

“The Consequential Existence of Indigenous People”: Zionist Settlement in 1920s
Palestine

by

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BA, McGill University, 2010

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Supervisory Committee

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Abstract

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Historians have often discussed the process of Zionist settlement in Ottoman and mandate Palestine as if it occurred in isolation from, and without impact on, the indigenous Palestinian Arab population. Revisionist scholars, including Gershon Shafir and Gabriel Piterberg, have challenged this portrayal. They argue that the presence of the Palestinian Arabs on the land, as well as their participation in the labour market, had a fundamental influence on the development of divergent Zionist settlement strategies. This thesis complements and supports this argument through analysis of the participation of two influential Zionists, Alexander Aaronsohn and Norman Bentwich, in a series of legal actions known as the “Zeita Lands Case”. The case itself, which took place under the British mandate between 1923 and 1931, is discussed in detail. The lives and background of Bentwich and Aaronsohn are examined in order to contextualize their participation in the case.

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Dedication

To my grandfathers

Introduction

In 1901, Israel Zangwill famously wrote that “Palestine is a country without a people; the Jews are a people without a country.”¹ No modern scholar would agree with the first part of that statement, at least taken in its literal sense to mean that the territory was uninhabited. Even among the early Zionist movement many were aware that Palestine had a substantial indigenous population. Adam Garfinkle argues that what Zangwill meant was that there was no nation in the political sense in Palestine, not that there were literally no inhabitants.² However, despite the universal recognition by historians of the existence of an indigenous population in Palestine, many scholars discuss the process of Zionist settlement in Palestine as if it occurred in isolation from and without taking into account the presence of the Palestinian Arabs.³

Gabriel Piterberg argues that it is impossible to accurately discuss the process of Zionist settlement, and the evolution of different strategies advocated by various strands of the Zionist movement, without reference to the Palestinian Arab population. He points out that:

...what shaped the cooperative settlements and made some theories more pertinent and more applicable than others was precisely what the Zionists called the Arab problem, or the consequential existence of indigenous people who, from a settler vantage point, were a problem.⁴

¹ Quoted in Adam M. Garfinkle, “On the Origin, Meaning, Use and Abuse of a Phrase,” *Middle Eastern Studies* 27, no. 4 (October 1991): 540, <http://www.jstor.org/stable/4283461>.

² Garfinkle, “Use and Abuse of a Phrase,” 546.

³ This thesis follows Zachary Lockman in referring to the non-Jewish inhabitants of Palestine as “Palestinian Arabs.” This usage seeks to highlight the distinct identity of the Palestinian Arab population without the outright anachronism of referring to them simply as “Palestinians.” For a more complete discussion of this issue, see: Zachary Lockman, *Comrades and Enemies: Arab and Jewish Workers in Palestine, 1906-1948* (Berkeley: University of California Press, 1996), 18.

⁴ Gabriel Piterberg, *The Returns of Zionism: Myths, Politics, and Scholarship in Israel* (London; New York: Verso, 2009), 57

While it is difficult to deny the existence of the Palestinian Arabs, scholars frequently fail to acknowledge that Zionist settlement necessarily required and resulted in their dispossession. Paradoxically, they acknowledge that there were people on the land, but not that the influx of new settlers inevitably led to the displacement of some of them.

Since the 1990s, there has been a growth in revisionist scholarship that seeks to challenge this narrative by applying the literature on the comparative study of settler societies to the case of Zionist settlement in Palestine. The present study intends to support and expand on this line of argument through a microhistory of a specific legal case that arose out of one problematic Jewish land purchase in Palestine during the 1920s. The following chapters explore both the history of the case itself and the roles played in it by two of the most prominent Jewish participants. Through its small-scale examination of events at the level of local reality, this study attempts to examine some fractures and conflicts within the Zionist movement. It also maintains that Zionist ideology was the product of material conditions on the ground in Palestine, the most important of which was the presence of an indigenous Palestinian Arab population. What the following chapters intend to illustrate is that the differing perspectives within the Zionist movement can best be understood not as abstract philosophical positions but as products of the economic pursuits of the various groups within the Jewish community in Palestine.

Any history of Palestine between 1882 and 1947 is, to some extent, an exploration of the fighting that took place between 1947 and 1949. Whether it is called “al-Nakba,” the “War of Independence,” or the carefully neutral “1948,” the war exerts a powerful influence on narratives of the events that preceded it. It is the central event of both the

Israeli and Palestinian nationalist narratives, although they impart to it radically divergent meanings. As Nancy Partner notes, what separates these two accounts is a disagreement not so much over what took place in 1948, as over the larger process of which these events were part:

In narrative structural terms, Beginnings are immeasurably more important than Middles, no matter how dramatic. Beginnings, in narrative construction, are the logical implications of already known, or projected, endings...for all its emotional intensity, 1948 (as Nakba or refugee problem) is not a narrative driver so much as a narrative result, proceeding from a Beginning chosen in this way that beginnings are chosen, as the implication of certain desired endings.⁵

To illustrate this point, Partner takes as an example a history textbook whose authors, recognizing that creating a single account acceptable to both peoples was impossible, chose to print the Israeli narrative as a column on one side of the page and the Palestinian narrative on the other. In this book, the Israeli narrative begins with a discussion of European anti-Semitism, nationalism, and the creation of the Zionist movement; the Palestinian narrative begins with a 1799 plan by Napoleon to create a Jewish state in Palestine.⁶

The difference between these accounts is much greater than a disagreement over what occurred in 1948. As Partner comments, with regard to Benny Morris' extensive work on the 1948 war:

No amount of detail and evidence, or moral candor in documenting even rapes by Jewish soldiers, nor the detailed maps of Arab villages and the continuing effort by Morris to account for the fate of every village population, will bring his work together with Palestinian narratives of identity and traumatic memory.⁷

⁵ Nancy Partner, "The Linguistic Turn Along Post-Postmodern Borders: Israeli/Palestinian Narrative Conflict," *New Literary History* 39, no. 4 (2008): 839, <http://muse.jhu.edu/journals/nlh/summary/v039/39.4.partner.html>.

⁶ Partner, "Israeli/Palestinian Narrative Conflict," 838- 839.

⁷ Partner, "Israeli/Palestinian Narrative Conflict," 837.

When considered in the context of Jewish history and European anti-Semitism, atrocities committed during the war appear as the regrettable side-effects of the process of national rebirth in the land of Israel. Set into the context of being colonized by a European empire, they appear as the ethnic cleansing of an indigenous population by a foreign occupier.

The two sides could plausibly agree on what happened in 1948, but it is harder to imagine that they will ever agree on what those events meant.

The preceding paragraphs should not be taken to mean that all narratives are equal. Instead, they are intended to point out that the most intransigent historical debates often take place not over the details of specific events, but over the place of those events in larger narratives. While scholars of Middle Eastern history must certainly be rigorous in assessing the factual accuracy of their sources, the most important choice they make is how to arrange these facts into a narrative. The following section makes the case that the most accurate narrative model for the process of Zionist settlement in Palestine is that of the colonial settler society. Through a survey of the previous historical scholarship following this approach, it argues that this model represents the dynamics of Zionist settlement, and the relationship between the Jewish and Palestinian Arab communities in Palestine, more accurately than other accounts.

Zionism as Settler Colonialism

David Prochaska comments that the historiography of French colonial Algeria suffers from “the bane of so much contemporary history: too much personal polemic and not enough dispassionate analysis, too much in the way of historical myth and too little

historical fact, too much reading the present into the past and too little consideration of the past on its own terms.”⁸ The same could be said of the historiography of modern Palestine. The claim that the Yishuv (the Jewish community in Palestine prior to 1948) is best understood as a colonial settler society is controversial. It should be clarified that the use of this paradigm in the following study is not intended to delegitimize the modern State of Israel. Whether Zionist settlement in Palestine was right or wrong is beyond the scope of this paper, and to a large extent this question is beyond the scope of the historical discipline entirely.

Academic history cannot effectively evaluate religious and moral claims to Israel/Palestine, or decide who has a greater right to the land. What history can do is describe how Zionist settlement in Palestine occurred, identify its consequences, and determine whether those consequences were accidental or inevitable. The central claim made by scholars who have applied the model of the colonial settler society to Zionism is that the displacement of the Palestinian Arab population was neither accidental nor avoidable. Instead, it was an essential and necessary characteristic of Zionist settlement. This revisionist approach challenges accounts that describe the two communities developing on separate trajectories.

Tom Segev describes relations between the Jewish and Palestinian Arab communities, and their British rulers, in mandate Palestine in the following terms:

The British pretended, and perhaps some of them even believed, that the establishment of a national home for the Jews could be carried out without hurting the Arabs. But, of course, that was impossible. The truth is that two competing nationalist movements consolidated their identity in Palestine and advanced steadily toward confrontation.⁹

⁸ David Prochaska, *Making Algeria French: Colonialism in Bône, 1870-1920* (Cambridge: Cambridge University Press), 1.

⁹ Tom Segev, *One Palestine, Complete* (New York: Metropolitan Books, 2000), 6.

As a model for understanding the events that took place in Palestine between 1882 – the foundation of the first Zionist settlements – and 1947 – the beginning of civil war between the two communities – Segev’s account lacks explanatory power. The parallel that Segev sets up between Zionism and Palestinian nationalism, the “two competing national movements,” is misleading. To say that both movements “consolidated their identity in Palestine” is to imply that the processes involved were analogous. More accurately, the birth of a distinctly Palestinian national identity coincided with, and was constructed in opposition to, the process of Zionist settlement in Palestine. The two movements were intimately related, and each influenced the growth of the other, but they developed according to quite different dynamics.

Segev’s description is closely related to the “dual society” model proposed by Horowitz and Lissak, who describe the situation during the mandate in terms of “two distinct economic systems...with only limited market relations between them.”¹⁰ Jacob Metzer provides a more sophisticated version of this argument in *The Divided Economy of Mandatory Palestine*. Basing himself on a detailed survey of economic trends over the period the mandate, he argues that “the diverse cyclical patterns of economic activity are obviously consistent with and provide additional support to the contention that there were two separate economies in Mandatory Palestine.”¹¹ His analysis, however, does not necessarily contradict the argument that Zionist settlement cannot be discussed in isolation from the interactions between the settlers and the indigenous population. The

¹⁰ Dan Horowitz and Moshe Lissak, *Origins of the Israeli Polity: Palestine under the Mandate*, trans. Charles Hoffman (Chicago; London: University of Chicago Press, 1978), 17.

¹¹ Jacob Metzer, *The Divided Economy of Mandatory Palestine* (Cambridge: Cambridge University Press, 1998), 27.

Jewish economy in Palestine may have been separate, but its construction, and the larger process of settlement, certainly had an impact on the Palestinian Arabs.

The dual society paradigm, which portrays the Yishuv and the Palestinian Arab community as separate entities, each developing according to its own internal dynamics, forms the basis for much of the historiography of the period.¹² However, as Gershon Shafir points out:

...as long as Jewish society was bent on expansion, it could never remain self-contained. The *Yishuv* directly interacted with its Palestinian counterpart, through the purchase of some of its land, limited its traditional subsistence and later, through conquest, uprooted a large share of its population.¹³

The Zionist movement could only achieve its aims by increasing the Jewish population of Palestine through immigration, and expanding the economy and land base of the Yishuv.

This inevitably led to the displacement of Palestinian Arabs.

The model derived by Shafir and others from the comparative study of settler societies more accurately describes the relations between the Yishuv, the Palestinian Arab community, and the British administration than the dual society model. Prochaska identifies what constitutes a settler colony in the following terms:

...whereas in the majority of colonial situations there are two primary groups involved – temporary migrants from the colonizing country (colonial administrators, military personnel, merchants and traders, missionaries) and the indigenous people – in settler colonies the settlers constitute a third group. It is not simply the existence of settlers which makes a difference, but rather the implications and consequences which result from their presence that is significant.¹⁴

¹² For a more detailed critique of the “dual society” model see: Lockman, *Comrades and Enemies*, 3-8.

