on owner-occupied homes and value of farmer's consumption.⁹⁶ Based on a simple percentage of refugees from the western areas of Jerusalem, including the four villages, this would be about 5.9 million Palestinian pounds.

While Kubursi noted that Sayigh's study was greatly improved over previous assessments he noted that it was not without some deficiencies.⁹⁷ In general, Kubursi felt that the data was not based on thorough and detailed enumeration of Arab holdings and distinctions in terms of quality and type are therefore limited. He also noted that a more accurate assessment would be derived from a separation of income from labor and income from property.

Taking into account the discrepancies and errors noted by Hadawi, Atif Kubursi, an economist, prepared a new evaluation of Palestinian refugee losses. Kubursi's study is unique from previous studies in that it is based on economic theory of restitution taking into account compensation precedents established through restitution of Jewish victims of Nazi persecution. Kubursi's evaluation, therefore, includes not only indemnification for damage to property, but it also includes damage to persons. Together, the following categories of claims were taken into account in Kubursi's assessment:

- a. immovable property; appurtenances of immovables; movable property; enterprises (industrial, commercial, artisanal, professional); capital or fortune; income from whatever source; securities, share, accounts, claims, mortgages; contracts (insurance, leases, employment contracts, pensions); rights from patents, copyright, trademarks; and,
- b. loss of life; loss of health; forced labor; deportation, enforced residence, imprisonment, segregation; maltreatment; degradation.⁹⁸

Using housing again as an example for comparison, Kubursi assessed the average rent on rural units at 30 pounds from which 10 percent was deducted for maintenance, bringing the net value to 27 pounds. The real rate of interest of 4 percent was then used as the basis for translating income into capital bringing the average value of each rural housing unit to 675 pounds. This figure is considerably higher than previous assessments. For the villages that were included within the Israeli-controlled municipality of West Jerusalem after 1948, this would bring the approximate aggregate value of Palestinian refugee homes to 1.3 million pounds. Kubursi sets the value of

Palestinian losses in buildings in Jerusalem at around 25 million pounds.⁹⁹

Several additional valuations specific to Jerusalem can be derived or extrapolated from Kubursi's assessment. The refugee share of the total Palestinian wealth in 1944 was set at 1,039 million Palestinian pounds (although Kubursi thought this figure was low) of which the share of Jerusalem refugees, including those from the 4 western villages, would be 110 million Palestinian pounds. The total value of non-human wealth for refugees was set at 433 million Palestinian pounds in 1944 prices. Kubursi affixed an additional 300 million Palestinian pounds to this figure to cover lost opportunity and the deterioration of human capital experienced by the refugees. Out of a total figure of 733 million Palestinian pounds, the share accorded to Palestinian refugees from western Jerusalem would be around 77 million Palestinian pounds.

In terms of commercial capital and stocks, the refugee share was set at 30.2 million Palestinian pounds of which the share of Jerusalem refugees would be around 3.2 million. As for a per unit valuation comparison with the previous studies, Kubursi affixed the following values to properties listed in the table below.

Table 10 Value per Unit of Immovable Property according to Kubursi ¹⁰⁰

Unit	Value per unit (Palestinian pounds)
Commercial units	3,397
Hotels	15,000
Restaurants	2,000

While the PCC set its estimate of total Palestinian assets at 6 million Palestinian pounds, Kubursi affixes a figure of 12.5 million or roughly double that of the PCC. The share of refugees from Jerusalem would be approximately 1.3 million pounds. The total value of commercial fixed and circulating capital owned by refugees was set at 45.9 million Palestinian pounds in 1948 prices of which the share of Jerusalem refugees would be around 4.9 million pounds. Kubursi estimates that the total value of private and personal wealth, which includes items such as household furniture and fixtures, was around 108.2 million Palestinian pounds in 1948. He then subtracts half of this figure as property taken from the refugees (a figure which he suggests as low) to arrive at a total evaluation of 54 million Palestinian pounds or about 5.7 million for refugees from Jerusalem.

