

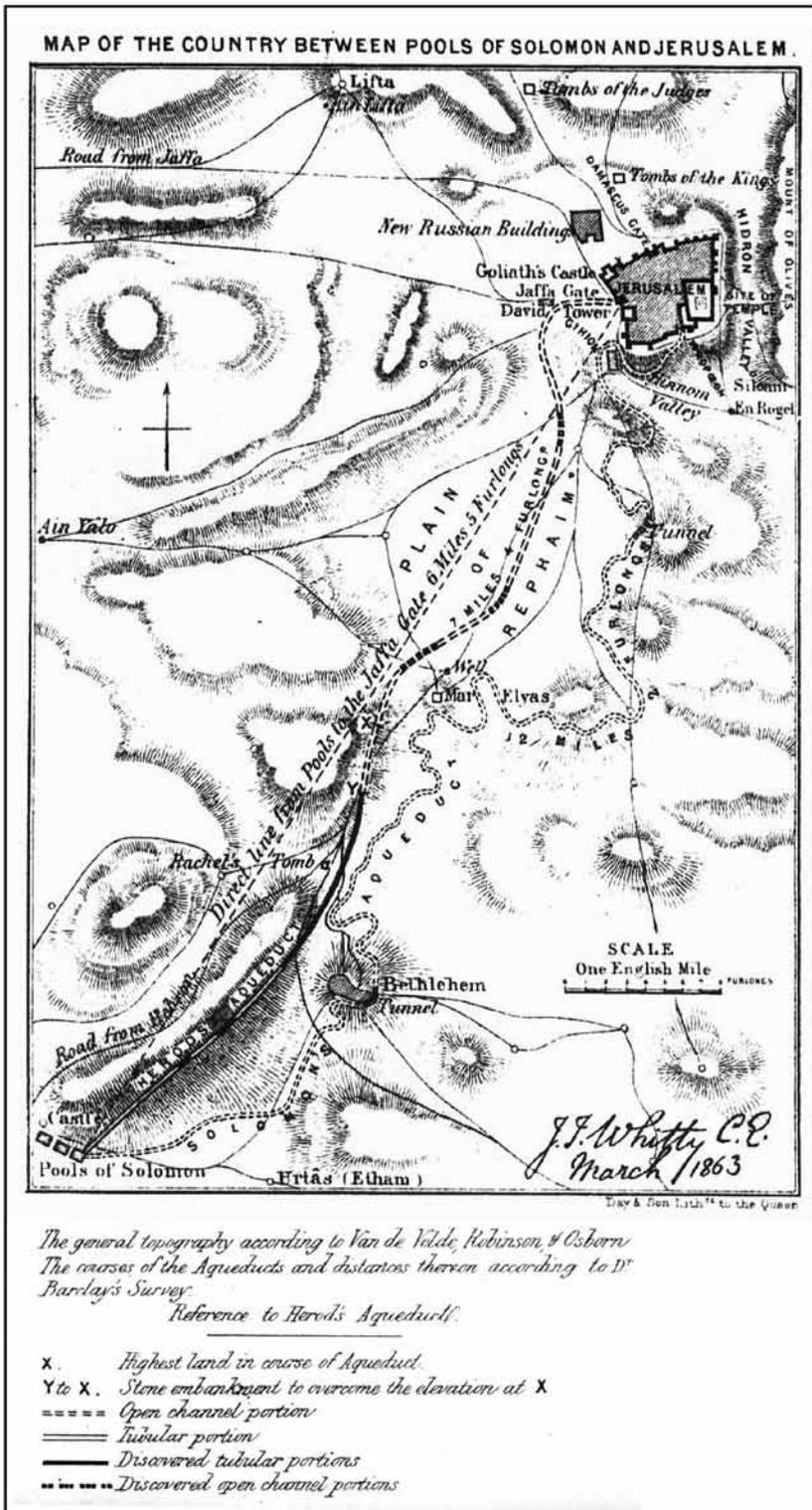
The Awakening of Palestinian Hydropolitical Consciousness: The Artas- Jerusalem Water Conflict of 1925

Vincent Lemire



The drought that afflicted Jerusalem in 1925 was a crucial moment in the history of the holy city and of British Mandate Palestine. The facts may be briefly summarized as follows: on 25 May 1925, after a particularly dry winter, the Mandate government decided to divert almost all the water resources of Artas village to Jerusalem. On 9 June, the Executive Committee of the Palestinian Arab Congress vigorously protested to the High Commissioner Herbert Samuel against what they explicitly called “Zionist spoliation.” The Artas case, first adjudicated before the Palestine Supreme Court, was sent back in 1926 to the Privy Council of London, Britain’s highest judicial body.¹ This development, though generally ignored by historians, nevertheless allows one to grasp in very concrete terms some of the constituent elements of an emerging Palestinian national consciousness, while

Jerusalem water works. Peasant watering his donkey. *Source Library of Congress.*



The country between Solomon's Pools and Jerusalem. Source: John Irwine Whitty, *Proposed Water Supply and Sewerage for Jerusalem*, London, 1863.

also illustrating some of the sharp differences that split the Palestinian national movement in the mid-1920s.

The emergence of a Palestinian national consciousness is one of the most crucial and controversial topics in the history of the Near East. The debate generally revolves around two complementary issues: one is the question of the actual *moment* when the Palestinian national awakening occurred, while the other is concerned with determining the constituent *elements* of this national consciousness.² Nationalist Palestinian historians promote an early appearance of national consciousness resulting from a fundamentally internal formative process. In contrast, Zionist historians defend the notion of a later appearance of the Palestinian national phenomenon, arising from essentially external elements. The former conceive a national consciousness that is *early* and *endogenous*, whereas the latter see it as *belated* and *exogenous*. The stakes are understandably high if the controversy is viewed within the framework of the current Israeli-Palestinian conflict: at issue is nothing less than determining whether a “Palestinian identity” existed prior to the sudden appearance of the Zionist utopia in Palestine, or whether, on the contrary, this Palestinian identity was merely an impulsive reaction to the implementation of the Zionist project.

In a recent study Rashid Khalidi rises above this simplistic dichotomy by framing the Palestinian national consciousness within a discursive process.³ In doing so, he particularly focuses on the plurality of *actors* in this construction, emphasizing the inter-relation of discourses and interests between urban elites and rural peasantry.⁴ His thesis is directly linked to our proposition: the Artas case actually allows one to observe the affirmation of a nationalistic discourse by the Palestinian peasantry, and mostly to question the ability of the urban notables to relay, frame or encourage this “peasant” nationalistic discourse. Underlying all this is the essential question of the Arab Executive’s *representativeness*, constantly asserted by the nationalists but always rejected by the Mandate authority, in the otherwise somber context of a Palestinian national movement undermined by incessant internal conflicts.⁵

While the Artas case allows one to restate the distinction between the urban elite and rural peasantry, it also allows one to add water resources as a constituent element of Palestinian national consciousness and land defense. It is well known today that the water issue is one of the unavoidable aspects of the Israeli-Palestinian conflict.⁶ This contention was barely acknowledged during the Mandate, when most debates centered on the Zionist organizations’ various “land conquest” strategies. From this perspective, the Artas case constitutes a turning point, marking the awakening of a Palestinian “hydropolitical consciousness.” In the case of Artas village, specialized for centuries in market vegetable production requiring extensive and constant irrigation, the link between land and water goes far beyond merely rhetorical considerations to become an issue of vital significance.⁷

