

INTRODUCTION

This issue of the *Israel Law Review* is dedicated to a contemporary examination of the Palestine Mandate, adopted by the League of Nations in 1922. It features selected articles from two events focusing on the Mandate, held in the Faculty of Law at The Hebrew University of Jerusalem, under the auspices of the International Law Forum and with the support of The Knapp Family Foundation. The first event, held in May 2015, was an international conference on ‘Legalities and Legacies: The Past, Present, and Future of the Palestine Mandate in International Law’. The second event was an expert workshop convened in February 2016 under the title ‘The Palestine Mandate: Past and Present’. Both events focused on the contemporary significance of the Palestine Mandate, primarily but not exclusively from a legal perspective.

‘The League of Nations Mandate System and the Palestine Mandate: What Did and Does It Say about International Law and What Did and Does It Say about Palestine?’ by Malcolm Shaw is based on his keynote address at the 2015 conference. The article examines the essential characteristics of the Palestine Mandate in the context of the League of Nations mandate system as a whole, and then considers this Mandate’s historical framework and exceptionality. The article posits the distinction between the international allocation of the status of a territory and the determination of its boundaries.

In ‘Reinventing a Region (1915–22): Visions of the Middle East in Legal and Diplomatic Texts Leading to the Palestine Mandate’, Karin Loevy traces a set of regional images in international legal and diplomatic documents leading to the establishment of the Palestine Mandate. Her analysis suggests that at that important crossroad, when a new world order was imagined and negotiated, a broad, layered and diverse vision of a comprehensive ‘region’ was actively present in the minds of very different actors within the framework of empire. A vast territory was reconceived in a manner allowing new ways of rule and of influence, for enhanced development and for dealing with strictly European globalised problems. This powerful regional vision was later disregarded because of the weight of the subsequent territorial geopolitics in the Middle East.

Amos Israel-Vleeschhouwer also offers an alternative view to that which the Palestine Mandate eventually provided, through the vision of a representative of the ultra-orthodox community in Palestine who appeared before the international committees which considered the future of the Mandate. In ‘The Mandate System as a Messianic Alternative in the Ultra-Religious Jurisprudence of Rabbi Dr Isaac Breuer’, Israel-Vleeschhouwer traces the work of Rabbi Dr Isaac Breuer, a German jurist and Jewish rabbi. In his work, Breuer criticised the concept of sovereignty and introduced an alternative regime for global governance of developing peoples. Breuer’s model replaces the notions of ‘sovereignty’ and ‘rights’ with those of internalised obligations and subservience to law and justice. Limiting any national aspirations to total sovereignty, he implored the UN to refrain from elevating the Jewish national home to statehood. Opposing the Zionist position, he insisted that the Mandatory power and international institutions would enable two nations to develop side by side, in what he termed ‘the state of peace’, under international trusteeship.

Looking at the role of the Palestine Mandate in contemporary debate, ‘The Unique Character of the Mandate for Palestine’ by Matthijs de Blois emphasises the Mandate’s unique character with respect to both its beneficiaries, the Jewish people, wherever they live, and the obligations of the Mandatory power. After recounting the response to the Palestine Mandate by representatives of Palestinian Arabs and the gradual departure of the British government from its obligations, the article argues that the unique character of the Mandate has been kept under wraps. Some academic writings and legal action by Palestinians now offer a radical revisionism, which uses the Mandate as the legal basis for a Palestinian state. De Blois argues that this trend is not without consequences for the recognition of Israel as a Jewish state and for the right of the Palestinians to self-determination.

Yuval Shany’s article ‘Legal Entitlements, Changing Circumstances and Intertemporality: A Comment on the Creation of Israel and the Status of Palestine’, also considers the continued relevance of the Mandate, in the context of a critical assessment of some of the legal conclusions offered by Professor James Crawford, who, in the second edition of his seminal treatise *The Creation of States in International Law* (published in 2006), discusses the events surrounding the creation of Israel and the status of Palestine. Shany addresses the relationship between the principles of *ex injuria non oritur jus* and *ex factis oritur jus* in the Israeli–Palestinian context. He examines the legal significance of the Palestine Mandate and Crawford’s position concerning its validity, as well as those of the 1947 General Assembly Resolution 181 (the ‘Partition Resolution’) and Israel’s 1948 Declaration of Independence. He concludes by briefly examining Crawford’s conclusions relating to the status of Palestine.

The Proceedings of the ‘Mandate for Palestine: Past and Present’ international workshop held in February 2016 include introductory statements and comments from participants. The first session provided a historical backdrop for discussion, looking at the intentions and expectations of the various international actors at the time that the Mandate was adopted. The second session turned to legal questions and concerned local law – namely the administration of the Mandate and its legacy in Israeli law. The third session addressed international law and its relevance to the resolution or regulation of the Israeli–Palestinian conflict, exploring whether and how the passage of time has impacted on the legal relevance of the Mandate. The discussion was held under the Chatham House Rule and the views made during the discussions therefore remain unattributed.

This Palestine Mandate compilation concludes with a review by Robbie Sabel of *Self-Determination, Statehood, and the Law of Negotiation, The Case of Palestine*, authored by Robert Barnidge Jr and published by Hart (2016). The first chapter of this book was introduced at the 2015 conference.

This issue of the *Israel Law Review* concludes with the Annual Lionel Cohen Lecture, given in November 2015 by Judge of the International Court of Justice, Sir Christopher Greenwood, titled ‘Magna Carta and the Development of Modern International Law’.

We wish you all an inspiring and enjoyable read.

Professor Sir Nigel Rodley and Professor Yuval Shany
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