Kubursi also calculated the cost of land losses. In Jerusalem, Kubursi affixed a figure of 4,829,276 Palestinian pounds to the property of Palestinian Arab refugees. Overall rural land losses were assessed at 398 million pounds. If the percentage of Jerusalem village lands is included in this figure, excluding village lands which

did not fall within the boundaries of the territory that became the state of Israel, this would produce a valuation of around 600,000 Palestinian pounds. However, this estimate should not be regarded as highly accurate as it does not take into account the category of land type or the potential value of the land which was later incorporated into Jerusalem. Overall, Kubursi assigns a value of 743.05 million Palestinian pounds as total Palestinian Arab refugee property losses. If human capital losses are included, this figure rises to 1,176 million Palestinian pounds while the inclusion of compensation for psychological damage and pain would produce a total figure of 1,424 million Palestinian pounds or \$253,000 million in 1998 US dollars. According to the percentage of refugees from Jerusalem and the four western villages, these figures would, respectively, be 78.7 million Palestinian pounds for material losses, 123.8 million Palestinian pounds with the addition of human capital losses and a total figure with the addition of psychological damage and pain set at 152 million Palestinian pounds or \$27,000 million in 1994 US dollars.¹⁰¹

Conclusion

While there are several major problems with the identification and evaluation completed by the Palestine Conciliation Commission in 1964, the records remain an important base source of documentation for restitution of Palestinian Arab refugees. The following table provides a comparison of overall evaluations of Palestinian refugee losses in 1948 with special reference to Jerusalem and its western villages.

Table 11 Comparison of Palestinian Refugee Losses Evaluations (million Palestinian pounds)¹⁰²

	UNPCC	AHC	Sayigh	Kubursi
Rural Lands	70	220	390.5	398.6
Urban Lands	30	1,100	253.7	130.3
Movable Property	20	200	62.5	54
Total Losses	120	1,933	756.7	743.05
Jerusalem & Villages share	10.7	177.8	67.3	66
Jerusalem & Villages homes		2.4	25.5	26.3

In order to complete the identification and evaluation process to the greatest extent possible and facilitate refugee involvement, the PCC records still need to be distributed, as suggested by Hadawi, in refugee areas so that refugees and their heirs can check the property lists and, if necessary, complete separate forms for properties not included in the PCC lists. The records of the PCC would also be

enhanced through the collection of copies of land documents still retained by refugees. Updated copies of the records of the Israeli Custodian of Absentees' Property, furthermore, should be turned over to the PCC in order to trace and document the transfer of refugee lands and property. With the use of modern technology it will be relatively easy to locate these lands and properties.

While Paragraph 11 of UN General Assembly Resolution remains unimplemented, the passage of fifty years since the displacement and dispossession of Palestinian refugees, including those from Jerusalem, does not weaken or abrogate the right of Palestinian refugees to restitution as codified in international law and defined in Resolution 194 which has been reaffirmed by near unanimous vote since 1948. Recent resolutions by the General Assembly, moreover, reaffirm that "the Palestine Arab refugees [are] entitled to their property and to the income derived therefrom, in conformity with the principles of justice and equity," and call upon the PCC once again to "take appropriate steps to protect Arab property, assets and property rights in Israel and preserve and modernize existing records."¹⁰³

Endnotes

¹ Schedule of Area Ownership Map from Palestine Survey Maps and Taxation Records, reproduced by Sami Hadawi.

² Cattan (1988), p. 253.

³ Hirst, p. 233.

⁴ UN Document S/863, 3 July 1948. Text of Suggestions of the United Nations Mediator on Palestine to the two Parties on 28 June 1948.

⁵ UN Document S/961, 12 August 1948. Cablegram Dated 12 August 1948 from the United Nations Mediator to the Secretary General concerning the Observance of the Truce in Jerusalem.

⁶ UN Document A/648, 16 September 1948.

⁷ UN Document A/RES/181, 29 November 1947. According to Part I, Section C, Chapter 2(8) of Resolution 181 on Religious and Minority Rights, "No expropriation of land owned by an Arab in the Jewish state (by a Jew in the Arab state) shall be allowed except for public purposes. In all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dispossession." Chapter 3 on Citizenship, International Conventions and Financial Obligations also lists compensation as one of the financial obligations of the states to be established under the Resolution.

⁸ UN Document A/648, 16 September 1948.

⁹ Ibid.

¹⁰ Ibid.

¹¹ UN Document A/648, 16 September 1948.

¹² UN Document A/RES/194 (III).

¹³ Ibid.

¹⁴ UN Document A/922, 22 September 1949.