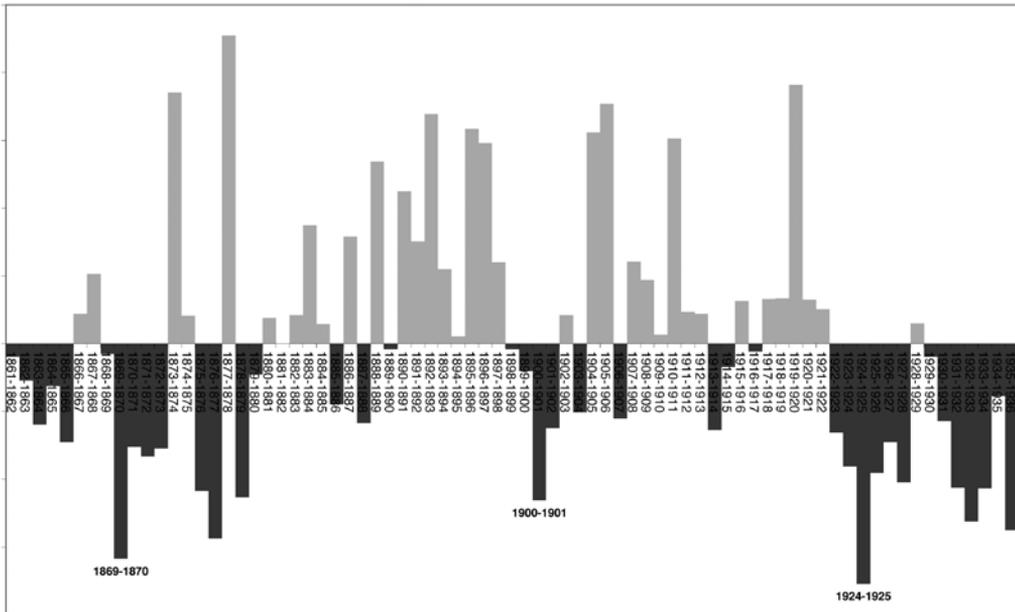
The Artas case also reveals certain contradictions that split the Palestinian national movement in the 1920s. This case is particularly complex, as it set Arab villagers in opposition to Jerusalem’s urban authorities. The dispute not only placed Palestinians in opposition to Zionists; it also revived and reinterpreted the old conflicts between the



The Artas Valley, location map. Source: Conrad Schick, Leipzig, 1870.

capital city and the hinterland, since Artas valley was always one of Jerusalem’s main sources of water.

What is truly novel here is not so much that Artas peasants were complaining about Jerusalem’s diversion of their water – which they had been doing for centuries – but rather that the objection was henceforth made in the name of a “Palestinian Arab identity” fighting “Zionist immigration.” What added to the complexity of the Artas case is that Ragheb Bey Nashashibi, a leader of Palestine’s moderate mayors and a staunch opponent of the Husseini family, was the mayor of Jerusalem. The Arab Executive Committee, which orchestrated the Artas peasants’ protest, had in effect been led since its creation in 1920 by the aged Musa Kazim al-Husseini, who had been ousted that same year from Jerusalem’s town hall and replaced by Nashashibi. By siding with the Artas peasants against the Jerusalem municipality the Arab Executive thus settled some old scores along the way. The affair of the Artas water diversion affair therefore offers a particularly enlightening perspective on Palestinian political life in the mid-1920s.

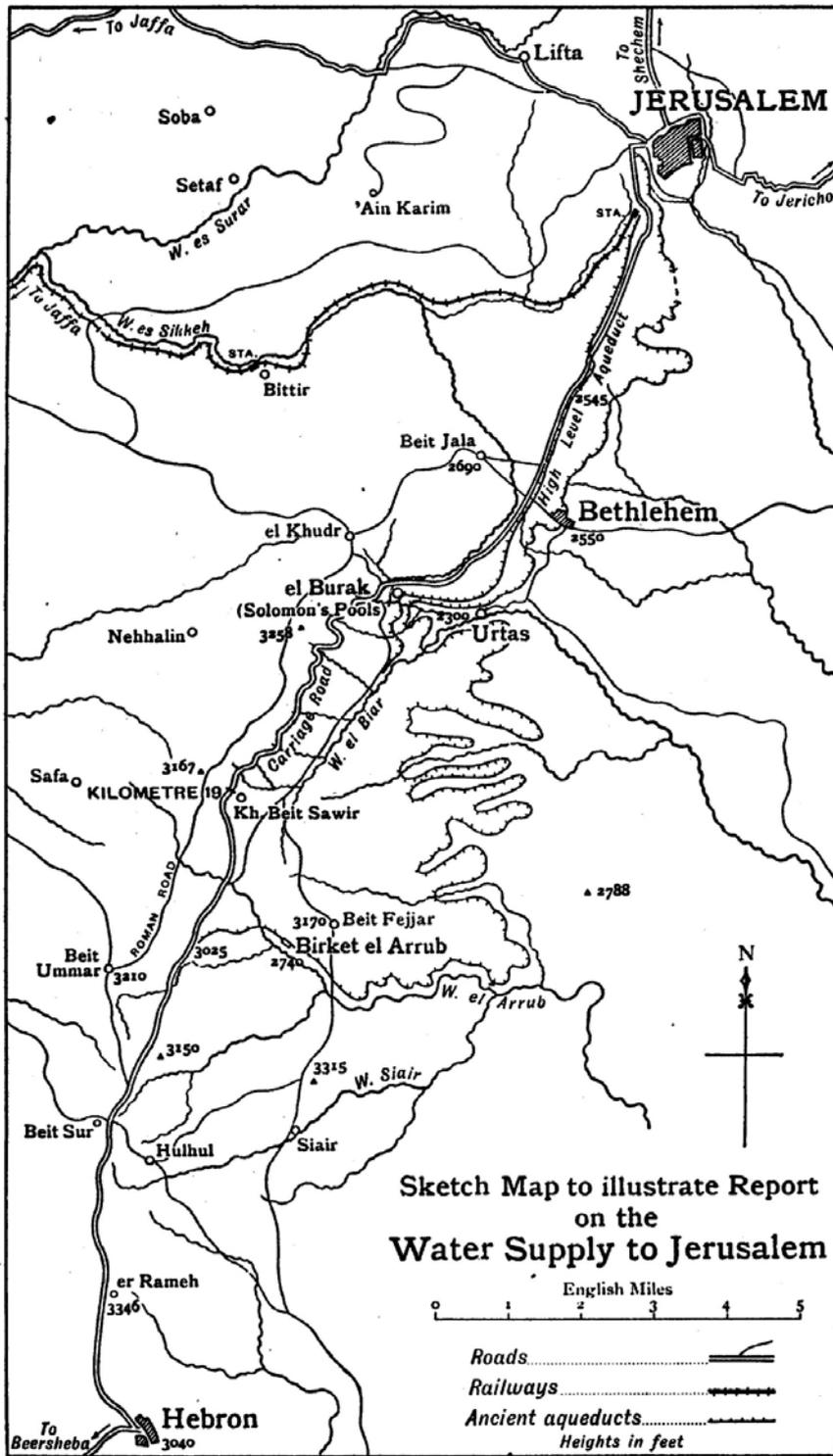


Rainfall and water crises in Jerusalem (1861-1963) - [relative to the annual average of 640mm]. Source: Historical Archives of the Jerusalem Municipality (HAJM), *Water Supply Series*, carton 614.

The water crisis of 1925: a historic drought

In order to appreciate fully the extremely high tension surrounding the water issue at the end of the 1924-1925 winter it is necessary to understand the extent of the unprecedented drought that Jerusalem suffered that year. As outlined by Andrew Koch, the Water Services director at the Jerusalem municipality, in his annual report of 20 April 1925, “the whole public and official attention is concentrated upon the distressing fact of the unexpected, very serious water shortage and the measures urgently required for the relief of the same. However, the reason for this severe shortage may be attributed to the extremely small rainfall of the present season, 269.7 mm. up to 4 April 1925, which amount is unprecedented according to the official records dating back to 1861. The minimum recorded was in 1869-70, a rainfall of 318.7 mm., i.e. 19 percent more than that of the current year. It must be made clear, therefore, that this extraordinary shortage could not be foreseen and consequently the Administration cannot be blamed.”⁷⁸ Thus the drought of the 1924-1925 winter was literally a *historic* crisis, and Andrew Koch was prescient in anticipating its political implications: once accused, the administration would have to react with urgency and transparency.