¹³ Gershon Shafir, *Land, Labor and the Origins of the Israeli-Palestinian Conflict*, 2nd edition (Berkeley; Los Angeles: University of California Press), xii.

¹⁴ Prochaska, *Making Algeria French*, 9.

This model can clearly be applied to Palestine under the British mandate, where a growing population of Zionist settlers was protected by the British colonial administration.

Of course, there were unique aspects to Zionist settlement in Palestine. Unlike in most settler societies, the settler population was not primarily made up of citizens of the colonial power. Furthermore, they laid claim to the land based on prior occupation in biblical times. As Neil Caplan notes, there is still considerable debate over whether it is more accurate to consider Zionism as an expression of the Jewish national revival (the standard Israeli nationalist narrative) or another example of European colonialism (the Palestinian nationalist narrative).¹⁵ However, regardless of which view one takes, it is impossible to deny that Zionism required a process of immigration to and settlement in Palestine. On the ground, the relationship of the Yishuv to the Palestinian Arab population followed a dynamic that can be usefully compared to those seen in other settler societies.

The first scholar to draw on the literature on comparative settler societies to discuss Zionist settlement in Palestine was Shafir, in his pathbreaking *Land, Labor and the Origins of the Israeli-Palestinian Conflict*.¹⁶ In his analysis, Shafir explicitly relies on a typology of settler societies first proposed by D.K. Fieldhouse and refined by George Fredrickson. In *The Colonial Empires*, Fieldhouse differentiates between three types the settler colonies: the “mixed” colony, in which the settler minority created a society as similar as possible to that of the metropole, but attempted to absorb and subordinate the

¹⁵ Neil Caplan, *The Israel-Palestine Conflict: Contested Histories* (Chichester: Blackwell Publishing, 2010), 46-50.

¹⁶ The first edition was published in 1989. This work relies on the updated paperback edition, which was published in 1996 with a new preface by the author: Gershon Shafir, *Land, Labor and the Origins of the Israeli-Palestinian Conflict*, 2nd ed. (Berkeley; Los Angeles: University of California Press, 1996).

indigenous population; the “plantation” colony, in which enslaved or indentured workers were brought in as a labour force; and the “pure” settlement colony, in which the settlers set up their own society and eventually displaced the indigenous population entirely.¹⁷

Fredrickson provides a more detailed and sophisticated version of this typology in his 1988 comparative essay on colonialism and racism in the United States and South Africa. Most significantly, for the purposes of this study, he notes that Fieldhouse,

...uses these categories to describe the dominant tendency in actual situations, whereas I will employ them as ideal types for which there were some relatively pure examples. This approach permits analysis of the peculiar American and South African cases as deviant versions or hybrids of the basic types, rather than simply varieties of them.¹⁸

Shafir picks up on this idea, and coins the term “ethnic plantation colony,” to describe a hybrid of the “mixed” and “plantation” types. Like the mixed colony, this type of society employed local labour rather than importing it, but in the ethnic plantation colony the settler population maintained a separate society and opposed miscegenation, which was common in mixed colonies. Shafir identifies the settlements founded during the initial phase of Zionist settlement in Palestine, the First Aliyah (1882-1903), as examples of the ethnic plantation type, and his analysis rests on a distinction between these and later Zionist settlements of the pure settlement type. Shafir’s arguments will be discussed in greater depth in the following sections, which explore how scholars have applied the literature on settler societies to the study of Zionist settlement in Palestine.

The most complete discussion of the existing historiography of comparative settler societies is a chapter contained in Gabriel Piterberg’s book *The Returns of*

¹⁷ D.K. Fieldhouse, *The Colonial Empires: A Comparative Survey from the Eighteenth Century*, 2nd edition (London: The MacMillan Press, 1982), 11-12, 372.

¹⁸ George M. Fredrickson, “Colonialism and Racism: The United States and South Africa in Comparative Perspective,” in *The Arrogance of Race: Historical Perspectives on Slavery, Racism, and Social Inequality* (Middletown: Wesleyan University Press, 1988), 218.

Zionism. Piterberg discusses works by Fieldhouse, Fredrickson, and Shafir, but he also mentions a number of scholars who, while they do not explicitly draw on these sources, are nonetheless concerned with similar issues. In particular, Piterberg mentions the work done by David Prochaska on French colonialism in Algeria and by Zachary Lockman on labour relations between Jewish and Palestinian workers during the British period.¹⁹

Piterberg himself provides an insightful summary of the scholarly literature, as well as a useful complement to it. While most of the scholars discussed above focus on the material aspects of settler colonialism, principally labour and land, Piterberg explores the ideologies that accompanied Jewish settlement in Palestine.²⁰

In the case of Jewish settlement in Palestine, the underlying argument made by Shafir, Lockman, and Piterberg is that the interaction between the Yishuv and the indigenous Palestinian Arab population is the central element of the narrative. The story of the growth of the Jewish population is also the story of Palestinian dispossession, which was not an unfortunate accident but the necessary condition for the creation of a Jewish state. As Piterberg puts it:

The more liberal versions of hegemonic settler narratives may admit that along the otherwise glorious path to creating a nation bad things were done to the indigenous people; they may even condemn these ‘bad things’ and deem them unacceptable. At the same time these narratives deny the possibility that the removal and dispossession of indigenous peoples and the enslavement of others is an *intrinsic* part of what settler nations are – indeed the most pivotal constituent of what they are – rather than an *extrinsic* aberration or corruption of something essentially good.²¹

Similarly, Shafir makes the case that Israeli identity was formed in the context of conflict and competition with the Palestinian population, arguing that:

¹⁹ See: Lockman, *Comrades and Enemies*; Prochaska, *Making Algeria French*.

²⁰ Piterberg, *Returns of Zionism*, 54.

²¹ Piterberg, *Returns of Zionism*, 56.

...what is unique about Israeli society emerged precisely in response to the conflict between the Jewish immigrant-settlers and the Palestinian Arab inhabitants of the land. Among these features I list the precocious political organization of the labor movement, the tight bond between settler and soldier, the evolution of cooperative forms of life, the amalgamation of the organized expression of these phenomena – the political party, the paramilitary organization, the kibbutz (and later the moshav) – under the aegis of the General Federation of Hebrew Workers in Eretz Israel (the Histadrut), the latter's disproportionate influence in comparison with unions elsewhere, and, finally, the ever-widening division of Israeli society into Jewish and Arab sectors.²²

Israeli society emerged out the conflict between the Yishuv and the Palestinian Arab population, and the displacement of the Palestinian Arabs was the central requirement for the creation of the State of Israel.

Conflict between the Jewish and Palestinian Arab communities was largely inevitable. Nonetheless, it is important to preserve a sense of contingency when writing the history of the period. Too much of the literature on Jewish settlement in Palestine follows what E.P. Thompson calls the “pilgrim’s progress” approach to history.²³ The most obvious example of this trend is the substantial genre of works with titles along the lines of “A History of the Israeli-Palestinian Conflict,” which catalogue every instance of inter-communal violence from the earliest days of Jewish settlement to the 1948 war and beyond. In the process, they self-consciously ignore the other aspects of the period in question.²⁴ It is not possible to know whether things might have turned out differently, nor is it productive to speculate. Nonetheless, the development of the Zionist-Palestinian

²² Shafir, *Land, Labor and the Origins*, 6.

²³ E.P. Thompson, *The Making of the English Working Class* (Harmondsworth: Penguin Books, 1968), 12-13.

²⁴ See for example: Benny Morris, *Righteous Victims: A History of the Zionist-Arab Conflict, 1882-2001* (New York: Vintage Books, 2001); Mark Tessler, *A History of the Israeli-Palestinian Conflict* (Bloomington: Indiana University Press, 1994); David Lesch, *The Arab-Israeli Conflict: A History* (Oxford; New York: Oxford University Press, 2008).

conflict was the product of numerous choices, made by individuals, each of which could have potentially been made differently.

One of the most eloquent statements of this case is contained in the introduction to Lockman's *Comrades and Enemies*:

...it is certainly important to remember the alternative visions of the future for which people and parties fought, to maintain a sense of history as always contingent and open-ended...That is not the same, however, as arguing that all would have been well "if only" certain people and groups had thought and acted differently. Perhaps, but they did not, so we must resist the temptation to deploy our perfectly sharp moral hindsight and instead try to understand why the people we are concerned with saw themselves and the world they lived in as they did and behaved as they did.²⁵

Piterberg picks up on this theme in Lockman's work and expands on it, although his reformulation is more explicitly political.

Concerning historical writing in the narrower sense, the inclusion of possibilities that existed on the margins fashions a nuanced portrayal of the past that heeds the experience of the historical actors themselves, whether they endeavoured to make these possibilities come true or fought tooth and nail to foil them. But in the wider significance that 'doing' history has, the highlighting rather than discarding of possibilities on the margins is one of the main things we – those of us in pursuit of radical history and politics – have at our disposal.²⁶

Lockman proposes an approach in line with what Piterberg describes as "historical writing in the narrower sense," employing marginal possibilities to maintain a sense of contingency and more accurately represent the consciousness of historical actors.

However, his commitment to understanding before moral judgment is in contrast to Piterberg's contention that marginal historical positions should be given voice precisely as a deliberate political and moral statement.

²⁵ Lockman, *Comrades and Enemies*, 20.

²⁶ Piterberg, *Returns of Zionism*, 68.

A methodology that is particularly well-suited to restoring a sense of contingency to historical events is that of microhistory, with its focus on individual experience and lived reality. This study intends to employ these methods of to expose the human complexity beneath the reductionist categories often employed to describe the history of Palestine. The following section presents a discussion of the usefulness of microhistory in this area and of the relationship between micro- and meta-narrative.

The Utility of a Microhistorical Approach

Lockman, Shafir, and Piterberg, who are the principle influences for the present work, all wrote comparatively large-scale studies. This thesis attempts to add to our understanding of the process of Jewish settlement in Palestine through the use of microhistory, which offers a useful complement to larger narratives. Richard Brown explained the relationship between the two using the following analogy:

It is as if biologists were to judge the cleanliness of a lake by looking over the side of the boat as they traversed the surface, rather than by dipping an ounce of the water for microscopic and chemical analysis. Yes, gross visual inspection, like grand narrative, tells you some important things that you could never learn by dipping an ounce of water-but it also conceals important realities.²⁷

Fine-scale analysis and micro-narrative allows us to treat historical actors as individuals, not as members of a collective. As Brown suggests, discussing a single case in detail can reveal things that are missed in a broader survey, just as a larger narrative can show patterns that a microhistory cannot.

²⁷ Richard D. Brown, "Microhistory and the Post-Modern Challenge," *Journal of the Early Republic* 23, no. 1 (Spring 2003): 17-18, <http://www.jstor.org/stable/3124983>.

Microhistory can offer a new perspective on some of the trends highlighted by other forms of analysis by showing how these trends manifested themselves on an individual level. Roger Chartier comments that “It is on this reduced scale, and probably only on this scale, that we can understand, without deterministic reduction, the relationships between systems of belief, of values and representations on one side, and social affiliations on another.”²⁸ In a microhistory, we can draw rounded portraits of each of the actors, portraits that reveal the various motivations and loyalties that guided their actions, without reducing them to uniform members of a group. This kind of specificity can, in turn, tell us a great deal about the broader trends that were occurring. Carlo Ginzburg quotes Proust to make a similar point:

People foolishly imagine that the broad generalities of social phenomena afford an excellent opportunity to penetrate further into the human soul; they ought, on the contrary, to realise that it is by plumbing the depths of a single personality that they might have a chance of understanding those phenomena.²⁹

In the case of the history of Palestine, microhistory offers the opportunity to put concrete individuals back into a narrative too often framed in terms of relationships between monolithic groups.