¹⁵ As regards the orange groves the committee of experts which examined one-third of the groves in the summer of 1949 found that on average more than 50 percent of the groves had been destroyed and less than 25 percent could be salvaged for production but only if immediate steps were taken to put hydraulic and other machinery into operation. Israel agreed to permit readmission of wives and minor children of Arab breadwinners lawfully resident in Israel and to consider other compassionate cases for readmission. Report of the Technical Committee on Refugees, Submitted to the Conciliation Commission in Lausanne on 7 September 1949, in UN Document A/1367/Rev.1.

¹⁶ UN Document A/922, 22 September 1949.

¹⁷ While the Commission continued to work towards the implementation of refugee return and compensation it was cognizant that some refugees might not wish to return and that measures should be taken in consultation with host countries towards the resettlement of these refugees. Resettlement, however, also included assistance to Palestinian Arab refugees who would return to their homes and land.

¹⁸ UN Document A/1367/Rev.1, 23 October 1951.

¹⁹ Working Paper, UN Document A/AC.25W.81/Rev.2, October 1949.

²⁰ Convention (IV) Respecting the Laws and Customs of War on Land and its annex: Regulation concerning the laws and customs of war on land, 3 Martens Nouveau Recueil (Ser.3) 461, 187 Consol. T.S. 227, Chapter I, Article 23(g), 28, Chapter V, Section III, Article 46, 47.

²¹ Working Paper, UN Document A/AC.25/W.81/Rev.2, March 1950.

²² These included: (a) That inhabitants of areas falling within the no man's land in the north of the Gaza region be allowed to return as soon as possible to their lands to cultivate them; (b) That refugees at present in the Gaza area under Egyptian control and possessing land in the hinterland of this zone be allowed to undertake as soon as possible the cultivation of these lands; (c) That refugees at present in the Gaza zone originating from the Beersheba area be allowed, provisionally and pending a final settlement, to establish themselves in that area. UN Document 1/1255, 29 May 1950.

²³ Letter dated 28 February 1950 to the Chairman of the Conciliation Commission from Mr. Gideon Rafael cited *Ibid.* Also see UN Document A/1367/Rev.1, 23 October 1951.

²⁴ *Ibid.*

²⁵ UN Document 1/1255, 29 May 1950. Kubursi cites Commission estimates at 6 million Palestinian pounds including assets of the Arab Bank and Arab National Bank. Kubursi (1996), p. 12.

²⁶ *Ibid.*

²⁷ UN Document A/RES/394 (V).

²⁸ Peretz (1958), p. 197.

²⁹ UN Document A/1985, 20 November 1951.

³⁰ Abu-Sitta (1998), p. 7 and 13. Abu-Sitta further notes the breakdown of Jewish and Arab land pre-1948 in the area that became the state of Israel as follows: land owned by Palestinian Arab refugees, 17,178 sq. km; land owned by Palestinian Arabs who remained, 1,465 sq. km; land owned by Jews, 1,682 sq. km; and, total area of Israel, 20,325 sq. km. According to Abu-Sitta, 154,000 rural Jews currently control 17,325 sq. km of land inside Israel, all of which is Palestinian Arab refugee land.

³¹ *Ibid.*

³² 1 sq. km equals 1000 dunums. 4 dunums equals 1 acre. The figure was arrived at by subtracting all villages outside the territory controlled by Israel, included the demilitarized areas as well as Jerusalem's 'no man's land' and the subtraction of urban areas and villages in which land continued to be held by the original Palestinian Arab inhabitants. According to the Refugee Office a total of 4,186 sq. km were passed to Jewish control, excluding the Naqab (Negev), of which 1,432 sq. km were uncultivable, 15 sq. km village built-on areas, and 2,739 sq. km of cultivable land. In the Naqab, 12,138 sq. km fell under Israeli control of which 10,303 sq. km were deemed uncultivable and 1,835 sq. km cultivable.

Evaluation of Abandoned Arab Property in Israel, Annex A, UN Document A/1985, 20 November 1951. Abu-Sitta gives a slightly higher figure of 17,178 sq. km. See note 30 above.