Public concern was even more clearly expressed in both the local media and the missionary press, as evidenced by the following passage from an article published in *Jérusalem* magazine of 24 March: “In Jerusalem, it is a calamity, and it is no better in the country at the end of March than it normally is at the beginning of February. Cisterns are empty; potable water is being sold in early spring for the same price it



General Allenby's hydraulic works, location map. Source: *Palestine Exploration Fund Quarterly Statement*, January 1919.

sells at in November in bad years, at the rate of two to three piasters per an 18-liter *tanakeh* (one piaster is approximately equal to one franc). Construction works had to be suspended. The municipality, responsible for piped water distribution, not content with rationing, set a whole program of severe restrictions imposed on garden irrigation, washing of floors, etc.”⁹ One cannot help but be disturbed by this account that vividly recalls some of the Ottoman period’s most repressive times.

The *Palestine Bulletin*, whose readership was primarily Jewish, in mid-March began publishing calls to prayer and fasts by the Rabbinical authorities. On 26 March, the newspaper published a petition by the Jerusalem Jewish community which clearly signaled the political turn that events were taking: “The Council of Jerusalem Jews (Vaad Hair) has forwarded a memorandum on the water supply shortage to the District Governor. The Council demands that the Government take immediate steps to alleviate the situation and subsequently arrange for a final settlement of the water supply question. The Council offers to assist financially in this matter, if necessary. The memorandum also contains a request that the Jerusalem Jews should be given the right to elect two representatives on the Water Commission.”¹⁰ The pressure exerted by the Jewish community representatives on the Water Supply Department administrators was henceforth unreservedly and bluntly expressed, with the petition authors going as far as proposing themselves as replacements for the Mandate authorities responsible for the financing of waterworks. This could only be interpreted as the surrender of municipal sovereignty, and hence a provocation to the Arab population.

Thus politicizing the water crisis reinforced the communalization of water management, as evidenced by the petitioners’ demand to have two representatives joining the Water Supply Department Advisory Board. The report written by Andrew Koch in the following year suggests that this demand had been granted: “The District Commissioner considered this request favourably and accordingly the Memberships of the Board have been increased by two, the one being received by Mr Ch. Solomon as mentioned above, the other by Dr I. Levy.”¹¹ The 1925 water crisis thus served as an occasion for Jerusalem’s Jewish community to bolster their advantage within the Water Supply Department Advisory Board,¹² which henceforth became very tightly controlled by the town’s Jewish representatives. This may partially explain the Artas conflict, and also the early acts of sabotage of the Ras al-‘Ayn water pipeline carried out by Arab nationalists in subsequent years. The result was that water resources management at the town level decreased while the influence of the conflicting interests of one or the other of its communities increased.

Faced with pressure exerted by Jerusalem’s Jewish community Water Supply Department officials reacted by taking a number of emergency measures. In the *Palestine Bulletin* of Wednesday, 1 April 1925, Andrew Koch explicitly addressed concerns regarding the risk of halting work at construction sites: “It is the special desire of the authorities not to interrupt the normal activities of the building trade. Sufficient water will therefore be provided for the continuation and completion of existing building operations, and every effort will be made to provide for new buildings.”¹³ The year 1925 set a historical record for Jewish immigration to Palestine,

with the arrival of close to 35,000. Jewish demographic pressure became extremely strong, particularly in Jerusalem.¹⁴ In addition to the construction of housing for new immigrants, the building of the Hebrew University – inaugurated on 1 April 1925 at the top of Mount Scopus – constituted a huge development, at the very least as important as immigrant dwellings to Zionist leaders.¹⁵ Andrew Koch's report for that year confirms the very special attention given to this building site by the Water Supply Department: "special provisory pipeline of 1700 metres had to be laid and also a small portable pumping plant to make possible the supply to these far situated point [Scopus]."¹⁶ It should be noted that building construction in Jerusalem was not a marginal issue in the controversy between Palestinian nationalists and Mandate authorities, as the Arab Executive Committee largely blamed the spike in construction activity for the increased water needs in Jerusalem's Jewish quarters.

At the beginning of April 1925 officials in charge of Jerusalem's potable water distribution network were therefore faced with a literally catastrophic situation: an unprecedented drought, with barely more than 250 mm of precipitation, as opposed to a hundred-year annual average of 650 mm. The surrounding countryside was also seriously affected, while the Jerusalem Jewish community loudly proclaimed its distress and put pressure on the administration to grant it two additional seats in the decision-making body of the Water Supply Department. To deal with the emergency, water was transported by rail from the Sarafand sources near Ramleh, which forced the authorities to raise by one third the cost of an otherwise deficient distribution service. A report written in March 1926 reveals that a bona fide rationing system was finally put in place at the beginning of June 1925: "The outstanding feature of the new system was the opening of a special office, the 'Ticket Bureau,' for the sale, collection and control of water tickets [...]. Calling at the standpipes, the people were then supplied one tin full of water (4 gals) against every ticket."¹⁷ This helps to clarify the motivation behind the diversion of the Artas waters. Compared with the wrath of Jerusalem's 70,000 inhabitants, the possible risk of a protest by the 400 inhabitants of Artas would not carry a lot of weight.

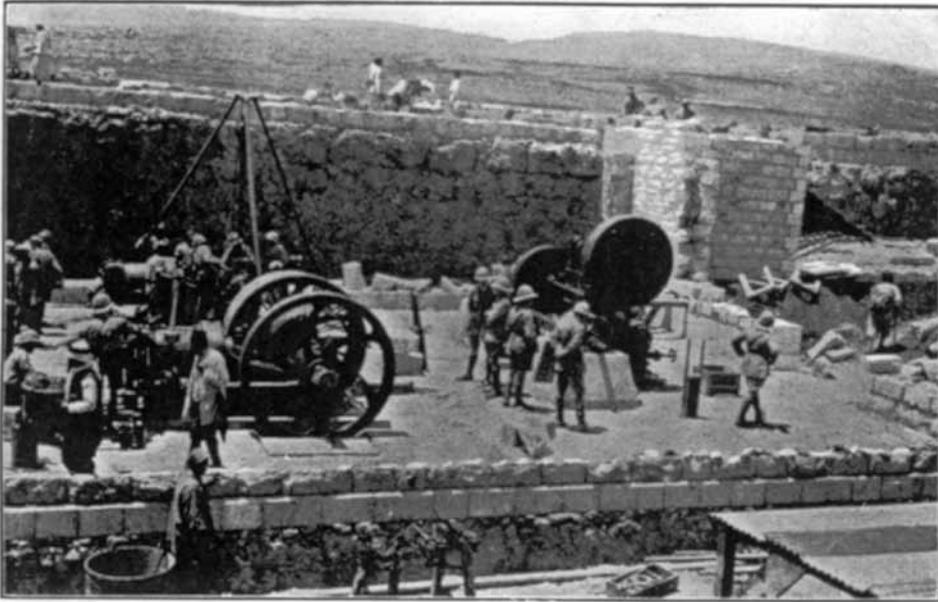
Diversion of the Artas waters: requisition or spoliation?

The decree ordering the diversion of Artas waters to Jerusalem was promulgated by the High Commissioner Herbert Samuel on 25 May 1925. The text, which was widely circulated in the local press, was unambiguous: "The High Commissioner may by order published in the Official Gazette authorise the Municipality of Jerusalem [...] to take for a period not exceeding twelve months the water arising from the spring in the village of Urtas and to use the water for augmenting the supply contained in the Reservoirs of the Board situated at Solomon's Pools."¹⁸ The requisition, presented as exceptional and temporary, emanated from the highest representative of the Mandate government, who then delegated to the Jerusalem municipal authorities the task of ensuring its implementation.