Laila Parsons has recently suggested that microhistory offers a useful counterpoint to larger narratives on the history of the modern Middle East. She notes that there have been comparatively few microhistories written on the region, and that historians in general have paid little attention to “the more prosaic concerns of daily life:

²⁸Quoted in Carlo Ginzburg, John Tedeschi, and Anne C. Tedeschi, “Microhistory: Two or Three Things I Know About It,” *Critical Inquiry* 20, no. 1 (Autumn 1993): 10-35, <http://www.jstor.org/stable/1343946>.

²⁹Quoted in Carlo Ginzburg, “Latitude, Slaves, and the Bible: An Experiment in Microhistory,” *Critical Inquiry* 31, no. 3 (Spring 2005): 683, <http://www.jstor.org/stable/10.1086/430989>.

money, family, friendship, professional networks, schools, food, and leisure.”³⁰ Instead, she explains, in the years since the publication of Edward Said’s *Orientalism*, historians have focused on “locating the words and actions of historical actors into one (or more) of the three over-arching and interconnected (post-colonial) themes that have recently dominated the historical study of the early 20th-century Mashriq: colonialism, nationalism, and modernity.”³¹ Parsons argues that microhistory should form an important part of the post-colonial historical project, since:

Human-level details conveyed in a micro-narrative can be effective in dismantling stale categories of analysis, just as the statistical evidence adduced by the social and economic historian can be – not in the same way, of course, but as a complementary rather than competing mode of critique.³²

She proposes that micro-narrative can be used to effectively critique colonialism, by exposing “the cherished futures that in many cases were thwarted or distorted by British and French colonial power.”³³

However, while micro-narrative and meta-narrative can complement each other in revealing ways, there is also a tension between them that centres on the precise relationship between these two levels of analysis. Perhaps the most radical articulation of this issue is Sigurdur Magnusson’s article “The Singularization of History,” which argues that: “the linkage between units of research and metanarratives are not only undesirable but downright dangerous, since the latter tend to monopolize the scholar’s attention.”³⁴

While he admits that microhistory is inevitably written in the context of the contemporary

³⁰ Parsons, “Micro-narrative and the Historiography of the Modern Middle East,” *History Compass* 9, no. 1 (2011): 85, <http://onlinelibrary.wiley.com/doi/10.1111/j.1478-0542.2010.00749.x/abstract>.

³¹ Parsons, “Historiography of the Modern Middle East,” 85.

³² Parsons, “Historiography of the Modern Middle East,” 93.

³³ Parsons, “Historiography of the Modern Middle East,” 93.

³⁴ Sigurdur Gylfi Magnusson, “‘The Singularization of History:’ Social History and Microhistory within the Postmodern State of Knowledge.” *Journal of Social History* 36, no. 3 (Spring 2003): 720, <http://www.jstor.org/stable/3790736>.

historiography, Magnusson argues that microhistory “must always be subject to laws other than those imposed by the traditional metanarratives,” and that each specific case must be examined in its own terms.³⁵ In practice, he claims:

...this ideology brings into prominence the contradictions and inconsistencies in the mind of each and every individual and heightens the oppositions that move within each living person. To allow the contradictions and paradoxes freedom of expression, the emphasis must always be kept on squarely the subject matter itself and on nothing else.³⁶

While the present study aims to both challenge and complement larger narratives, it attempts to resist facilely imposing the categories drawn from those narratives upon the individual historical subjects it considers.

Historical Context

To contextualize the later chapters, the following section sketches the basic historical background, framed in terms of the literature on settler societies. This sketch is drawn primarily from the work of Gershon Shafir, whose approach has been discussed above. Shafir argues that the key features of Israeli society emerged in the context of the early settlers’ interaction with the physical landscape of Palestine and the indigenous Palestinian Arab population.

Shafir focuses his study on an earlier period than most scholars. The Second Aliyah, which arrived in Palestine between 1904 and 1914, produced some of the most influential leaders of the Yishuv and constituted one of the most important influences on the State of Israel. Understandably, the Second Aliyah has been the focus of considerable historical study. However, most historians focus on the British mandate period as the

³⁵ Magnusson, “The Singularization of History,” 720.

³⁶ Magnusson, “The Singularization of History,” 721.

pivotal moment in the history of Jewish settlement in Palestine, and they consider the Second Aliyah almost exclusively in terms of its influence on later waves of immigration.

As Shafir points out, this approach relies on a teleological reading of history that takes the Second Aliyah and its ideology as a given.³⁷ He notes that:

Before exerting authority over later *aliyot*, and opposing their contending strategies, the agricultural workers of the Second *Aliya*, however, had to crystallize their own method of state and nation formation. Had they not found solutions to their own problems, there would have been no reason for later immigrants to follow in their footsteps, nor would the Second *Aliya* have had the wherewithal to extract such compliance from them.³⁸

Therefore, Shafir chooses to focus on the period when the Second Aliyah's approach to settlement in Palestine developed, and on the First Aliyah that preceded them. Arguing that the Second Aliyah must be understood in terms of their relationship to both the Palestinian Arab population and to earlier Jewish immigrants, he examines the period from 1882 to 1914, beginning with the first Zionist settlements in Palestine.

The first three Zionist settlements in Palestine were founded in 1882, by immigrants supported by the Hovevei Zion (Lovers of Zion) society: Rishon le-Zion, Rosh Pinna, and Zichron Ya'akov. A fourth, Petah Tikva, was founded in 1883.³⁹ A second wave of immigration in the early 1890s led to the foundation of two further settlements, Hadera and Rechovot.⁴⁰ At first, the settlers imitated the agricultural practices of their Palestinian Arab neighbours, growing cereals, as well as a few plantation crops. However, it quickly became clear that these methods could not provide them with the standard of living they were accustomed to. In response, the settlers

³⁷ Shafir, *Land, Labor and the Origins*, 1-4.

³⁸ Shafir *Land, Labor and the Origins*, 4.

³⁹ Ran Aaronsohn, *Rothschild and Early Jewish Colonization in Palestine* (Lanham: Rowman and Littlefield Publishers; Jerusalem: The Hebrew University Magnes Press, 2000), 49.

⁴⁰ Shafir, *Land, Labor and the Origins*, 51.

appealed to Baron Edmond de Rothschild for assistance.⁴¹ Rothschild agreed to support the colonies, but demanded considerable personal control, running many of the First Aliyah settlements as personal fiefs. He owned the land and hired administrators to manage it.⁴²

The experts employed by Rothschild to manage his holdings in Palestine saw themselves as colonial administrators and Palestine as a colonial domain little different from Algeria. They recommended the introduction of a plantation model that focused on the cultivation of cash crops for the international market, primarily grapes. Rotation of crops was replaced by monoculture. The transformation of the agricultural practices of the moshavot (“colonies,” singular moshava) had a corresponding effect on their labour practices, and on their relationships with both neighbouring Palestinian Arab villages and later Jewish immigrants. Viniculture required a large amount of relatively unskilled labour. In the absence of irrigation, the vineyard had to be ploughed four or five times every year to allow rain to penetrate the soil. It also had to be deep-weeded to eliminate any plants that might compete with the grapes for what water there was.⁴³ Shafir comments that:

The new agriculture, in sum, required the employment of a large, seasonal, and low-priced labor force. These radical innovations transformed the Jewish settlements: in attempting to emulate the North African colonial economy they also found themselves copying its social structure.⁴⁴

The best and cheapest source of labour was the local Palestinian population, and employing Arab labour eventually brought the settlers of the First Aliyah into conflict with later waves of Zionist immigration.

⁴¹ Shafir, *Land, Labor and the Origins*, 50-51.

⁴² Aaronsohn, *Rothschild and Early Jewish Colonization*, 120.

⁴³ Shafir, *Land, Labor and the Origins*, 51.

⁴⁴ Shafir, *Land, Labor and the Origins*, 51.

Shafir employs the typology of settler colonization proposed by Fieldhouse and elaborated by Fredrickson to describe the transformation of the First Aliyah's approach to settlement in Palestine. The brief initial phase constituted an attempt to form a pure settlement colony. When this failed, the settlers, under Rothschild's tutelage, changed their approach to what Shafir labels an "ethnic plantation colony," consisting of a settler minority managing a labour force drawn from the local population.⁴⁵

Rothschild invested millions in the First Aliyah moshavot, but they failed to become self-sufficient. In 1900 he ended his financial support and transferred control to the Jewish Colonization Association, which embarked on a program of strict reorganization to improve efficiency. Prior to 1900, Jewish workers had sometimes found employment on the lands owned directly by Rothschild. After control of the moshavot was transferred to the JCA, the First Aliyah planters almost universally opted for Palestinian Arab workers.⁴⁶ For a variety of reasons, Arab labourers were more attractive to the plantation owners of the First Aliyah than Jewish workers. They were willing to work seasonally, since they often had small plots of their own to supplement their income. They would accept lower wages and usually did not form unions. Finally, they were generally more skilled and experienced than recently-arrived Jewish immigrants. Jewish workers who arrived in the Second Aliyah, the next major wave of Jewish immigration, found they could not compete.⁴⁷

The Second Aliyah immigrants began to arrive in 1904, and faced poor prospects for employment in the settlements founded by their predecessors. They tried a variety of strategies in an attempt to create a viable model for settlement. At first, Second Aliyah

⁴⁵ Shafir, *Land, Labor and the Origins*, 11.

⁴⁶ Shafir, *Land, Labor and the Origins*, 52-54.

⁴⁷ Shafir, *Land, Labor and the Origins*, 56-60.

workers made a short-lived attempt to deliberately lower their standard of living to that of the Palestinian Arab workers with whom they competed for jobs, thus allowing them to subsist on the same wages. This predictably failed. In 1905, a group of Second Aliyah workers founded the Hapoel Hatzair Party with the stated goal of pursuing the “conquest of labour.” The phrase has several connotations, but the most relevant to the present study is the displacement of Palestinian Arab labourers from their jobs and the occupation of these jobs by Jewish workers. This program brought the workers of the Second Aliyah into conflict with the farmers of the First Aliyah.⁴⁸

While the planters were sympathetic to the workers’ demands in general terms, and supported the same overall goal of settlement, they were unwilling to compromise their own economic interests. A principled few employed only Jewish labour and a larger minority employed both Jewish and Palestinian Arab workers, but the majority relied entirely on Arab labour.⁴⁹ The ideologies of the first two Aliyot were formed in the context of their position in the labour market and their relationship to the Palestinian Arab population. The First Aliyah espoused what Shafir calls a “moderate Israeli nationalism.”⁵⁰ They relied on Palestinian Arab workers, and saw the continued economic success of the plantation model as the foundation of further Jewish settlement in Palestine. On the other hand, the Second Aliyah developed what Shafir terms a “militant nationalism.”⁵¹ They could not compete with Arab workers, so their ability to remain in Palestine was dependent on their ability to split the labour market and create

⁴⁸ Shafir, *Land, Labor and the Origins*, 58-59.

⁴⁹ Shafir, *Land, Labor and the Origins*, 62.

⁵⁰ Shafir, *Land, Labor and the Origins*, 78.

⁵¹ Shafir, *Land, Labor and the Origins*, 82.

jobs for themselves that were not open to Palestinians.⁵² The planters viewed economic development as the primary goal, but the workers considered the ability to bring in and support large numbers of new immigrants to be the primary goal.⁵³

In the end, the “conquest of labour” failed to achieve its goals. An attempt to bring in Yemeni Jews who, it was thought, could accept the same standard of living as the Palestinian Arabs, also ended in failure.⁵⁴ However, the Second Aliyah workers did eventually develop a successful, competitive settlement strategy of the pure settlement type: the kibbutz. Shafir argues that the success of the kibbutz, and its central historical importance, lay in its ability to compete with Palestinian Arab workers:

...why was the kibbutz capable of shouldering the tasks of mass colonization and also becoming the focus of intense social experimentation, while remaining a viable and attractive institution throughout the Mandatory period? The reason, in my mind, should be sought in the firm economic infrastructure of the kibbutz, which had bypassed with unequalled success the threat of competition by Palestinian Arab workers – that is, in its national character.⁵⁵

That is, the kibbutz was a successful method of colonization precisely because of its exclusionary nature. Palestinian Arabs were excluded from the kibbutz community, as were almost all Yemeni Jews. The kibbutzim constituted autonomous enclaves of European (Ashkenazi) settlers.⁵⁶

This, then, was the state of Zionist colonization in Palestine at the start of the First World War. The conflicts and developments of the pre-war period provide the necessary context for understanding the events of the mandate period that followed. After the defeat of the Ottoman Empire and its subsequent dissolution, Palestine fell under British control

⁵² Shafir, *Land, Labor and the Origins*, 78-83.