³³ Identification figures are based on later work by the Commission's Refugee Office. This includes 281,878 dunums of rural Palestinian Arab lands that fell under Israeli control (including 11,650 dunums of the villages of Beit Jimal and Abu Ghosh in which some residents remained on their lands); 81 dunums of Palestinian Arab lands in the Jewish settlements of Har Tuv and Ramet Rahal, and the Jerusalem urban areas that fell under Israeli control. The figure for Jerusalem lands is calculated based on individual Arab ownership of 5,487 dunums of land in the western areas of Jerusalem that fell under Israeli control and a percentage of lands classified as government/municipal and rails/roads based on the Arab-Jewish proportion of land holdings in that part of the city. It excludes 2,473 dunums of land classified as Christian religious land and 850 dunums classified as 'no-man's land' and UN areas. Hadawi, Schedule of Area of Ownership, from Palestine Survey Maps & Taxation Records. The area of the sub-district of Jerusalem according to British Mandate figures was 1,571,000 dunums. *A Survey of Palestine*, I: p. 104.

³⁴ Hadawi (1988), p. 236.

³⁵ Ibid. For review of British Mandate land ordinances see *A Survey of Palestine*, I: pp. 225-308.

³⁶ The use value for agricultural land was based on the estimated productivity of crops and for buildings in urban areas on the actual or estimated productivity of rent, plus the normal development value or the value attached to vacant sites within the boundaries of towns. The Office attributed the speculative elements to conditions during and after WWII; the effect of the Land Transfer Regulations of 1939 which forced up prices due to the limited areas in which Jews were allowed to purchase land; the purchase of land by the Jewish National Fund for strategic reasons at excessive prices; and the Palestinian Arab campaign against the sale of land to Jews. Furthermore, as regards urban lands, a notional amount of tax payable on lands in each town was arrived by assuming that the tax payable was in proportion to the decrease in population. This figure was then multiplied by ten to arrive at the net annual value, and weighted by 25 percent to account for the fact that tax assessments rarely accounted for the full market value and by an additional 25% to take into account the rise of values between the last assessment before 1945 and the end of 1947. The weighted net annual value was multiplied by a coefficient of 16.667 to arrive at the global capital value. UN Document A/1985, Annex A, Evaluation of Abandoned Arab Property in Israel, 20 November 1951.

³⁷ Ibid.

³⁸ Ibid.

³⁹ UN Document A/1985, 20 November 1951.

⁴⁰ A total net annual value of 444,000 Palestinian pounds was assigned to the property to which was added 25 percent (see note 35 above). Application of the capitalization co-efficient of 16.667 to the resulting net annual value of 555,000 Palestinian pounds gave the total value. Ibid.

⁴¹ This includes the Palestinian Arab share of public land, as per Hadawi (1988), pp. 278-79; but excludes 667 dunums from Malha and 2,653 dunums from Lifta which remained outside of Israeli territory but for which no classification is available according land category.

⁴² See chapter appendix, Table A and B. Ibid.

⁴³ The Office noted that in population exchange between Turkey and Greece after WWI, the proportion of the value of abandoned movables to the value of abandoned immovables in the case of the Turks leaving Greece was 4.7 percent and in the case of the Greeks leaving Turkey 60.9 percent. The Turks were a predominantly rural community and the Greeks predominantly urban. According to the Office, there was thus a "distinct similarity between the social structure of the Turkish and Greek communities and the rural and urban Arab communities respectively. Thus movable property was determined as 4.7 percent of 70,000,000 Palestinian pounds in rural property (3,300,000 Palestinian pounds) and 60.9 percent of 30,000,000 Palestinian pounds (18,270,000 Palestinian pounds) for a total of

21,570,000 Palestinian pounds in movable property. The Office looked at France where movable property, defined as furniture and household effects, was determined to be 5 percent of immovable property. This would place the value of Palestinian refugee household effects at 5 million Palestinian pounds, however, the Office used a percentage of 2.5 given what it viewed as the “relatively low standard of living and the relatively high value of land.” UN Document A/1985, Annex A, Evaluation of Abandoned Arab Property In Israel, 20 November 1951.

⁴⁴ Taking 40 percent as a mean average of movable property as a percentage of national income which was set at 62 million Palestinian pounds in 1945, would give a figure of 24,800,000 Palestinian pounds as the value of movable property. To this figure which represents the total value of movable property for the entire Palestinian Arab population a ratio of 75 percent is added to account roughly for the number of refugees of the total population producing a figure of 18,600,000 Palestinian pounds. Ibid.