The Artas decree consists of five articles, each composed of one or two paragraphs.¹⁹ After the first article, intended to affirm the decree's legality,²⁰ Article 2 specifies the conditions of application, which actually reveal a twofold delegation: the High Commissioner "authorises the Municipality of Jerusalem or such other authority as undertakes the supply of water to Jerusalem (hereinafter called the Board)" to apply the measures proposed in the present decree.²¹ It is then the Water Supply Department Advisory Board (which, as we have seen, was subjected to much pressure from Jerusalem's Jewish community during this crisis) that is really in charge of executing the water requisition measures at Artas. Article 2 goes on to specify that the aforementioned authority will need to ensure that village inhabitants are guaranteed "sufficient water for daily needs," i.e. "for drinking and other domestic purposes and for their animals, as well as for the irrigation of lands belonging to such inhabitants which at the date of such order are irrigated and planted with trees or other permanent plantations."²² Hence the cultivation of any new land is in effect forbidden for a period of one year; and in particular vegetable crops are explicitly excluded from this arrangement, which only addresses "trees" and "permanent plantations." This twofold restriction on the right to cultivate land will become, as we shall see, one of the main causes of the peasants' protest in Artas, as a large part of the village's livelihood derives precisely from "non permanent" vegetable crops.²³

In addition to restricting the right to cultivate land, the decree goes on to limit the right to property. Article 3 specifies terms granting the right of access to Artas private properties by employees of the Water Supply Department: "the Board shall forthwith be entitled to enter upon land in private ownerships for the purpose of erecting at or near the spring in the village of Urtas a pumping engine and such other machinery and to lay such pipelines from the said spring to the Reservoirs at Solomon's Pools."²⁴ Article 3 then adds to the right of access granted to administration employees the prohibition of access by village inhabitants to certain public areas: "In order to ensure the purity of the water to be taken from such spring, the Board shall be entitled to prevent access by the public to the existing Birket [Pool], and for this purpose enclose the Birket with a Fence."²⁵ If one bears in mind the symbolic significance and social function of the water spring in Palestinian villages, one can imagine the indignation felt by Artas villagers who are suddenly denied access to what constituted one of the main focal points of the village, now fenced off and moreover beset by noisy hydraulic machinery.

The last two articles in the decree focus on specifying the terms of compensation for any damage seen to have occurred on villagers' lands, plantations, or buildings (Article 4), and the conditions of arbitration in case of disputes between parties (Article 5): "If any dispute shall arise between the Board and any inhabitant of the village of Urtas regarding the amount of water made available for him for any of the purposes provided for in section 2 or as to the amount of compensation payable to him under Sections 3 or 4, such dispute shall be referred to a single arbitrator appointed by the High Commissioner, and the award of such arbitrator shall be final."²⁶ The right of appeal was here deliberately set aside in favor of a rather odd arbitration procedure in which the High Commissioner – who himself took the decision to requisition the



PUMPING STATION AT BIRKET EL-ARRUB.



WATER ARRIVES AT JERUSALEM, 18TH JUNE, 1918.

General Allenby's hydraulic mission: Site photographs. Source: *Palestine Exploration Fund Quarterly Statement*, January 1919.

Artas spring – becomes both judge and jury. In order to deal with the urgent situation, the Mandate authorities thus entrusted the municipal authority, and more precisely the Water Supply Department Advisory Board, with a discretionary power of requisition, which the Palestinian nationalists did not hesitate to denounce as an arbitrary spoliation of their water resources.

Andrew Koch's account for the period from 1 April 1925 to 31 March 1926 reports on the actual application of the Artas decree and on the decision-making process that led to it.²⁷ In over three pages, the Water Supply Department director tries to justify the aptness of the requisition, pretending to be astonished by the villagers' reaction. However, in describing the existing water infrastructure Koch, probably quite unintentionally, confirms its value and impact on the economic and social fabric of the village: "The Urtas Spring is situated at the small village of the same name, at a distance of about 1.7 km to the east from Solomon's Pools [...] the water is flowing out through an ancient aqueduct cut in the hill, into a small open reservoir whence the drinking supply was taken directly by tins, and the supply for irrigation through open masonry channels."²⁸ It is therefore a true *hydraulic system* that emerges from Andrew Koch's description, which highlights the symbolic and functional centrality of the spring at the heart of a socio-economic organization that is thoroughly conditioned and whose pace is set by water sharing.²⁹ This equilibrium, according to Andrew Koch, must be temporarily disrupted in order to provide for the needs of Jerusalem's inhabitants: "The yield of the spring, at 1st April 1925, when our investigations were commenced, was 86.400 gals/day [...]. With the assistance of the Government's Agricultural expert, it was established that from this daily yield the village is requiring only about 20 percent for the purposes of drinking, domestic use, watering of animals, and irrigation of the existing trees (mostly fruit trees), but excluding the irrigation of vegetables, which part, in our opinion and in view of the great need for water in Jerusalem, was to be monetarily compensated."³⁰ This passage yields two essential bits of information. First, the decision-making process leading to the promulgation of the decree on 25 May 1925, is clearly indicated: it is indeed the Water Supply Department Advisory Board that suggested to the Mandate government to resort to diverting Artas waters, upon which the High Commissioner promulgated the decree. In other words the delegation of authority was directly proposed by the administration that would benefit from it. Second, the restriction on the right to cultivate new land, which was implied in the text of the decree, is much more explicitly stated here: while the irrigation of existing trees seems guaranteed, market gardening, which occupies a very large area of Artas land and secures a vital part of the villagers' revenues, will need to be completely suspended for an entire year. If one tours the Artas gardens today, or examines photographs which anthropologist Hilma Granqvist (1890-1972) shot on site between 1925 and 1931, one can easily assess the physical extent and socio-economic importance of market gardening, and thus appreciate the impact of the water diversion decision which the inhabitants felt to be a real provocation.³¹ From this perspective, Andrew Koch's coldly technical description reveals the harmful noise and environmental damage caused by pumping "5 days in every week, the remaining

2 days' yield being completely left for the villagers for the irrigation of the trees."³² In addition to the quantitative appropriation of spring water, the requisition measure therefore also resulted in an appropriation of time-shares, since peasants should henceforth carry out all their irrigation activities in only two days of the week.

A detailed analysis of the Artas Decree and its terms of application therefore enables one to comprehend more fully the reasons for the villagers' protest. However, in order to understand their argument correctly, it is necessary to set aside administrative sources and examine the memorandum that the Arab Executive wrote in early June 1925.

The Arab Executive's protest: legal and political arguments

The memorandum addressed to the Colonial Office by the Palestine Arab Congress Executive Committee in early June 1925 is an exceptionally rich document. It demonstrates both an awareness of the importance of water networks in the Zionist strategy, and the need to develop a political strategy to confront it. The protest over the diversion of Artas waters was widely covered by the local press, and notably in two full columns on the front page of the Tuesday, 9 June 1925 issue of *The Palestine Bulletin*.³³ The text is well-structured and divided into three parts: a preamble introducing the water crisis; a chronological account intended to demonstrate the expedited and arbitrary nature of the decree promulgation procedure; and finally a political interpretation of the case aimed at extending their understanding of this particular act of spoliation, of which the Artas peasants consider themselves the victims, to encompass the entire process of Zionist colonization in Palestine.

The Palestinian nationalists' view of the water crisis differs drastically from the version Andrew Koch presents in his annual report. The Palestinian description is clearly less alarmist, and their explanation unmistakably more political: "Owing to an insufficient rainfall arising last winter, there is in Jerusalem a scarcity of water. But this scarcity does not threaten to cause a water famine owing to the existence of the Arroub and Solomon Pools water supplies. It imposed, however, a complete lull in the building activity carried to a large extent by and for Jewish new immigrants." The 1925 springtime crisis, according to the Arab Executive, is therefore not a "natural" catastrophe, considering its origin: one should search for its roots in Jewish immigration and in the urban expansion of West Jerusalem. While Koch was attempting to dramatize and at the same time *naturalize* the water crisis, Palestinian officials were on the contrary seeking to play down and *politicize* the event. The numbers corroborate the dissidents' version: despite the very severe drought of the 1924-1925 winter, the daily water volume distributed in Jerusalem by the Water Supply Department was never less than 450 cubic meters (April 1925) during that entire period; this volume is comparable to the one supplied, for instance, in 1922, a year during which the water shortage was markedly less severe.