⁵³ Shafir, *Land, Labor and the Origins*, 78.

⁵⁴ Shafir, *Land, Labor and the Origins*, 91.

⁵⁵ Shafir, *Land, Labor and the Origins*, 184.

⁵⁶ Shafir, *Land, Labor and the Origins*, 192-193.

as an ‘A’ mandate. Under the terms of the mandate, its British rulers were committed to balance the interests of the Zionist movement, to whom they had made a commitment in the Balfour Declaration of 1917, with those of the Palestinian Arabs. They were expected to facilitate “close settlement of Jews on the land,” while at the same time “ensuring that the rights and positions of other sections of the population are not prejudiced.”⁵⁷ They departed ignominiously in 1947, having entirely failed to strike such a balance between the interests of the two communities.

The present study, however, focuses on series of related legal actions that took place before the most violent conflicts of the mandate period. Known collectively as the “Zeita Lands Case,” they occurred between 1923 and 1931. Through a detailed analysis of the role played in the case by two prominent Jewish figures, the following chapters attempt to understand the dynamics of Zionist settlement, focusing both on conflicts between the Jewish and Palestinian Arab communities and on the fractures and rivalries within the Jewish community. A case that centres on an instance of Zionist land purchase seems particularly well-suited to the purposes of this study. Control over land was the basis of the conflict between the Jewish and Palestinian Arab communities in Palestine, and land purchase was one of the most significant and inflammatory forms of interaction between the two communities.

The Zeita Lands Case

The following chapters focus on the role played by two prominent individuals in the events surrounding the Zeita Lands Case. The first of these is Alexander Aaronsohn, a

⁵⁷ Charles D. Smith, *Palestine and the Arab-Israeli Conflict: A History with Documents*, 6th ed. (Boston; New York: Bedford/St. Martin’s, 2007), 110.

member of the second generation of the First Aliyah who became a minor right-wing political figure immediately after WWI. The second is Norman Bentwich, the first Attorney General of mandatory Palestine. These two men came from very different backgrounds and held differing political views. Aaronsohn was born in Palestine in the First Aliyah settlement of Zichron Ya'akov. Bentwich was raised in Britain. Aaronsohn was a staunch right-winger who briefly headed a fascist movement in Palestine, while Bentwich was a supporter of Brit Shalom ("the covenant of peace" a group which advocated peaceful coexistence and cooperation between Jews and Palestinian Arabs). However, they were both Jewish, both Zionists, and, each in their own way, they were both binationalists.

The Zeita Lands Case brought Bentwich and Aaronsohn into conflict: Aaronsohn was involved in the fraudulent purchase of a large block of agricultural land, and Bentwich, as Attorney General, appears to have done his best to prosecute those involved in the fraud. A detailed examination of the case reveals the fractures and internal conflicts within the Yishuv in the early days of the mandate. It also explores some of alternatives to the dominant Second Aliyah approach to settlement in Palestine. Aaronsohn and Bentwich had decidedly different visions of what course settlement should take. By examining their perspectives on Zionism, socialism, and the Palestinian Arab population we can learn something useful about the course of Zionist settlement in Palestine as a whole.

There are few Palestinian Arab voices in this story. The court records are sparse, and they give few details about the Arab villagers whose lands lay at the centre of the Zeita Lands Case. Both Bentwich and Aaronsohn wrote memoirs, and the careers of both

men have been discussed by historians. The lives and experiences of the Palestinian Arab residents of the village of Raml Zeita are not so easily accessible. However, by placing this microhistory within the context of an approach to the study of Zionist settlement that draws on the literature on comparative settler societies, this study aims to create a narrative in which there is room for Palestinian Arabs as a collective. By showing how both of these men had to deal with the existence of the Palestinian Arab people, and demonstrating how the colonial project was central to both the case and their lives, it intends to take a small step towards writing the Palestinian Arabs back into the history of this period. This thesis is not a story about Palestinian Arabs. However, it makes the argument that any story about the perspectives of a Jewish settler and an official of the mandatory government in 1920s Palestine is necessarily a story about Palestinian Arabs as well.

The following study is divided into three chapters. The first chapter lays out the complicated history of the Zeita Lands Case itself, providing the context for the involvement of Bentwich and Aaronsohn. It begins with a brief discussion of the role of law and the courts in colonial societies, and the specific issues involved in using court records as historical sources. It then traces the complicated series of legal actions that constitute the Zeita Lands Case. They all centre around the legal status of a single block of agricultural land.

The second chapter focuses on Alexander Aaronsohn and the role he played in the Zeita Lands Case. His story begins in the pre-war period and discusses the context in which the second generation of the First Aliyah grew up, and the unique perspective which this childhood gave them. The chapter makes the case that this generation, who

grew up speaking Arabic, negotiating with Turkish officials and neighbouring Palestinian villages, and employing Palestinian labourers, had a distinct conception of Palestine and their place in it. It proceeds to discuss how this perspective contributed to Aaronsohn and his siblings' clashes with the Second Aliyah immigrants, and their role in a pro-British spy ring formed during the First World War. Finally, the chapter discusses how Aaronsohn came to be involved in the Zeita Lands Case, and what role the case played in his post-war political career.

The third chapter discusses Norman Bentwich's career in Palestine, first as part of the military administration and later as the attorney general of the mandatory government. It explores the complicated position he found himself in as a Jew, a Zionist, and British official. The chapter zeroes in on his role in the Zeita Lands Case and suggests that we can best understand his actions in the case in light of both the inter-communal rivalries within the Yishuv and the dual commitments of the British government to the Zionist movement and the Palestinian Arab population.

The entire study is intended to demonstrate how a detailed examination of these two men and their interaction in the context of the Zeita Lands Case provides a useful complement to larger-scale studies. At this fine-grained level of analysis, it is possible to examine the complications of individual identity and the personal foibles and biases of each of the participants in detail. This study does not intend to speak directly to studies such as Shafir's, or to test their conclusions on an individual level. Instead, it argues that these two levels of analysis form useful complements without the need to impose the categories of analysis of the meta-narrative onto the micro-narrative. By opening up a moment from this period at the level of human reality, this study does not necessarily aim

to tell us *more* about the same things that larger-scale studies have focused on. That is one part of its intention, but it also intends to reveal some entirely different aspects that broader studies miss.

Chapter 1: A Tale of Two Villages

The Zeita Lands Case comprised several different court cases that occurred between 1923 and 1931. All of these cases revolved around the legal status of a piece of agricultural land known as Ghor el-Wassah. The name could be translated as “the wide valley.”⁵⁸ It was part of the lands belonging to the Palestinian Arab village of Raml Zeita, located on the coastal plains of Palestine, approximately forty kilometres south of Haifa.⁵⁹ Ghor el-Wassah was a block of agricultural land comprising 5358 dunams (somewhat more than five square kilometres).⁶⁰ It was owned by all of the cultivators of Raml Zeita in a form of common tenure known as *musha'*, which will be discussed in more detail below. In 1925, however, a cultivator from Raml Zeita named Abdel Fattah Mar'i Samara and his sons colluded with several residents of the neighbouring Jewish settlement of Hadera to fraudulently register Ghor el-Wassah in their names. He immediately sold it to two Jewish women, Tova Rutman and Rivka Aaronsohn.⁶¹ Over the next six years, the details of the fraud were revealed in a series of legal actions.

⁵⁸ My thanks to Mona Goode for her assistance with this translation. The name is also transliterated as Ghor el Wasa, Ghor El Wassah, Hor el Wasaa, or Khor El Wassa in the British sources. For the sake of consistency, the above spelling is used throughout the present study.

⁵⁹ According to British records, the agricultural lands of Raml Zeita adjoined those of the Jewish settlement of Hadera: “Report of the Judicial Commission,” July 8 1930, The National Archives of the United Kingdom, Colonial Office Records [CO], CO 733/189/77156, 7. The map contained in Mandel’s work places Hadera slightly more than forty kilometres south of Haifa: Neville Mandel, *The Arabs and Zionism before World War I* (Berkeley: University of California Press, 1976), xv.

⁶⁰ This description of the land is taken from: “Report of the Judicial Commission,” July 8 1930, CO 733/189/77156, 20. It is not clear whether the British sources refer to Turkish dunams (919.3 square metres) or metric dunams (1000 square metres). For units of measure see: Warwick P.N. Tyler, *State Lands and Rural Development in Mandatory Palestine, 1920-1948* (Portland: Sussex University Press), ix. Other British sources give slightly different estimates of its size.

⁶¹ “Report of the Judicial Commission,” July 8 1930, CO 733/189/77156, 9, 20. For the names of the Palestinian Arab participants in the case, the transliterations are those used by the British court records. The Jewish participants are also mentioned in Halkin’s book and some of their names follow his transliterations instead: Hillel Halkin, *A Strange Death* (New York: Public Affairs, 2005).

The following chapter presents a legal history of the land in chronological order, pieced together from court records. In fact, there are two interwoven stories here. The first is the legal history of the land itself. The second is the story of how that history emerged in the British courts. These two accounts are mutually constitutive: as the early history of the land gradually emerged in the courts, it influenced the legal decisions that formed its later history. Most of what I have been able to determine about the details of the fraud, for example, comes from an inquiry that concluded in 1931.⁶²

While all sources must be treated carefully, court records require certain special considerations. In a 2005 article, Thomas Cohen describes the records of criminal trials as, “documents wonderful for vitality and color, but full of guile and lies,” a characterization that applies equally well to the Zeita Lands Case.⁶³ In the first place, Cohen reminds us that:

All court testimony was performance; no witness was autonomous, and every utterance shared an unequal dialogue, explicit or implicit, between potent tribunal and wary speaker. In that exchange, the power of officialdom, the urgent politics of the moment, and the conventions of the law set tone and content.⁶⁴

None of the people whose voices are preserved in the records of the Zeita Lands Case were disinterested. They all had something at stake in the proceedings, and many of them were willing to lie if it would further their interests. Furthermore, all of the testimony was produced in the context of a court that was attempting to arrive at a different kind of truth than that sought by the historian. Only those facts that were deemed to be directly relevant to the case were recorded, excluding much that would enrich the present study.

⁶² “Judgement in Case No. 92/30,” June 26 1931, CO 733/204/87165.

⁶³ Thomas Cohen, “The Death of Abramo of Montecosaro,” *Jewish History* 19, no. 3/4 (2005): 245, <http://www.jstor.org/stable/20100956>.

⁶⁴ Cohen, “The Death of Abramo of Montecosaro,” 246.

On a similar note, Thomas Kuehn reminds historians that the context in which documents are produced cannot be divorced from the content they contain. Legal documents “cannot be taken as simple sources of information at the level of content analysis; procedures that generated them cannot be reduced to background information and connecting narrative.”⁶⁵ The context in which the records of the Zeita Lands Case were produced was the courts established by the mandatory government. Like those who testified before them, the courts were neither neutral nor disinterested. They were an integral part of the colonial state, and they existed both to maintain and to legitimate its authority.

In his work on British rule in Africa, Chanock calls law the “cutting edge of colonialism, an instrument of an alien state and part of the process of coercion.”⁶⁶ This is no less true of mandate Palestine, where the primary function of the law was to maintain the authority of the government. Assaf Likhovski rightly criticizes simplistic portrayals of British law in Palestine as nothing more than an instrument of colonial power. He points out that the courts also played an important role in self-definition and the formation of collective identity for both the Palestinian Arab and Jewish communities.⁶⁷ However, while the law may have fulfilled other functions, it certainly operated in many cases as an instrument of power. Mommsen comments that, “the prime objective of colonial law always was the preservation of peace, be it the *pax britannica* or the German *Landfrieden*

⁶⁵ Thomas Kuehn, “Reading Microhistory: The Example of Giovanni and Lusanna,” *The Journal of Modern History* 61, no. 3 (Sept. 1989): 518, <http://www.jstor.org/stable/1881349>.