⁴⁵ See Table C in chapter appendix for Palestinian Arab property in Palestine in 1945. This figure was reduced by 25 percent to allow for the total number of refugees out of the total population and then a value of 2.5 million Palestinian pounds (see note 43) was added for household effects for a total of 19.1 million Palestinian pounds. Ibid.

⁴⁶ 1945 estimate total includes the 2.5 percent estimate used for determining furniture and household effects not included in the 1945 estimate of movable property. Ibid.

⁴⁷ Ibid.

⁴⁸ UN Document A/2629, 4 January 1954.

⁴⁹ Figures compiled from, UN Documents A/3199, 4 October 1956; A/3835, 18 June 1958; A/4225, 22 September 1959; A/4573, 14 November 1960; A/49121 and Add.1, 13 October 1961; A/5337, 7 December 1962; 1/6225, 28 December 1965; A/6451, 30 September 1966. UN Document A/3199, 4 October 1956.

⁵⁰ Hadawi (1988), p. 131. UN Document A/2629, 4 January 1954.

⁵¹ *Arab Property and Blocked Accounts in Occupied Palestine*. Cairo: League of Arab States, 1956, 31 cited in Hadawi (1988), p. 131.

⁵² See Table D chapter appendix. Figures compiled from, UN Documents A/3199, 4 October 1956; A/3835, 18 June 1958; A/4225, 22 September 1959; A/6225, 28 December 1965. The figures for Dossiers of Other Bonds from 1965 excludes 275 Palestine Government Bearer bonds which were released under an extended release scheme.

⁵³ UN Document A/2216, 8 October 1952.

⁵⁴ Further classification of lands included: 1. parcels recorded as state domain but which were subject to transfer to Arabs upon their payment of the unimproved capital value of the land; 2. parcels recorded as state domain but which had been occupied by Arabs for many years and which Mandatory regarded as let to occupiers under implied leases; 3. parcels recorded as state domain and let to Arabs under longterm leases; 4. parcels owned by non-Arabs but let to Arabs on longterm leases.

⁵⁵ The 1928 Land Ordinance provided for the division of land by means of a cadastral survey into units of registration called parcels according to category and ownership; a judicial investigation of all registrable rights in the parcel; and, recording the title in a new land register along with the registrable rights affecting the land concerned. For details of the Land (Settlement of Tithe) Ordinance, 1928, see *A Survey of Palestine*, I: pp. 246-7.

⁵⁶ UN Document A/AC. 25/W.84 of 28 April 1964, Appendix A1, reprinted in Hadawi (1988), pp. 222-3.

⁵⁷ UN Document A/3835, 18 June 1958.

⁵⁸ UN Document A/5337, 7 December 1962.

⁵⁹ Hadawi (1988), p. 43.

⁶⁰ Ibid, p. 248.

- ⁶¹ UN Document A/AC.25/W.84, 28 April 1964, Appendix A, reprinted *ibid.*, p. 221.
- ⁶² For details on the Rural Property Tax Ordinance see *A Survey of Palestine*, I: pp. 250-254.
- ⁶³ UN Document A/4225, 22 September 1959.
- ⁶⁴ Hadawi (1988), p. 96.
- ⁶⁵ *Ibid.*
- ⁶⁶ *Ibid.*, note 14, p. 326, for background details.
- ⁶⁷ *Ibid.*, p. 108. This figure coincides with figures in category 16 (defined as ‘public’ lands and ‘roads, etc.’) in the summary statement of *Village Statistics*, 1945, p. 3.
- ⁶⁸ Hadawi (1988), p. 107.
- ⁶⁹ *Ibid.*, p. 127.
- ⁷⁰ *Ibid.*, p. 110.
- ⁷¹ *Ibid.*, p. 111.
- ⁷² *Ibid.*, p. 99 and 281.
- ⁷³ *Ibid.*
- ⁷⁴ *Ibid.*, p. 124.
- ⁷⁵ *Ibid.*, p. 101.
- ⁷⁶ *Ibid.*
- ⁷⁷ Peretz (1994), p. 19.
- ⁷⁸ UN Document A/AC 25/W.84, 28 April 1964, Appendix A1, reprinted in Hadawi (1998), p. 222-3.
- ⁷⁹ *Ibid.*
- ⁸⁰ Hadawi (1988), p. 98.
- ⁸¹ *Ibid.*, p. 127.
- ⁸² *Ibid.*, p. 111.
- ⁸³ *Ibid.*, p. 244.
- ⁸⁴ *Ibid.*, p. 98.
- ⁸⁵ The remainder included 6 million pounds in securities and deposits in banks and insurance companies’ funds. *Arab Property and Blocked Accounts in Occupied Palestine*, *Ibid.*, p. 128.
- ⁸⁶ *Ibid.*, p. 130.
- ⁸⁷ *Ibid.* The value of the pound sterling at the time was about the same as the Palestinian pound.
- ⁸⁸ *Ibid.*, pp. 276-281. Abu-Sitta (1998) gives a slightly higher total population of the four villages of 9,605. Based on this estimate the value of homes would be 96,050 pounds with the total value, including Jerusalem set at 2,396,050 pounds.
- ⁸⁹ Hadawi (1988), p. 131.
- ⁹⁰ *Ibid.*
- ⁹¹ Sayigh, Yusif A. (1966). *The Israeli Economy*. Beirut: PLO Research Centre, pp. 92-133 cited *Ibid.*, p. 128.
- ⁹² *Ibid.*, p. 133. Transitional costs included the costs associated with the refugee exodus and repercussions on the economies of the West Bank and Gaza Strip. Separation costs included the economic burdens carried by neighboring Arab states due to hosting the refugees and the economic losses associated with the closure of the Palestinian market.
- ⁹³ *Ibid.*, p. 133.
- ⁹⁴ This includes land identified by Hadawi as government and municipal, roads and railroads and other (religious communities).