The memorandum authors in their preamble readily acknowledge the legitimacy of the Water Supply Department's efforts in helping Jerusalem's inhabitants; however,

in their view, the Artas water diversion project is impossible to justify: “But these commendable efforts should not by any means be taken as a legitimate excuse for the Government to legalise the illegal and trample down the uncontested and legally verified rights of the Arab owners, in order to stimulate the building activity in favour of Jewish immigration, which, owing to its unsuitability, had been condemned by the Permanent Mandates Commission of the League of Nations in its last report.” The conjoining of the legal and political arguments is evident here: the Artas villagers’ rights are “uncontested,” so contesting them is intended to encourage Jewish immigration, which the international community “condemned.” The period between 1924 and 1926 indeed corresponds to an immigration spike, with 34,000 Jewish immigrants arriving in 1925, as compared with, for example, 8,500 in 1922; 3,000 in 1927; or 2,000 in 1928.³⁴ These numbers speak for themselves: over and above the Arab nationalists’ natural distrust of the Zionist project, the year 1925 offers evidence, in their view, of a particularly acute threat.

Following this preamble the dissidents offer an account of the events that demonstrates the arbitrariness of the measure and emphasizes the villagers’ spontaneous resistance: “About two months ago, the Sub-governor of Bethlehem asked the inhabitants of Artas Village (Muslims and Christians), who are the exclusive and uncontested proprietors of the Artas Spring, to sell all or part of these waters to the Municipality of Jerusalem, for a year. But they instantly and absolutely refused to do so, pointing out that every drop of the said waters was indispensable, for it was barely sufficient to meet the needs of the village and its orchards and cattle which are the only means of their livelihood.”³⁵ According to the petition’s authors, the villagers’ categorical rejection of the requisition is justified by an estimate of their water needs that is totally different from that of Koch’s: “Later, their representatives were brought to the Governor of Jerusalem, and they were informed that the Government has decided to take the waters of the Artas Springs and ordered them not to use these waters for planting vegetables under penalty of a fine [...]. This high-handed resolution led the poor owners of the said spring to bring an action against the Governor of Jerusalem in the Supreme Court of Justice.” Given that all available sources concur on this point, the disparity between Andrew Koch’s estimate of the villagers’ water needs – 20 percent of the spring’s total outflow – and that provided by the villagers themselves – the entire outflow – can therefore be explained by the variable of *market-gardening* which the peasants hotly argued was vital to their survival while Mandate authorities considered it a non-priority.

The account goes on to suggest that the promulgation of the decree was done in a particularly expedited manner, one verging on the illegal: “But the Government on finding that its lawless action was bound to be condemned by the Supreme Court of Justice, it enacted and promulgated instantly on the 25th of the same month the Artas Spring Ordinance and published it on the same day in a special and extraordinary number of the Official Gazette, contrary to the usual procedure, whereby the confiscation of the water property of Artas village by itself was legalized.”³⁶ Reading this one understands better the sense of precipitous action underlying Andrew Koch’s

report: law, in this case, merely followed the *fait accompli* and ratified it, which led the Arab Executive to assert that the decree only “legalized the illegal.” Beyond the legal quarrel, this episode gave Palestinian nationalists the ammunition they needed to develop a much more comprehensive political argument: “This procedure clearly shows the fearful absurdity of joining in one hand the two powers of Legislation and Execution as is the case in Palestine.” This takes us to the heart of one of the controversies that formed the basis for the institutional paralysis of Mandate Palestine. Following the ratification of the Mandate charter in July 1922, Herbert Samuel had proposed the establishment of a constitution and wanted to proceed with legislative elections; however, the Arab Executive boycotted the process, as they considered that their participation would compel them to recognize the Jewish national home as established fact. In May 1923, in the face of the Palestinian nationalists’ resolve, Herbert Samuel had to suspend the electoral process, give up moving towards self rule, and continue with the practice of government by decree.³⁷

The question of Palestinian representation, far from being merely an institutional controversy between nationalists and Mandate authorities, was in fact the subject of one of the major political debates among the Palestinian national movement’s various factions. On one side, the Executive Committee of the Palestinian Arab Congress, founded in Haifa in December 1920 and chaired by the ex-mayor of Jerusalem Musa Kazim al-Husseini, was the proponent of an “offensive line” categorically refusing the political options offered by the Mandate. On the opposite side, proponents of participation in the Mandate political and administrative system were grouped around Ragheb Bey Nashashibi, appointed mayor of Jerusalem following the dismissal of his predecessor Musa Kazim al-Husseini. This so-called moderate camp, which was frustrated in its attempt to participate in the electoral process at the beginning of 1923, drew its strength from the numerous Palestinian municipalities that it led. With this perspective, one can better grasp the full scope of the institutional denunciation included in the Executive Committee’s memorandum: the attack was aimed as much at British colonial power as it was at Jerusalem’s mayor, who was accused of having agreed to a culpable collaboration with the Zionists and Mandate authorities during the failed 1923 elections and again two years later at the time of the Artas water diversion.

The Artas affair is therefore particularly revealing of the tensions and internal conflicts that split the Palestinian national movement at the time. A letter kept in Jerusalem Councilor David Yellin’s personal archives illustrates the position, at the very least ambiguous, of the Mayor of Jerusalem, Ragheb Bey Nashashibi. It concerns confidential mail which Colonel Frederick Herman Kisch, leader of the Zionist Executive in Palestine, addressed on 2 April 1924 to Itzhak Ben-Zvi, one of the most active *yishouv* leaders and future President of Israel (1952-1963). In it Kisch explicitly asks Ben-Zvi to give up organizing a press campaign against Ragheb Bey Nashashibi. Kisch points out that it would be a grave strategic error, because “you are well aware that the Group Nashashibi, Assam Beg etc., who hold Municipal chairs, are on the whole the most favourable to us among the Arab notables in public life.”³⁸ This correspondence, among many other documents, supports the theory of Ragheb

Bey Nashashibi's collaboration, perhaps even treason, and corruption. Nashashibi's activities were indeed financed throughout these years by subsidies discretely paid by Zionist organizations.³⁹

After this lengthy development dedicated to the legal and institutional aspects of the affair, the last part of the memorandum attempts to synthesize the events' political significations, first by drawing parallels between the Artas case and a number of precedents, then by presenting water spoliation as one form of territorial spoliation, and finally by presenting the requisition measure as a discriminatory act. This last part permits the emergence of a true *hydro-political doctrine* from within the nationalist discourse. To this end, the memorandum authors applied their theory to the whole of Palestine, claiming that the requisition of the Artas waters sounded the alarm for the entire Palestinian peasantry: "The lawlessness of the Palestine Government manifested in the usurpation of the water property of the inhabitants of Artas terrified all Arab inhabitants. For, there can be no difference in principle, law or sharia between those who usurp the water property of its rightful owners and those who usurp them of their other legitimate properties."⁴⁰ The Artas affair was therefore presented as a classic cautionary tale regarding Zionist territorial appropriation strategies, and the water dispossession was presented as a means among many others of territorial dispossession. The explicitly formulated parallel between land and water usurpation thus allowed the development of a mobilization call specifically directed at the peasantry.

In order to interpret the Artas waters diversion as an act of spoliation rather than requisition the memorandum authors still had to demonstrate that this measure did not aim to serve the public interest, but on the contrary benefited only one segment of the population, in this case Jerusalem's Jewish community: "It cannot be contended that the said ordinance is of public interest [...]. The spoliation [of] property, it should be noted, is affected in order to provide mainly Jewish quarters, which were allowed to be built without constructing cisterns therein for the gathering of rain water, as all Arabs have been doing for ages past, for in Jerusalem this is a necessity."⁴¹ This ultimate phase of the argument is of critical importance, as far as we are concerned: It shows that an awareness of the water networks' strategic dimension henceforth would support, within the Palestinian nationalist discourse, a global denunciation of the process of demographically judaizing Jerusalem.