⁶⁶ Martin Chanock, *Law, Custom, and Social Order: The Colonial Experience in Malawi and Zambia* (Cambridge: Cambridge University Press, 1985), 4.

⁶⁷ Assaf Likhovski, *Law and Identity in Mandate Palestine* (Chapel Hill: University of North Carolina Press, 2006), 8-9.

or the French ‘rule of the law.’”⁶⁸ More accurately, we could say that the prime objective of colonial law was to maintain the dominance of the colonizing power.

In addition to providing an instrument of power to maintain colonial rule, law often provided an important source of legitimation for it. Jörg Fisch comments that, beginning in the middle of the eighteenth century, the justification for European colonialism gradually shifted from the spread of Christianity to the spread of civilization. The European legal tradition occupied a central place in this “civilizing mission,” since “a just legal order, fashioned according to European models, was part of a civilized order.”⁶⁹ In Palestine, jurists and administrators emphasized the benefits of the British legal tradition by contrasting it to Ottoman law, which they frequently described as antiquated, unreasonable, and nearly incomprehensible.⁷⁰ One commentator called the Ottoman Penal Code “a delightful piece of juridical nonsense.”⁷¹ Sir Ernest Dowson declared that:

The land law of the country was an unintelligible compost of the original Ottoman laws, provisional laws, judgements of various tribunals, Sultanic firmans, administrative orders having the force of law overlaid by a further amalgam of post-war Proclamations, Public Orders, Orders-in-Council, judgements of various civil and religious courts, Ordinances, Amending Ordinances, and Orders and Regulations under these.⁷²

These descriptions say more about their authors than they do about Ottoman law. No doubt British jurists found the Ottoman legal code difficult to comprehend, but, as

⁶⁸ Wolfgang Mommsen, “Introduction,” in *European Expansion and Law: The Encounter of European and Indigenous Law in Nineteenth and Twentieth Century Africa and Asia*, ed. W.J. Mommsen and J.A. de Moor (Oxford: Berg, 1992), 10.

⁶⁹ Jörg Fisch, “Law as a Means and as an End: Some Remarks on the Function of European and Non-European Law in the Process of European Expansion,” in *European Expansion and Law: The Encounter of European and Indigenous Law in Nineteenth and Twentieth Century Africa and Asia*, ed. W.J. Mommsen and J.A. Moor (Oxford: Berg, 1992), 34.

⁷⁰ Likhovski, *Law and Identity*, 52-53.

⁷¹ Quoted in Likhovski, *Law and Identity*, 53.

⁷² Quoted in Bunton, *Colonial Land Policies*, 39.

Likhovksi comments, “incomprehensibility is a relative rather than an absolute term.”⁷³ English common law could easily have been criticized on many of the same grounds that British commentators in Palestine applied to Ottoman law. In fact, the common law was probably less organized than the *Mejelle* (the Ottoman civil code).⁷⁴ In the minds of British administrators, their right to rule Palestine depended primarily on the superiority of their culture, of which their legal system was a central part. They were driven to find evidence that it was better than a foreign system that they barely understood.

The British may have disparaged Ottoman law, but they had no intention of replacing it wholesale. The mandate system, which supposedly placed the territory in the hands of the British as a trust until it was ready for self-government, restricted the moral authority which the mandatory government possessed to modify the legal code.⁷⁵ A 1922 order in council promised that the country would continue to be governed “in conformity with the Ottoman law in force on November 1st, 1914.”⁷⁶ However, what constituted “Ottoman law in force” was not self-evident. In the first place, during the early mandate period British administrators did not have access to reliable translations of the relevant legal texts. The first authoritative English study of the Ottoman Land Code, later published as *The Land Law of Palestine in 1935*, was not completed until 1927. Prior to this, the Ottoman laws were available to the officials of the Mandatory government primarily through a French translation of questionable accuracy.⁷⁷ Even with the best of intentions, it would have been impossible for the British to have continued to administer Ottoman land law as it had been before the war.

⁷³ Likhovski, *Law and Identity*, 52-53.

⁷⁴ Likhovski, *Law and Identity*, 54.

⁷⁵ Bunton, *Colonial Land Policies*, 25-26.

⁷⁶ Quoted in Bunton, *Colonial Land Policies*, 32.

⁷⁷ Bunton, *Land Policies*, 40.

Of course, British administrators did not do their best to maintain Ottoman law unchanged. According to Martin Bunton:

Colonial officials made no effort to reconstruct in its entirety the Ottoman legal regime which had been officially applied to the land. Instead, Ottoman laws and practices inherited in Palestine were translated, studied, reformulated and institutionalized (or dismissed) in ways that primarily addressed specific problems demanding the attention of colonial officials.⁷⁸

Between the difficulties British officials faced in interpreting and translating the Ottoman land laws, and their willingness to reformulate them whenever it was convenient, the law in force under the mandate was different from the Ottoman regime it replaced.

What considerations arise from the issues raised in the preceding paragraphs? In the first place, as both Cohen and Kuehn note, when reading any court case it is important to bear in mind that all parties had an interest in the proceedings, and that their testimonies reflected this. Furthermore, the colonial courts themselves were not neutral. They existed first and foremost to maintain the power of the colonial government, and their primary goal was to maintain stability. They also had a strong interest in preserving the appearance of justice and the rule of law, since this served as a powerful source of legitimation for colonial rule. It is also important to note that the land law that was applied in the courts of mandate Palestine, while it was officially a continuation of Ottoman law, was quite different from the law in force before the First World War. The British may have used Ottoman legal categories, but they translated them in innovative ways. The pre-war legal status of Ghor el-Wassah played an important role in the Zeita Lands Case, but an Ottoman court would likely have interpreted this history differently.

⁷⁸ Bunton, *Land Policies*, 38.

In light of all of these considerations, the narrative that follows deserves a certain amount of qualification. As Cohen says, discussing the many criticisms that can be leveled at a microhistory of a court case:

Microhistory's reply must be both canny and humble. The canny riposte: we will read skeptically, and carefully, with an eye to stakes and rhetorics. The humble one: our story is a mere try, a hypothesis, an educated guess.⁷⁹

The following sections lay out the legal history of Ghor el-Wassah, beginning with events that took place during the late Ottoman period and proceeding to the Zeita Lands Case itself.

Ghor el-Wassah under Ottoman Rule

While the Zeita Lands Case took place under the British mandate, events that occurred during the late Ottoman period had an important influence on its outcome. As discussed above, the British were required to maintain Ottoman law. Court records reveal that they had access to earlier documents concerning the legal status of Ghor el-Wassah, which played a decisive role in the case. However, they interpreted these earlier documents in the context of their adaptation of Ottoman law, and made use of them in different ways than an Ottoman court might have. The following pages summarize the history of Ghor el-Wassah before the First World War, inasmuch as it was relevant to later legal proceedings.

The earliest part of its history that is relevant to Ghor el-Wassah's legal status under the mandate was its registration by the Ottoman state before the First World War. This occurred as part of a larger land reform project supported by the Land Code of 1858.

⁷⁹ Cohen, "The Death of Abramo of Montecosaro," 246.

Introduced as part of the Tanzimat (a program of reforms in the mid-to-late nineteenth century), the code was the first comprehensive land law in the history of the Ottoman Empire. It laid out a detailed classification of different forms of land tenure and provided the basis for a land registration program undertaken throughout the empire. In Palestine, the influence of the code lasted well past the collapse of the Ottoman state.

There is considerable scholarly debate over the intent behind the Land Code, but until recently there has been much more of a consensus on its effects.⁸⁰ Historians have generally agreed that its introduction led to the registration of land primarily in the names of notables rather than the cultivators themselves.⁸¹ The following passage by Swedenburg is typical:

These new laws required registration of title to what was known as state or *miri* land and facilitated a massive land grab. The *a'yan* [notables], who controlled the state apparatus administering the laws, were best positioned to profit from the situation. Many peasants failed to register their properties, some to avoid paying the registration fee, others to keep their names off government roles and so escape conscription into the Ottoman army. Still others, rather than simply lose their land in this fashion,

⁸⁰ For examples of differing interpretations of the Land Code, see: Gabriel Baer, "The Evolution of Private Landownership in Egypt and the Fertile Crescent," in *The Economic History of the Middle East 1800-1914*, ed. Charles Issawi (Chicago: University of Chicago Press, 1996); Kemal Karpat, "The Land Regime, Social Structure, and Modernization in the Ottoman Empire," in *Beginnings of Modernization in the Middle East*, ed. William Polk and Richard Chambers (Chicago: University of Chicago Press, 1968); Peter Sluglett and M. Farouk-Sluglett, "The Application of the 1858 land code in Greater Syria: Some Preliminary Observations," in *Land Tenure and Social Transformation in the Middle East*, ed. Tarif Khalidi (Beirut: American University of Beirut, 1984); Haim Gerber, *The Social Origins of the Modern Middle East* (Boulder: Lynne Rienner Publishers, 1987); Donald Quataert, "The 1858 Land Law," in *An Economic and Social History of the Ottoman Empire, 1300-1914*, ed. Halil Inalcik and Donald Quataert (Cambridge: Cambridge University Press, 1994); Huri Islamoglu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in *New Perspectives on Property and Land in the Middle East*, ed. Roger Owen (Cambridge: Harvard University Press, 2000); Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria* (London: I. B. Tauris & Co., 2007).

⁸¹ Mundy, "Village Land and Individual Title: *Musha* and Ottoman Land Registration in the 'Ajlun District," in *Village, Steppe, and State: The Social Origins of Modern Jordan*, ed. Eugene Rogan and Tariq Tell (New York: British Academic Press, 1994), 60-61.

registered their properties in the name of a powerful notable, who then served as their “patron” in relations with the state.⁸²

Scholars relying on Ottoman sources have begun to challenge this account of the implementation of the Land Code, pointing out that the process of land registration and its effects varied significantly from region to region and even village to village.

For example, on the basis of detailed research on the history of land registration in ‘Ajlun, in what is now modern Jordan, Mundy argues that in a significant number of cases land was registered without the loss of title by the cultivators. She emphasizes the variability of Ottoman land registration, pointing out that land registration had to take local conditions and forms of land tenure into consideration, notably a type of communal tenure known as *musha’*.⁸³

In a *musha’* village, the majority of the agricultural land was held in common by a group of shareholders. At intervals, the land was redistributed among these shareholders, and each received a new share in the village lands. How the shareholders were selected, what a share constituted, and how often redistribution occurred all varied substantially from village to village.⁸⁴

Similar to what Mundy discovered in her work on ‘Ajlun, Ghor al-Wassah was registered as a single block of *musha’* land. British court records state that:

There is a certain “Meshaa” land possessed by the villagers of Zeita [Raml Zeita]; this land adjoins the lands of the Jewish Settlement of Khedera [Hadera]. Before the war this “Meshaa” land was registered in the names of twenty-two persons, nominees of the villagers. The boundaries were

⁸² Ted Swedenburg, “The Role of the Palestinian Peasantry in the Great Revolt (1936-1939),” in *Islam, Politics, and Social Movements*, ed. Edmund Burke and Ira M. Lapidus (Berkeley: University of California Press, 1988), 173-174.

⁸³ Martha Mundy, “Village Land and Individual Title,” 78-79.

⁸⁴ For a more detailed discussion of *musha’* tenure, see Amos Nadan, “Colonial Misunderstanding of an Efficient Peasant Institution: Land Settlement and *Musha* Tenure in Mandate Palestine, 1921-47,” *Journal of the Economic and Social History of the Orient* 46, no. 3 (2003): 322.

registered as Road, Road, Waste Land, Ard Infiat [land belonging to the village of Infiat].⁸⁵

The twenty-two nominees in whose name the land was registered were probably prominent members of the village. How they were chosen, and the details of their relationship with the rest of the cultivators of the village, is impossible to establish from the court records.