⁹⁵ Hadawi (1988), p. 133.

⁹⁶ Ibid.

⁹⁷ Ibid., p. 136

⁹⁸ Ibid., p. 142.

⁹⁹ Ibid., p. 177.

¹⁰⁰ Ibid, p. 154. Values for hotels and restaurants are based on Sayigh.

¹⁰¹ Ibid., p. 24.

¹⁰² Jerusalem and village share is calculated based on percentage of refugees out of total refugee population in 1948.

¹⁰³ UN Documents A/51/129, 13 December 1996; A/52/61, 10 December 1997; and, A/52/644, 5 November 1998.

Appendix: Property Estimates

Table A - PCC Estimate of Rural Palestinian Property Losses by Land Category

Land Category	Type	Area (dunums)	Value (Palestinian pounds)
1,2 and 3	Citrus and Banana	121,184	9,694,720
4	Village Built-on area	14,602	2,190,300
5 to 8	Irrigated land, plantations, etc	303,750	14,807,812
9 to 13	Cereal lands	2,113,183	35,501,474
14 and 15	Cereal land	201,495	725,382
16A and 16B	Forests and uncultivable land, roads and railways		<i>Not evaluated</i>
	Negev	1,834,849	6,605,456
TOTAL		4,589,063	69,525,144

Table B - Land Type and PCC Assessed Value per dunum

Land Category	Type	Value (Palestinian pounds/dunum)
1 and 2	Citrus	80
3	Bananas	80
4	Village Built on Area	150
5 to 8	Irrigated lands, fruit plantations and first-grade ground crop land	48.75
9-13	Cereal lands	16.8
14 and 15	Marginal cereal lands	3.6
16A and 16B	Forests and uncultivable land, roads and railways	<i>Not Evaluated</i>
	Negev	3.6

Table C - Movable Property Estimates According to Village Statistics, 1945

Type	Value (million Palestinian pounds)
Industrial equipment	3.4
Commercial Stocks	4.3
Motor Vehicles	1.3
Agricultural equipment and livestock	13.1
Total	22.1