The memorandum's final argument is quite solid indeed. All available sources attest to the increasing disparity in water distribution and use between Jerusalem's Jewish and Arab neighborhoods. In fact, Jewish quarters were not as well-equipped with private cisterns, had less access to the traditional water storage and distribution infrastructure, and had relatively greater need for water due to their widespread adoption of modern standards (bathrooms, toilets). In contrast, and if only because of their relative age, Jerusalem's mainly Arab quarters were much better equipped with private cisterns, were better served by traditional sources of water supply (Haram reservoir, water vendors), and had relatively less need for water, mostly due to the persistent survival of traditional hygienic facilities and practices, such as the use of *hammams* (public bath-houses).⁴² Obviously Jewish neighborhoods relied more



Potable water distribution network in the late 1930s. Source: HAJM, *Water Supply Series*, carton 619.

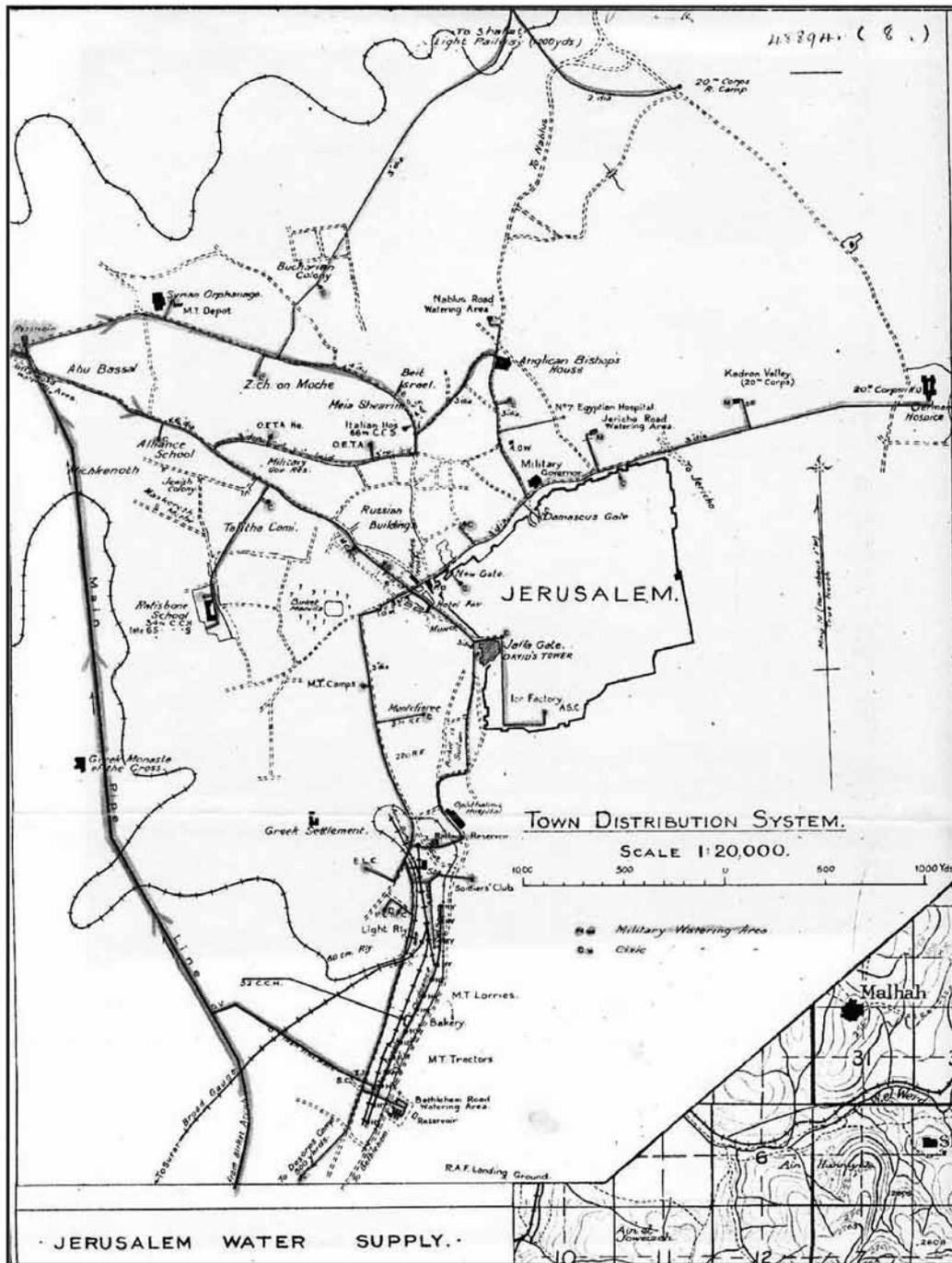
heavily on the municipal water supply network than Arab neighborhoods. Moreover, the scarcity of private cisterns in the western part of the city can be partially explained by the municipal authorities' distrust of a storage mode that does not meet the highest western hygienic standards. Other sources have also confirmed this marked disparity in water distribution and consumption, such as an article from *Jérusalem* magazine of 24 March 1925 that states: "Such drought took everyone by surprise, especially after a period when building without private cisterns had not only become prevalent but also favored, supposedly to force people to use municipal water. One thought one could do without rainwater, having been able to collect very little of it; but one had not realized that without rain, sources themselves dry up; and here we are, especially with the influx of immigrants and habits imported from Europe, suddenly under the threat of lacking water, even the minimal amount that is vital to one's survival!"⁴³ The

conclusion reached by *Jérusalem* confirms point by point the one arrived at by the Arab Executive Committee members: although the 1925 water crisis was triggered by a significant drop in rainfall, it nevertheless had much deeper structural causes. These causes were in effect political (in the broader sense of the term), since Jewish immigration largely contributed to an increase in water needs, while during that same time, the evolution of construction practice tended to reduce the newcomers' capacity for water self-sufficiency and subsistence.

The microcosmic Artas affair thus illustrates and embodies a number of major evolutionary developments pertaining to the Palestinian national movement, the city of Jerusalem, and the Mandate authorities' exercise of power as well. Concerning the Palestinian national movement, the Artas affair first highlights the fundamental fact that the mobilization of the peasant masses during the 1920s occurred within the framework of a global expansion of the movement's social base. This mobilization did not of course emerge *ex nihilo*, as other examples before the First World War have been noted by historians;⁴⁴ however, the Mandate period was undoubtedly the stage at which the Palestinian peasantry's nationalist commitment turned into a mass movement.⁴⁵ The Artas affair therefore deserves to be considered as one of the seminal conflicts of the period, especially that it added to the traditional discourse on land defense the original variation of defense of water, which was to become one of the main pillars of Palestinian nationalist ideology in subsequent decades. The Artas affair is also indicative of the narrow definition, within the Palestinian nationalist strategy, of the political and legal arguments. This was obviously one of the reasons for the rhetorical effectiveness of the nationalist declaration and its success in inspiring respect, but its narrowness can also be seen as one of the reasons for its successive tactical failures.

The Artas affair also offers very many lessons concerning the city of Jerusalem. On a general level, the Arab Executive's memorandum focuses attention on the process of demographic judaization of the holy city in the context of a marked surge in Jewish immigration during the fourth *aliya*. On a more specific level, the Artas affair clearly delineates a true "socio-hydraulic border" between the city's eastern and western sectors. The history of water in Jerusalem therefore appears to be particularly relevant to the understanding of ongoing global evolution: right before our eyes, and in a concrete and tangible form, the rift between the city's eastern and western halves was transformed into a true fault line.⁴⁶ Even when one avoids oversimplification, it remains true that the contrast which Palestinian nationalists described here is evidence of a real process of communal polarization of the urban fabric.

One should note that this widening gap between the western and eastern parts of Jerusalem cannot be explained only by polarization. During the same period and in numerous other Mediterranean cities one could observe a comparable process of urban split between a town labeled, depending on the case, as "new," "modern," "European," or "western," and a town that became, in contrast, the "old" or "ancient" town, the "medina" or "eastern" town, without resorting to a community-based interpretation to offer an explanation of a phenomenon bound to the course of colonial history and to complex historical processes of evolution.⁴⁷



Jerusalem potable water distribution network in 1919. Source: *Jerusalem Water Supply*, 1:20000, London, 1919.