The sources do not reveal the exact date when the land was registered, other than stating that it occurred before the First World War. During this same period, Ghor al-Wassah became the focus of a territorial dispute between the residents of Raml Zeita and their neighbours in the newly-established Jewish settlement of Hadera. Hadera was founded in 1890, in a marshy area lying between Haifa and the older settlement of Zichron Ya'akov.⁸⁶ The name was derived from the Arabic word for green, a reference to the swamp vegetation that surrounded the site. The founders were a mix of new immigrants from Eastern Europe and settlers from older First Aliyah colonies.⁸⁷

In 1890, at the time of Hadera's founding, there was a territorial dispute between the man who had purchased the land on which it would be built and the inhabitants of Raml Zeita. In 1931, Mr. Yehoshua Hankin testified before a British land settlement officer that 41 years prior he had purchased the lands of three Palestinian Arab villages: "Hudera (old), Infeat [also rendered as Infiat elsewhere in the sources], and Dardara."⁸⁸ At this time Hankin was the most prominent land purchaser employed by the Jewish Colonial Association. He later worked in the same capacity for the Jewish National

⁸⁵ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 7.

⁸⁶ Martin Gilbert, *Israel: A History* (New York: William Morrow and Company, 1998), 9; Shmuel Katz, *The Aaronsohn Saga* (Jerusalem: Gefen, 2007), 76.

⁸⁷ Gilbert, *Israel: A History*, 9.

⁸⁸ "Judgment in Case No. 92/30," June 26 1931, CO 733/204/87165, 9.

Fund.⁸⁹ After buying the land, there was a dispute over where the boundary between the lands he had purchased and those that belonged to Raml Zeita lay. A commission composed of Hankin, the Ottoman officials in charge of land registration from Haifa and Tulkarem, and representatives of the villagers of Raml Zeita met to resolve the dispute. Hankin thought that he was entitled to another 2000 dunams in the area known as Ghor el-Wassah, and the notables of Raml Zeita disagreed. He eventually agreed to drop his claim on the advice of one of the Ottoman officials present. Following the resolution of the dispute, Hankin sold these lands to the first settlers of Hadera.⁹⁰

The next significant event in the history of Ghor el-Wassah occurred in 1900, when the land was declared mahlul. A brief explanation of the Ottoman land regime is necessary to explain what this meant. During the late Ottoman period, most agricultural land in Palestine fell into the category known as miri. The legal ownership (rakaba) was held by the state, which granted the usufruct (tasaruff) to cultivators. The usufruct was both heritable and transferable, and the state did not have the authority to evict a cultivator who had paid the required taxes and fees. However, if the land was left uncultivated for three years it could be declared miri mahlul. At this point it reverted to the state, which auctioned it off to the highest bidder.⁹¹ As Donald Quataert explains: “Thus, the state promoted production, bringing and keeping the land under cultivation and on the tax rolls.”⁹²

According to British court records, Ghor el-Wassah was declared mahlul in 1900 and put up for auction, presumably because it had been left uncultivated for some time.

⁸⁹ Shafir, *Land, Labor and the Origins*, 138.

⁹⁰ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 9-10.

⁹¹ Bunton, *Colonial Land Policies*, 36, 45.

⁹² Quataert, “1858 Land Law,” 857.

This occurred after the land was registered by the Ottoman state, because the records refer to the fact that it was already registered in the names of the 22 nominees mentioned above. Before the land could be sold the villagers brought an action to set aside the judgment of mahlul, and the court ruled in their favour. The government appealed the decision, but then “war [the First World War] broke out, and the case was never finished.”⁹³ This unresolved Ottoman case would play an important role in the later history of the land.

The Fraud

The next chapter in the history of Ghor el-Wassah took place under British rule, after the end of the First World War and the dissolution of the Ottoman Empire. The land was registered by the British government in 1924 as musha’ land belonging to all the cultivators of Raml Zeita. Immediately afterward, individuals from Raml Zeita and Hadera colluded to misrepresent Ghor el-Wassah as part of Hadera, and to fraudulently register it in the names of a cultivator from Raml Zeita and his sons. They promptly sold the land to two Jewish women, which resulted in the dispossession of the villagers from Raml Zeita who had been farming it.

British efforts at land registration during the early mandate were directed primarily towards establishing security of title and individual property rights. Colonial administrators were quick to condemn musha’ tenure as incompatible with efficient cultivation and development of the land.⁹⁴ These opinions were formed early in the mandate period, and they were based not on practical experience with musha’ but on

⁹³ “Re Nissam Rutman: Proceedings in the Supreme Court,” January 14 1927, CO 733/177/67489.

⁹⁴ Bunton, *Colonial Land Policies*, 16-21.

preconceived ideas about common property and shifting tenure. Sir Ernest Dowson, for instance, explained that:

It is self evident that shifting occupation of land and good husbandry are incompatible. A temporary occupant will aim at extracting all he can from the land and will put nothing into it. He will exploit and impoverish it but will not develop it. He cannot effect permanent improvements, such as the erection of buildings and fences, the planting of trees etc., as he himself will move before he gets a return from them and has little prospect of being compensated for his outlay by his successor.⁹⁵

Comments of this nature were informed by notions of private property and economic doctrines that had their roots in the Enlightenment, particularly the idea that land ownership was fundamentally connected to the ability to improve the land. As John Weaver explains, “Improvement and property rights have had a reciprocal association since the Enlightenment. People who improved land deserved property rights; property rights improved societies.”⁹⁶ British commentators, whose perspective was informed by the history of enclosure in Britain and Enlightenment theories of private property, saw *musha’* as an archaic remnant that was by definition incompatible with economic progress.

Nonetheless, the mandatory government allowed Ghor el-Wassah to be registered as *musha’*. In 1922, according to court documents, some of the residents of Raml Zeita brought a case to the land court Nablus.⁹⁷ They claimed that the twenty-two nominees in whose name that land had been registered under the Ottoman government were claiming

⁹⁵ Sir Ernest Dowson, “Preliminary Study of Land Tenure in Palestine, November 1925,” in *Land Legislation in Mandate Palestine*, vol. 5, ed. Martin Bunton, 151-266 (Cambridge: Cambridge University Press, 2009), 192.

⁹⁶ John C. Weaver, *The Great Land Rush and the Making of the Modern World, 1650-1900* (Montreal & Kingston: McGill-Queen’s University Press, 2006), 28.

⁹⁷ The British sources use the terms “Land Court of Samaria” and “Land Court of Nablus” interchangeably to describe the same court. For reasons of clarity, the present study refers only to the Land Court of Nablus. See: “Report of the Judicial Commission,” July 8 1930, CO 733/189/77156, 8; “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 2.

the land as their own private property and preparing to sell it. The plaintiffs requested that the court register the land as *musha'* belonging to the entire village. Interestingly, the British courts complied. The land court at Nablus found in favour of the plaintiffs, and this judgment was upheld on appeal, although the appeal process appears to have taken the better part of two years. On April 14th, 1924, the court's final decision was that each of the plaintiffs was entitled to one share out of 906 in the *musha'* lands of Raml Zeita.⁹⁸

One source states that at this time the village had a population of 906, implying that the court acted on the principle that each resident should have an equal share of the village lands.⁹⁹ Another document states that the court found that the land should be registered as *musha'* shared by all the cultivators of the village, which implies that that Raml Zeita had 906 cultivators, presumably adult males, rather than a population of 906 total.¹⁰⁰ The latter interpretation seems more sensible, but the sources do not provide enough detail to settle the question definitively.

On March 10, 1925, 'Abd el Fattah Mar'i Samara and his sons brought an action in the British land court of Haifa against three Jewish residents of Hadera: Jacob Samsanoff, Yafit Yamani, and Aaron Madursky. Samara had been one of the plaintiffs in the 1922 action discussed in the preceding paragraph, but he withdrew from the case before the court gave its judgment. He and his sons claimed that they had been in possession of Ghor el-Wassah for over thirty years, and that the defendants had trespassed on it and cultivated it.¹⁰¹ The entire action was a fraud designed to secure sole ownership of Ghor el-Wassah for Samara and his sons. An important part of the scheme

⁹⁸ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 8.

⁹⁹ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 8.

¹⁰⁰ "Judgment in Case No. 92/30," June 26 1931 CO 733/204/87165, 3.

¹⁰¹ "Judgment in Case No. 92/30," June 26 1931, CO 733/204/87165, 3-4.

was the fact that Raml Zeita and Hadera fell under the jurisdictions of two different land courts: Raml Zeita was covered by the land court of Nablus while Hadera fell under the jurisdiction of the land court of Haifa.¹⁰² Samara brought his action to the land court of Haifa, which had no previous registration of Ghor al-Wassah.

Samsanoff and Madursky produced documents that showed that each of them was entitled to 2 ½ shares out of 286 in the lands of Hadera. Ghor el-Wassah was passed off as their share of these lands. A surveyor was commissioned to make a map of the lands, and Nissam Rutman, a resident of Hadera, convinced the surveyor's clerk to change the name on the map from "Zeita – Tulkarm" to "Ghor el Wassah Hedera." The judge presiding over the case signed an inspection report without making a proper inspection of the land. He was later dismissed for his part in the fraud, although it is not clear whether he was duped or complicit.¹⁰³

Samara and his sons claimed to have been cultivating the land without opposition for more than thirty years. Samsanoff and Madursky produced documents showing that the land was registered in their names as part of Hadera, which Samara did not dispute.¹⁰⁴ While the court acknowledged that Samsanoff and Madursky held title to the land, it decided that this did not entitle them to dispossess Samara and his sons. The court ordered that the land be registered in the names of the latter.¹⁰⁵ Because of the fraudulent way in which the case was conducted, land that was held as musha' by all the cultivators

¹⁰² "Memorandum," CO733/204/87165.

¹⁰³ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 8-27.

¹⁰⁴ "Judgment in Case No. 92/30," June 26 1931, CO 733/204/87165, 3-4.

¹⁰⁵ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 16.

of Raml Zeita was registered as part of Hadera, in the sole names of Samara and his sons. They immediately sold it to two Jewish women: Tova Rutman and Rivka Aaronson.¹⁰⁶

Nissam Rutman, Tova's husband, appears to have been principally responsible for organizing the fraud. He was the one who altered the map made of the lands to read "Ghor el Wassah Hedera."¹⁰⁷ Furthermore, according to the testimony of the notary public of Haifa, he gave Samara and a number of other residents of Raml Zeita substantial sums of money as loans.¹⁰⁸ Whether the loans were ever paid back is not clear, nor is it clear that they were ever intended to be repaid, but they may explain the collusion of Samara and other residents of Raml Zeita in the scheme. In December of 1925 and January of 1926, more than 150 residents of Raml Zeita signed declarations at Rutman's house, witnessed by the notary public, stating that the land was part of Hadera. They declared that they had no interest in the land, and gave up any future right to make a claim to it.¹⁰⁹

As soon as the land was sold, Nissam Rutman occupied it and drove off the inhabitants of Raml Zeita who were cultivating it. During the later inquiry into the status of the land, Muhammad al Mahmud, a villager of Raml Zeita, stated that: "There was a quarrel between Nissan [Nissam] Rutman and the villagers of Zeita. He was stronger and we stopped the cultivation of the land. He took possession of all Khor al Wasa' [Ghor el-Wassah] in 1925."¹¹⁰ In 1926, two residents of Raml Zeita filed an action claiming that the judgment that gave title Ghor el-Wassah to Samara was collusive, and that the land

¹⁰⁶ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 20-21.

¹⁰⁷ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 8-9.

¹⁰⁸ "Notarial Bills No. 876-879," December 26 1923, CO733/189/77156.

¹⁰⁹ "Declaration No. 1566," December 9 1925, CO733/189/77156; "Declaration No. 1606," December 16 1925, CO 733/189/77156; "Declaration No. 143," January 31 1926, CO 733/189/77156.