Table D - Release of Accounts by Location of Refugees, 1955

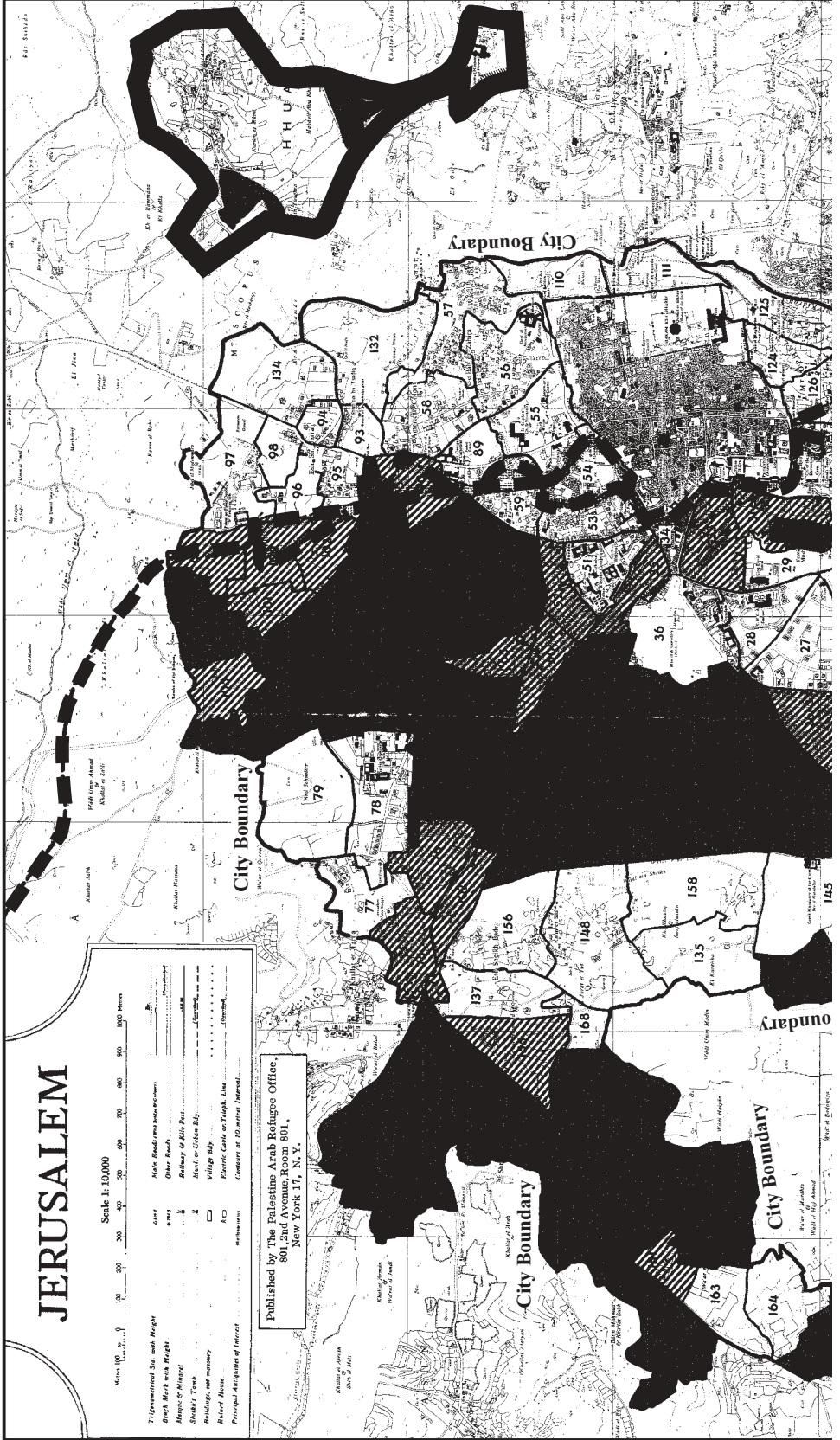
Jordan	1,528,400
Lebanon	602,900
Syria	144,000
Egypt	74,900
Gaza	26,000
Other	162,442
TOTAL	2,538,642