Finally, the Artas affair shows, in a particularly riveting way, the political and institutional bind in which the Mandate government placed itself in the early 1920s. Its inability to set up truly representative institutions, capable of relaying and framing the political debate, encouraged conflicts to become inter-communal. A cross-analysis of the two petitions pertaining that year to the water dossier is, from this perspective, particularly enlightening. In March 1925, the Council of Jerusalem Jews (Vaad Hair) exerted pressure on the municipality to permit them to strengthen their influence within the Water Supply Department; in June 1925, the Palestine Arab Congress Executive Committee protested against the spoliation of “Arab” water to the advantage of Jerusalem Jews. The fundamental contradiction in the Mandate is quite obvious here: the two parties, even on an issue of general interest such as the supply of potable water, define themselves in purely communal or nationalistic terms. Finally, we will see that the legal epilogue to the Artas affair, which was played before the Supreme Court in Jerusalem and later before the Privy Council of London, confirms the political and legal bind in which the Mandate government found itself.

Is the Artas Decree “discriminatory”?

The complaint formulated by the Palestine Arab Congress Executive Committee was brought before the Palestine Supreme Court of Justice by the famous lawyer Moghannam Moghannam, an ardent defender of the Palestinian national cause and himself a member of the Executive Committee.⁴⁸ On 9 June the *Palestine Bulletin* indicated that the complaint was deemed admissible, and that the Supreme Court had jurisdiction and was, in legal jargon, seized of the case.⁴⁹ On 25 June the *Palestine Bulletin*, on its front page, informed its readers that the verdict rendered in the Artas case found the Government at fault.⁵⁰ Two main arguments justified the invalidation of the decree: first, the Artas water diversion was a discriminatory measure, since all of its victims were Arab and most of its beneficiaries Jews; and second, the limitation on the plaintiffs’ right of appeal does not guarantee the impartiality of future arbitration decisions in cases of litigation between villagers and the Mandate authority.⁵¹ One can see that the two basic arguments of the Arab Executive’s complaint were adopted word for word by the Palestine Supreme Court judges. Pumping of the Artas waters, as we know, had however started as early as 1 June, and the Supreme Court judges granted that the appeal process that was immediately initiated by the Mandate government provided sufficient grounds for suspending their own decision. So, to put it plainly, pumping could continue until the higher appellate court – the Privy Council in this case – renders a final decision.

On 16 February 1926, more than eight months after the start of the affair and with the pumping of the Artas waters continuing uninterrupted, the Privy Council of London, which had jurisdiction over all territories administered by the British Crown,⁵² set aside the invalidation adjudicated in the first instance by the Palestine Supreme Court, and ruled definitively in favor of the Mandate authorities: “The

Judicial Committee of the Privy Council today allowed the appeal by the District Governor of the Jerusalem-Jaffa District and the President of the Jerusalem Water Supply Commission from an order of the Supreme Court of Palestine restraining them from taking water from the Springs at Urtas, a village in the neighbourhood of Jerusalem. Their Lordships decreed that the order of the Supreme Court should be set aside and the petition dismissed and that the respondents should pay the costs of the proceedings, including the cost of the appeal.”⁵³ This brutal reversal is a perfect illustration of the internal contradictions within the Mandate.

The Artas decree, in these circumstances, was the subject of two diametrically opposed readings by the Palestine Supreme Court and the Privy Council: to the former, the Artas decree was clearly discriminatory; according to the Palestine Supreme Court judges, the Artas source requisition deprived its Arab owners of their legitimate rights in order to provide for Jerusalem’s Jewish community, thereby calling into question the equity that should guide the Mandate authority’s actions. As for the Privy Council judges, they acknowledged the theoretical relevance of the argument but asserted that in this case, the discriminatory aspect of the measure cannot be invoked.⁵⁴ The judicial epilogue of the Artas affair therefore allows one to get to the heart of the Mandate’s internal contradiction, which may be summarized as an incongruity between *rights* and *facts*. The Supreme Court judges reason “in fact,” whereas those of the Privy Council reason “in law.” The former noted that, *de facto*, the victims of the water diversion were Arab and the beneficiaries Jewish, which led them to believe that the measure was, *de facto*, discriminatory. The latter, in contrast, remained faithful to the legal fiction of a “Palestinian nationality,” as stipulated for example in Article 4 of the British government’s declaration of 11 January 1923.⁵⁵ This legal fiction led them to believe that, *de jure*, the water diversion measure could not be discriminatory.

The microcosmic Artas affair demonstrates that the apparent stability of the 1920s cannot conceal the two contradictions intrinsic to the Mandate: on the one hand, the British presence in Palestine stems from a colonial logic which remains within the framework of international law; on the other, the promise of a Jewish national home appears to be utterly incompatible with the official position on the defense of the “general interest” in Palestine.⁵⁶ This twofold contradiction forced Mandate authorities to resort to multiple contortions in order to make successive pledges to one or the other of the concerned parties. In his annual report for 1926-1927 Andrew Koch attempted to present a pacified version of the Artas events. As expected, pumping had ceased at the end of May 1926 so as not to exceed the twelve-month limit set by the decree, and the authorities were eager to appear magnanimous in the final settlement of the dispute: “On the 26th May, 1926, the pumping was definitely stopped, and very soon afterwards the whole pumping plant removed and disposed of. Concerning the controversies, which were caused by the stiff resistance of the villagers of Urtas, against the use of a part of the water by us, and which resulted in a lawsuit entered by the villagers against the Government, it is now gratifying to state that by the very generous and tactful action of the Government, the whole matter was settled in a friendly way and the villagers were released from heavy expenditures

which otherwise, by the terms of the juridical decision, should have been borne by themselves.²⁵⁷ The Artas affair, all the way to the terms of its final settlement, is a prime example of the contradictions within Mandate politics: a messy and confusing alternation between vexing measures and appeasing gestures, between intimidation maneuvers and attempts at conciliation. In subsequent years, and until 1936 and the inauguration of the Ras al-‘Ayn water supply network serving Jerusalem, the same culpable ambiguous acts would recur in the “hydro-history of Jerusalem,” an excellent lens through which to view its global political history.

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Translated from the French by Maya Yared.

Endnotes

- 1 Artas village is located just below the three Solomon’s Pools, on the road between Bethlehem and Hebron, approximately twelve kilometers south of Jerusalem. This is where biblical tradition locates the famous *Hortus Conclusus*, King Solomon’s Closed Garden. Sources use different transliterations for this same toponym, variously rendering it as Ortas, Artas, and Urtas.
- 2 Rashid Khalidi, *Palestinian Identity: The Construction of Modern National Consciousness* (New York: Columbia University Press, 2010).
- 3 Eric Hobsbawm, *Nations and Nationalism since 1780: Programme, Myth, Reality* (Cambridge: Cambridge University Press, 1990); Ernest Gellner, *Nations and Nationalism* (Ithaca: Cornell University Press, 1983); Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991).
- 4 Khalidi, *Palestinian Identity*, 89-90.
- 5 Henry Laurens, *La question de Palestine*, tome 2, *Une mission sacrée de civilisation (1922-1947)* (Paris: Fayard, 2002), 67.
- 6 Julie Trottier, *Hydropolitics in the West Bank and Gaza Strip* (Jerusalem: PASSIA, Palestinian Academic Society for the Study of International Affairs, 1999).
- 7 Artas village was the subject of numerous monographs, due to the biblical tradition of *Hortus Conclusus*, to the proximity of Solomon’s Pools and to its special soil. The 1925 conflict between the villagers and the Jerusalem municipality was not covered however in the scholarly literature on the subject which was mostly dedicated to the anthropological and cultural aspects of the village. Worthy of note in this bibliography are: Philippe James Baldensberger and Frederic Lees, *The Immovable East: Studies of the People and Customs of Palestine*, (London: Sir I. Pitman & sons, Ltd., 1913); Hilma Granqvist, *Marriage Conditions in a Palestinian Village*, Helsinki: Akademische buchhandlung, 1931-1935); Jamal Bargouth, Muhammad Jaradat, and Nazmi Ju‘bah, *The Cultural Landscape of Artas, Solomon’s Pools and the water supply of Jerusalem from the Roman period till today* [in Arabic] (Ramallah: Ruwaq, Markaz al-Mi‘mar al-Sha‘bi, 2002). Also worthy of note is the very important work by Ida Falestin Sheikh-Shehadeh-Naïli, “La mémoire et l’oubli à Artas: un élément de l’histoire rurale de la Palestine, 1848-1948,” (PhD diss., University of Provence Aix-Marseille I, 2007).
- 8 Historical Archives of the Jerusalem Municipality (HAJM), Water Supply series (WS), c. 615, report no. 3 (March 1 1924 – March 31 1925), 1
- 9 “La sécheresse en Terre Sainte,” *Jérusalem*, May-June 1925, 348.
- 10 *The Palestine Bulletin*, March 26, 1925, 3.
- 11 HAJM, WS, c. 619, report no. 4 (April 1, 1925 – March 31, 1926), 35-36.
- 12 Of the eight Water Supply Department Advisory Board members, four were Jewish,