¹¹⁰ "Judgment in Case No. 92/30," June 26 1931, CO 733/204/87165, 13.

rightfully belonged to all of the villagers of Zeita, but the case was dismissed on a technicality.¹¹¹

“The Case of Nissam Rutman”

The first court case that mentioned the fraud ended inconclusively. Labelled “The Case of Nissam Rutman” in the archives, it began in 1926, when Rutman attempted to sell a small portion of Ghor el-Wassah. His petition to do so was denied by the director of lands, resulting in a court case that lasted almost four months. The testimony of government officials reveals that they were aware of some of the details of the fraud, but it was not a central part of the case. Instead, the government’s involvement centred around the Ottoman court case in 1900 that had declared the land mahlul. In the end, the government signed a compromise with Tova Rutman and Rivka Aaronsohn, agreeing to give up its interest in the land in exchange for one thousand Egyptian pounds.

On December 12, 1926, Nissam Rutman, acting on behalf of Rivka Aaronsohn, petitioned the director of lands for permission to sell a portion of Ghor el-Wassah.¹¹² His petition was forwarded by the land registry in Haifa to Jerusalem, where it was denied by the director of lands on the basis that some third parties had an interest in the land. On January 2, 1927, Rutman filed a petition with the Supreme Court in Jerusalem, asking the director of lands to appear in court and explain why the sale should not be allowed.¹¹³ The case was tried for the first time on January 14, 1927, in the Supreme Court in Jerusalem. Rutman held a power of attorney from Rivka Aaronsohn, who owned the land.

¹¹¹ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 13.

¹¹² “Re Nissam Rutman: Proceedings in the Supreme Court,” January 14 1927, CO 733/177/67489; “Re Nissam Rutman: Proceedings in the Supreme Court,” January 2 1927, CO 733/177/67489.

¹¹³ “Re Nissam Rutman: Proceedings in the Supreme Court,” January 2 1927, CO 733/177/67489.

Rutman was himself represented by Abcarius Bey.¹¹⁴ Originally from the Sudan, Abcarius was the one of the most prominent Arab lawyers in Palestine.¹¹⁵

Abcarius explained to the court that Rutman had agreed to sell 100 dunams of the land to a Mr. Eliash, an advocate living in Jerusalem, and that he would be required to pay a penalty if the sale was not completed by the next day, January 15, 1927.¹¹⁶ In an earlier interview with Rutman, Eliash, and Abcarius, the director of lands had explained that a third party, Saad El Dine, claimed a share of the lands.¹¹⁷ Saad El Dine was likely a resident of Raml Zeita, but there is no further information about him in the court records. He was not one of the villagers who filed an opposition in 1926 to the judgment that awarded title of Ghor al-Wassah to Samara.¹¹⁸ Abcarius explained that, at the earlier meeting, he had suggested to the director of lands that Saad El Dine could bring an action on his own if he wished. The director had disagreed, and therefore Abcarius asked the court to require him to permit the sale.¹¹⁹

Moses Doukhan then addressed the court on behalf of the attorney general, Norman Bentwich.¹²⁰ He explained that the land belonged to Raml Zeita, not to Hadera, and that it had been registered in the land court of Nablus as belonging to 906 residents of Raml Zeita. He argued that that process by which it had been registered as part of Hadera was collusive. In support of this claim, he produced a copy of the map Rutman had

¹¹⁴ “Re Nissam Rutman: Proceedings in the Supreme Court,” January 14 1927, CO 733/177/67489.

¹¹⁵ Likhovski, *Law and Identity*, 27, 218.

¹¹⁶ “Re Nissam Rutman: Proceedings in the Supreme Court,” January 14 1927, CO 733/177/67489. Mr. Eliash was probably Mordechai Eliash, one of the leading lawyers of the day and a prominent member of the Jewish Bar Association of Palestine. See: Likhovski, *Law and Identity*, 154.

¹¹⁷ “Re Nissam Rutman: Proceedings in the Supreme Court,” January 14 1927, CO 733/177/67489.

¹¹⁸ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 4.

¹¹⁹ “Re Nissam Rutman: Proceedings in the Supreme Court,” January 14 1927, CO 733/177/67489.

¹²⁰ Doukhan was one of the authors of the first authoritative English treatment of the Ottoman land laws. The title page describes his position as follows: “Advocate. Member of Palestine Bar. Assist. Director, Department of Lands, Government of Palestine. Lecturer Government Law School Jerusalem.” See: Frederic M. Goadby and Moses Doukhan, *The Land Law of Palestine* (Tel Aviv: Shoshany’s Printing Co. Ltd., 1935), i.

modified, and pointed out that the title had been altered. He also produced an earlier map, dated 1893, which showed Ghor al-Wassah as lying outside of Hadera. Finally, he described the earlier court process by which the land had been declared mahlul by the Ottoman government. Following Doukhan's statement the judge adjourned the case for 14 days to give the attorney general the opportunity to reopen the 1925 case in the Haifa land courts that had led to Ghor al-Wassah being registered as part of Hadera.¹²¹

Bentwich chose to reopen the case and to oppose the judgment that had been given in favour of Samara. The statement produced by his office noted that the boundaries of the documents describing the land owned by Samsanoff and Madursky did not match the boundaries of Ghor el-Wassah, and that they owned only 5 shares out of 286 in 3224 dunams of land, while Ghor el-Wassah was 5358 dunams. Furthermore, the land had been registered as musha' in the names of the villagers of Raml Zeita. In conclusion, the statement also referred to the unresolved court case that had declared the land mahlul, which Bentwich argued gave the government an interest in the land.¹²² In response to the attorney general's request, the president of the district court ordered that no transactions could take place with regard to the land without the permission of the court.¹²³

Bentwich's claim that the government had an interest in the land must be seen in the context of British land policy in the early mandate, particularly the official treatment of miri land. Colonial officials interpreted miri land as roughly equivalent to state land in

¹²¹ "Re Nissam Rutman: Proceedings in the Supreme Court," January 14 1927, CO 733/177/67489.

¹²² "Copy, Further Proceedings in the Land Court at Haifa," January 26 1927, CO 733/177/67489.

¹²³ "Copy, Letter from the Attorney General to the Public Prosecutor," February 5 1927, CO 733/177/67489.

the British sense.¹²⁴ Bentwich himself once described the holder of the usufruct for miri land as “the tenant of the state.”¹²⁵ The intention of the provisions of the 1858 Land Code, and the Ottoman legal tradition that preceded it, had been to ensure that agricultural land remained under cultivation. In the early mandate period, the British attempted to enforce a very different interpretation of the terms set out in the Land Code in an attempt to secure government control over as much land as possible.¹²⁶

This policy was expressed in the 1920 Mahlul Land Ordinance, which made it a criminal act to bring mahlul land back under cultivation. Under the Ottoman land regime, anyone who began cultivating land that had been declared mahlul, and paid the necessary taxes, would receive title to the land. After 1920, they were likely to be charged with squatting and evicted.¹²⁷ This represented a dramatic change in the land regime in Palestine. As Bunton notes:

...under Ottoman law, land could not be resumed by the state against a cultivator who paid the necessary fees and taxes. There was never any question with regard to *miri* land of trespass or squatting as such. These were legal inventions of a British official, too quick with his pen in translating Ottoman legal terms into the supposed equivalent in his own legal vocabulary.¹²⁸

The Ottoman Land Code was intended in part to bring as much agricultural land under cultivation as possible. It included no provisions for the eviction of cultivators who were productively farming the land.¹²⁹ An Ottoman court would almost certainly not have attempted to claim that a previous, unresolved, declaration of mahlul gave the government an interest in a piece of land that was presently under cultivation. This claim

¹²⁴ Bunton, *Colonial Land Policies*, 42.

¹²⁵ Quoted in Bunton, *Colonial Land Policies*, 42.

¹²⁶ Bunton, *Colonial Land Policies*, 45.

¹²⁷ Bunton, *Colonial Land Policies*, 42-44.

¹²⁸ Bunton, *Colonial Land Policies*, 45.

¹²⁹ Bunton, *Colonial Land Policies*, 45.

was based on Bentwich's interpretation of miri land as state land, and the British policy during the early mandate of asserting the state's right to as much land as possible.

In the end, the case was settled in a compromise. On February 5, 1927, an agreement was signed between the government and the defendants. The government renounced its claim to treat the land as mahlul in exchange for a payment of one thousand Egyptian pounds. The defendants, in turn, renounced all claims to damages caused by the government's action in preventing the sale of the land. The government agreed to drop the action in the land court of Haifa to have the entries for the land cancelled.¹³⁰ On April 29, 1927, Doukhan requested that the case be dropped.¹³¹ Shortly thereafter, the land was released from attachment.¹³² On July 8, 1927, Abcarius Bey withdrew his petition on behalf of Nissam Rutman, thereby ending the case.¹³³

The Inquiry by the Land Settlement Officer

In the aftermath of the 1927 case, charges were brought against Nissam Rutman, as well as the judge and the registrar of lands in the original 1925 action in the land court of Haifa. In Rutman's case, the court ruled that there was not enough information to convict him, and that too much time had passed. However, both Joseph Strumza, the judge, and Subhi Aweidah, the registrar, were dismissed from government service. The judges who formed that committee of enquiry into their conduct all agreed that the 1925

¹³⁰ "The High Commissioner for Palestine and Mrs. Toba Rutman and Mrs. Rifka Aaronson," February 5 1927, CO 733/177/67489.

¹³¹ "Letter from M. Doukhan to the Public Prosecutor," February 5 1927, CO 733/177/67489.

¹³² "Land Registrar, Haifa," 1927, CO 733/177/67489.

¹³³ "In the Supreme Court Sitting as a High Court of Justice," July 8 1927, CO 733/177/67489.

action was collusive and consisted of a fraud intended to transfer Ghor el-Wassah to Rivka Aaronsohn and Tova Rutman.¹³⁴

The question of the status of Ghor el-Wassah was reopened in 1930, however, when a person who the sources identify only as “a villager of Zeita” claimed a share of the land on the basis that it formed part of the village lands of Raml Zeita. The mandatory government, which was aware of most of the details of the fraud, assisted the villagers of Raml Zeita by passing along the information to one of their advocates.¹³⁵ This resulted in an inquiry by the land settlement officer, who was tasked with determining whether Ghor el-Wassah was part of Raml Zeita or Hadera, and whether the various rulings in the Nablus and Haifa land courts discussed above referred to the same piece of land.¹³⁶

Over the course of the inquiry, the whole convoluted story laid out in the preceding paragraphs came to light. The inquiry itself seems to have been controversial and problematic for those conducting it. The author of the report commented, with some exasperation, that:

The Plaintiffs and Third Parties [residents of Raml Zeita] number over one hundred and sixty persons a few of whom were represented by two counsel and latterly others by a third. The Village Settlement Committee of Zeita who under the provision of Section 14 (1) of the Land Settlement Ordinance 1928 should represent the common interest of the village are not a party to the action. The result was that the plaintiffs formed an unwieldy and disorganized mass which added greatly to the difficulties of the hearing of the action.¹³⁷

The defendants were no more helpful:

The principal defendants largely contented themselves with establishing their plea that they were in the position of registered owners in virtue of a judgment confirmed by the Supreme Court and did not assist the Court in

¹³⁴ “Memorandum,” CO733/204/87165.

¹³⁵ “Memorandum,” CO733/204/87165.

¹³⁶ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 1-6.