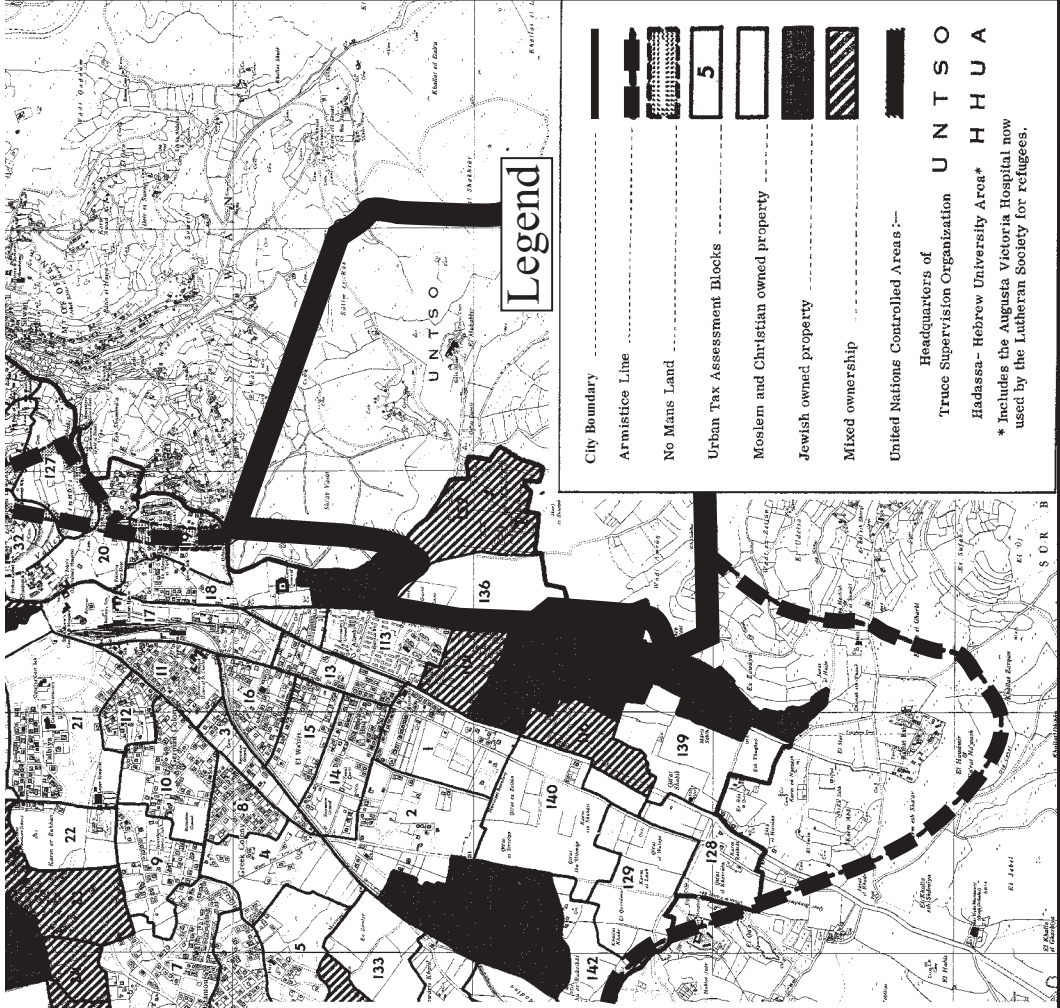
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Map 5

Property Distribution in Jerusalem, by population group, 1946





Legend

- City Boundary
- Armistice Line
- No Mans Land
- Urban Tax Assessment Blocks
- Moslem and Christian owned property
- Jewish owned property
- Mixed ownership
- United Nations Controlled Areas :-
 - Headquarters of Truce Supervision Organization
 - UNTSO
 - Hadassa - Hebrew University Area* H H U A

* Includes the Augusta Victoria Hospital now used by the Lutheran Society for refugees.

SCHEDULE OF AREA OWNERSHIP

1. Land Area Ownership - Area - New City - 19, 331 dunums*
Old City - 800**

Total Area :- 20, 131

- i) During the Mandate (New City)
- Arab-owned - 40.00%
 - Jewish-owned - 26.12%
 - Others (Christian Communities) - 13.86%
 - Government & Municipal Roads and Railways - 2.90%
 - 17.12% 100%
- ** Jewish ownership in Old City less than five dunums.
Rest is owned by Moslem and Christian communities.

- ii) As result of Armistice Agreement (New City)
- Arab Area in Jordan - 2, 220 dunums or 11.48%
 - Jewish-occupied Area - 16, 261 dunums or 84.13%
 - No-man's Land & U. N. Area - 850 dunums or 4.39%
 - 19, 331 dunums or 100.00%

- iii) Ownership of land in Israeli-occupied area - 16, 261 dunums
- Arab-owned - 33.69%
 - Jewish-owned - 30.04%
 - Others (Christian Communities) - 15.21%
 - Government & Municipal Roads and Railways - 2.47%
 - 18.59% 100.00%

* One dunum equals 1000 square metres
4.05 dunums equals One Acre.
1000 dunums equals One square kilometre
2590 dunums equals One square Mile