- three British, and only one was Arab, none other than the city's mayor Ragheb Bey Nashashibi.
- 13 *The Palestine Bulletin*, April 1, 1925, 3.
 - 14 Laurens, *La question de la Palestine*, 74-76 ("Le foyer national juif au temps de la quatrième 'aliya'").
 - 15 There are numerous accounts of Jerusalem's Hebrew University inauguration. All official speeches are published in *The Palestine Bulletin* special edition of April 2, 1925.
 - 16 HAJM, WS, c. 615, report no. 3 (March 1, 1924 – March 31, 1925), 22.
 - 17 HAJM, WS, c. 619, report no. 4 (April 1, 1925 – March 31, 1926), 26 ("Standpipes and ticket bureau").
 - 18 *The Palestine Bulletin*, May 31, 1925, 3.
 - 19 The text of the decree is reproduced in its entirety on a full page in *The Palestine Bulletin*, May 31, 1925, 3.
 - 20 Article 1: "This Ordinance may be cited as the Urtas Springs Ordinance, 1925," *The Palestine Bulletin*, May 31, 1925, 3.
 - 21 Article 2, *The Palestine Bulletin*, May 31, 1925, 3.
 - 22 Article 2, *The Palestine Bulletin*, May 31, 1925, 3.
 - 23 Bargouth, Jaradat, and Ju'bah, *The Cultural Landscape of Artas*, 72-85.
 - 24 Article 3 (1), *The Palestine Bulletin*, May 31, 1925, 3.
 - 25 Article 3 (2), *The Palestine Bulletin*, May 31, 1925, 3.
 - 26 Article 5 (1), *The Palestine Bulletin*, May 31, 1925, 3.
 - 27 HAJM, WS, c. 619, report no. 4 (April 1, 1925 – March 31, 1926), 14-16 ("Urtas pumping station").
 - 28 HAJM, WS, c. 619, report no. 4 (April 1, 1925 – March 31, 1926), 14-16 ("Urtas pumping station").
 - 29 Fabienne Wateau, *Partager l'eau. Irrigation et conflits au nord-ouest du Portugal* (Paris: CNRS Éditions: Éditions de la Maison des sciences de l'homme, 2002), 39-43 ("Les infrastructures d'irrigation").
 - 30 HAJM, WS, c. 619, report no. 4 (April 1, 1925 – March 31, 1926), 15.
 - 31 Hilma Granqvist and Karen Seger, *Portrait of a Palestinian village: Photographs of Hilma Granqvist* (London: Third World Centre for Research and Publ., 1981).
 - 32 HAJM, WS, c. 619, report no. 4 (April 1, 1925 – March 31, 1926), 15.
 - 33 *The Palestine Bulletin*, June 9, 1925, 1 ("Arab Executive Protests against Water Ordinance"). All subsequent quotations are taken from this page.
 - 34 Laurens, *La question de la Palestine*, 74.
 - 35 *The Palestine Bulletin*, June 9, 1925, 1.
 - 36 *The Palestine Bulletin*, June 9, 1925, 1.
 - 37 Laurens, *La question de la Palestine*, 31, 42-46.
 - 38 C.Z.A., A.153/143/2 (David Yellin's personal archives), Frederick Herman Kisch to Itzhak Ben-Zvi, April 2, 1924 (confidential copy addressed to David Yellin).
 - 39 Laurens, *La question de la Palestine*, 62-67 ("Husseini et Nashashibi"). Nashashibi's defense was specifically presented in a biography written by Ragheb's nephew: Nasser Eddin Nashashibi, *Jerusalem's Other Voice: Ragheb Nashashibi and Moderation in Palestinian Politics, 1920-1948* (Exeter: Ithaca Press, 1990). I would like to thank Nasser Eddin Nashashibi for the interviews he was kind enough to grant me at his Jerusalem home in May 2003.
 - 40 *The Palestine Bulletin*, June 9, 1925, 1.
 - 41 *The Palestine Bulletin*, June 9, 1925, 1.
 - 42 In particular the Hammam al-Shifa, located at the core of the old city, in close proximity to the Suq al-Qattanin (Lucien Golvin, "Quelques notes sur le Sûq al-Qattânîn et ses annexes à Jérusalem," *Bulletin d'Études Orientales* (Institut Français de Damas), 20, (1967): 101-117.
 - 43 "La sécheresse en Terre Sainte," *Jérusalem*, May-June 1925, 348 .
 - 44 Khalidi, *Palestinian Identity*, 116-117.
 - 45 It is well known that the *keffiyah*, symbol of Palestinian resistance since 1938, was borrowed from peasant dress between the two world wars. (See Laurens, *La question de Palestine*, 396.)
 - 46 See the two diagrams of Jerusalem's potable water distribution systems for 1919 and 1930.
 - 47 Odile Goerg and Xavier Huetz de Lemps, "La ville européenne outre-mer," in *Histoire de l'Europe urbaine*, t.2, ed. Jean-Luc Pinol et al. (Paris: Seuil, 2003), 277-551.
 - 48 *The Palestine Post*, February 26, 1933, 3, indicates for example that Moghannam Moghannam was received the day before by the High Commissioner as a member of the Arab Executive, and that he pleaded the cause of the Danoum villagers who, according to him, were burdened by excessively high taxes. Moghannam Moghannam is also the spouse of the famous feminist activist Matiel Moghannam, author of *The Arab Women and the Palestinian Problem* (London: Herbert Joseph, 1937), who organized the first women's protest in Jerusalem, which took place on 26 October 1929. At the creation of the National Defense Party in December 1934, Moghannam Moghannam would join Raghib Bey Nashashibi's partisans ("New Arab Party. Ragheb Bey as a Leader," *The Palestine Post*, December 3, 1934, 1.)

- 49 *The Palestine Bulletin*, June 9, 1925, 1.
- 50 *The Palestine Bulletin*, June 25 1925, 1.
- 51 *The Palestine Bulletin*, June 25 1925, 1.
- 52 F.S. Perles, "British Crown's Judicial Powers: The King as a Supreme Court," *The Palestine Post*, June 14, 1945, 4.
- 53 C.Z.A., S.22 / 229, February 17 1926 ("Jerusalem Water Supply: Palestine Supreme Court's Decision against Urtas Ordinance set aside: Privy Council's Decision").
- 54 C.Z.A., S.22 / 229, February 17 1926 ("Jerusalem Water Supply: Palestine Supreme Court's Decision against Urtas Ordinance set aside: Privy Council's Decision").
- 55 Cited by Laurens, *La question de la Palestine*, 25.
- 56 Roger Heacock, "Le système international aux prises avec le colonialisme: les délibérations sur la Palestine dans la Commission permanente des Mandats à la Société des Nations," in *The British and the French Mandates in Comparative Perspectives* ed. Nadine Méouchy and Peter Sluglett (Leiden; Boston: Brill, 2004), 129-142.
- 57 HAJM, WS, c. 619, report no. 5 (April 1, 1926 – March 31, 1927), 20 ("The Urtas station").