¹³⁷ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 6.

revealing the basic facts affecting the action. Indeed, the same defendants attempted to prevent the Settlement Officer from arriving at the facts by pleading that the Settlement Officer had no power of his own initiative to call witnesses or even to recall the witnesses of the parties.¹³⁸

Apparently, considerable pressure was being applied to witnesses as well. The report notes that: “Counsel for plaintiffs had openly alleged in Court that witnesses were being bribed and Counsel for the defence alleged that their witnesses were being intimidated.”¹³⁹ The following is perhaps the most telling anecdote contained in the records of the inquiry:

An incident which throws light on the influences which had been brought to bear during the course of the proceedings was the appointment on 12.11.30 by a considerable number of the plaintiffs of a certain Sherif Abdel Qadir as their attorney; on 21.2.31 the said Sherif notified the Settlement Officer that his principals had no claim to the land which was not situated within the boundaries of Zeita, and asked that their claim should be struck out; shortly prior to the same date his principals notified the Settlement Officer that they had withdrawn the Power of Attorney granted to the said Sherif.¹⁴⁰

Despite all of this, the land settlement officer managed to assemble the narrative related above, and concluded that Ghor el-Wassah belonged to Raml Zeita.¹⁴¹

Despite the results of the inquiry, it is not clear whether the land was ever given back to the cultivators of Raml Zeita. The defendants continued to press their case, forcing the government to justify its actions in first agreeing to give up its interest in the land in exchange for payment, and then assisting villagers from Raml Zeita in pressing their claim to Ghor el-Wassah.¹⁴² Halkin, who conducted interviews in the region

¹³⁸ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 6.

¹³⁹ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 8.

¹⁴⁰ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 8.

¹⁴¹ “Judgment in Case No. 92/30,” June 26 1931, CO 733/204/87165, 26.

¹⁴² “Memorandum,” CO733/204/87165.

beginning in the 1970s, relates that Rutman owned thousands of dunams of orange groves planted on “the Zayta lands” until his death.¹⁴³

Nonetheless, the villagers of Raml Zeita may have regained control of Ghor el-Wassah after the inquiry in 1931. The court records stop at that point, and it is impossible to determine what happened to the land until 1948, when the entire village was depopulated. Morris lists the cause of the depopulation as “unknown.”¹⁴⁴ However, according to Khalidi, “The nearest villages for which there is any hard information fell victim to early Haganah operations designed to ‘clear’ the coastal area in the centre of the country...Raml Zayta was probably depopulated under similar circumstances.”¹⁴⁵ This is supported by Rosemarie Esber, whose work is based on interviews with refugees. She quotes Zakiya Abu Hammad, who related that the village was besieged by the Haganah for around two weeks. Then, on March 15, Jewish forces:

...started going into people’s homes, and forcing them out. They told us, ‘You either leave or we’ll kill you.’ Some people were killed on the roads, as they abandoned their homes...They followed us. Those who were lucky, escaped with their lives, others did not.¹⁴⁶

Only one Palestinian family remained in the village. Since then, Hadera has expanded, and some of its suburbs now cover the former lands of Raml Zeita.¹⁴⁷

¹⁴³ Hillel Halkin, *A Strange Death* (New York: Public Affairs, 2005), 271.

¹⁴⁴ Benny Morris, *The Birth of the Palestinian Refugee Problem Revisited*, 2nd edition (Cambridge; New York: Cambridge University Press, 2004), xviii.

¹⁴⁵ Walid Khalidi, *All That Remains: The Palestinian Villages Occupied and Depopulated by Israel in 1948* (Washington: Institute for Palestine Studies, 1992), 561.

¹⁴⁶ Rosemarie M. Esber, *Under the Cover of War: The Zionist Expulsion of the Palestinians* (Alexandria: Arabicus Books and Media, 2008), 297.

¹⁴⁷ Khalidi, *All that Remains*, 561.

Chapter 2: “Palestine’s Native Sons”

Alexander Aaronsohn was the man responsible for the purchase of Ghor el-Wassah. He was assisted by Nissam Rutman, Nissam’s wife Tova, and Alexander’s sister Rivka, whose names are mentioned on all of the court records. However, it was Alexander who secured the funds to buy the land, and Alexander who stood to profit most from its purchase. Alexander, Nissam, Tova, and Rivka were all members of the second generation of the First Aliyah, children of the settlers who founded the moshavot of Zichron Ya’akov and Hadera. They grew up together in Ottoman Palestine before the First World War. During the war they were all members of a pro-British spy ring organized by Alexander’s older brother Aaron and his friend Avshalom Feinberg. After the war’s end Alexander embarked on a career as a right-wing political figure representing the interests of the planters of the First Aliyah, supported by his friends and allies from the war years. The purchase of Ghor el-Wassah was intended to further his ambitions, but instead the scandal that it generated ended his career.

The children of the First Aliyah were in many ways a unique generation. They grew up as a minority population in Ottoman Palestine, on moshavot that employed primarily Palestinian Arab labourers. Many spoke fluent Arabic.¹⁴⁸ In their conflicts with the Second Aliyah immigrants, however, they identified themselves as “natives” of Palestine in contrast to these more recent arrivals.¹⁴⁹ This generation represents an intriguing and often-overlooked moment in the history of Jewish settlement in Palestine. While they did not play a prominent political role after the end of the First World War,

¹⁴⁸ As an example, see Yosef Lishanky’s speech: Quoted in Katz, *The Aaronsohn Saga*, 291-292. In the 1970s, Halkin found that the farmers of Zichron Ya’akov still negotiated with their Palestinian labourers in Arabic: Halkin, *A Strange Death*, 156.

¹⁴⁹ Halkin, *A Strange Death*, 274.

they had a significant impact on the ideology of the Second Aliyah, which was formed in contrast to that of the earlier immigrants. Furthermore, this generation is significant in that it represents the first stage of Zionist colonization in Palestine, one that relied on a much different strategy than later efforts.

Until recently, there was little English-language scholarship on the Aaronsohns. The first book written on the family was Anita Engle's *The Nili Spies*, published in 1959, a sensationalized account of their wartime activities.¹⁵⁰ In 1995, Anthony Verrier published an edited volume entitled *Agents of Empire*, which is based primarily on excerpts from the memoirs of Brigadier Walter Gribbon and Aaron Aaronsohn's diaries. It also deals with war years, focusing only on the period from 1915-1919.¹⁵¹ Hillel Halkin published *A Strange Death* in 2005, a combination memoir and history that explores the history of Zichron Ya'akov through the author's own experiences living in the village during the 1970s, and his conversations with members of the community.¹⁵² However, until 2007 there was no scholarly history on members of the Aaronsohn family that focused on events outside of the war in any detail.

In 2007, three such books were published: Patricia Goldstone's *Aaronsohn's Maps*, Ronald Florence's *Lawrence and Aaronsohn*, and Shmuel Katz's *The Aaronsohn Saga*.¹⁵³ All of these works spend a considerable amount of time discussing the events of

¹⁵⁰ Anita Engle, *The Nili Spies* (London: Hogarth Press, 1959). Goldstone relates that: "In 1959, with Rivka's [Rivka Aaronsohn] full support, a transplanted Englishwoman living in Palestine wrote a highly romanticized version of the Aaronsohn saga, using novelistic techniques to fill in the gaps in the record." Patricia Goldstone, *Aaronsohn's Maps: The Untold Story of the Man Who Might Have Created Peace in the Middle East* (New York: Harcourt Inc., 2007), 282.

¹⁵¹ Anthony Verrier, ed. *Agents of Empire: Anglo-Zionist Intelligence Operations 1915-1919: Brigadier Walter Gribbon, Aaron Aaronsohn, and the NILI Ring* (Washington; London: Brassey's, 1995).

¹⁵² Hillel Halkin, *A Strange Death* (New York: Public Affairs, 2005).

¹⁵³ Patricia Goldstone, *Aaronsohn's Maps: The Untold Story of the Man Who Might Have Created Peace in the Middle East* (New York: Harcourt Inc., 2007); Ronald Florence, *Lawrence and Aaronsohn: T.E.*

the First World War, but they also discuss the pre-war and post-war periods. The following chapter is based primarily on these three books, as well as on the interviews that Halkin conducted with residents of Zichron Ya'akov in the 1970s.

The historiography discussed above is somewhat lacking in scholarly rigour. Only Verrier and Florence footnote their work, and the tone of most of the books discussed is frankly celebratory. Verrier introduces his work with the following passage:

The story told in the following pages is, by any measure, both historically important and, in terms of human endeavour, heroic. Whether one seeks to understand British political and strategic motives for supporting, indeed promoting Zionism, or responds more immediately to the achievements, and sufferings, of the Aaronsohn family and Absalom Feinberg, the combined and cumulative effect of political calculation and political idealism is to produce the strongest conviction that events were destined to follow a certain course.¹⁵⁴

Goldstone calls Aaron Aaronsohn “the man who might have created peace in the Middle East.”¹⁵⁵ Florence writes that:

When the war came, he ventured his scientific career, his family, his home, and all he had achieved in an effort to make certain the British won the war, never wavering from his convictions that the future of Palestine was with science, that a development of the agricultural and industrial infrastructure would enable the immigration and the expansion of the economy.¹⁵⁶

The books written by Goldstone, Florence, and Katz are essentially biographies; and, as biographies often do, they celebrate the accomplishments of their protagonists.

Scholarly discussion of the Aaronsohns focuses on Aaron and Sarah, the most famous and influential of their siblings. As mentioned in the preceding paragraph,

Lawrence, Aaron Aaronsohn, and the Seeds of the Arab-Israeli Conflict (New York: Viking, 2007); Shmuel Katz, *The Aaronsohn Saga* (Jerusalem: Gefen, 2007).

¹⁵⁴ Verrier, *Agents of Empire*, 1.

¹⁵⁵ This phrase is the subtitle for her book: Patricia Goldstone, *Aaronsohn's Maps: The Untold Story of the Man Who Might Have Created Peace in the Middle East* (New York: Harcourt Inc., 2007).

¹⁵⁶ Ronald Florence, *Lawrence and Aaronsohn: T.E. Lawrence, Aaron Aaronsohn, and the Seeds of the Arab-Israeli Conflict* (New York: Viking, 2007), 451.

Goldstone suggests that the post-war borders for Palestine that Aaron proposed at the Paris Peace Conference could have avoided much of the later conflict in the region.¹⁵⁷ Florence makes a similar argument.¹⁵⁸ Sarah Aaronsohn has received an even more sensational treatment. This is largely as a result of her brutal death when the spy ring she helped to coordinate was discovered by the Ottoman authorities.¹⁵⁹ After her death she became known as “The Jewish Joan of Arc.”¹⁶⁰ There have even been suggestions that she was the “S.A.” to whom T.E. Lawrence dedicated the *Seven Pillars of Wisdom*.¹⁶¹ Both Aaron and Sarah died young and violently – Sarah committed suicide in 1917 and Aaron died in a plane crash in 1919 – which may help to explain their positive, even glorified, portrayal by historians.¹⁶²

Alexander Aaronsohn has been treated less charitably. Goldstone takes a particularly critical stance, arguing that he “both worshipped his older formidable older brother and tried desperately to outdo him.”¹⁶³ She describes him as a tireless self-promoter who sought to cash in on the legacies of his siblings and as an opportunist more interested in power than principle.¹⁶⁴ Unlike his siblings, Alexander lived well past the end of the war. He died in France in 1946, having left Palestine in 1924. He appears to have devoted his years of exile primarily to hedonistic excess, which somewhat tarnished his legacy.¹⁶⁵

¹⁵⁷ Goldstone, *Aaronsohn's Maps*, 285-295.

¹⁵⁸ Florence, *Lawrence and Aaronsohn*, 451-452.

¹⁵⁹ Goldstone's book contains a detailed account of Sarah's torture by the Ottoman army: Goldstone, *Aaronsohn's Maps*, 206-209. Florence's version is less sensational, but only marginally so: Florence, *Lawrence and Aaronsohn*, 324-328.

¹⁶⁰ Goldstone, *Aaronsohn's Maps*, 264.

¹⁶¹ Goldstone, *Aaronsohn's Maps*, 279-284.

¹⁶² Florence, *Lawrence and Aaronsohn*, 417-419; 328.

¹⁶³ Goldstone, *Aaronsohn's Maps*, 20.

¹⁶⁴ Goldstone, *Aaronsohn's Maps*, 122, 260-263.

¹⁶⁵ Halkin, *A Strange Death*, 281-287.

In the stories focused on Aaron and Sarah, Alexander is a marginal figure. In the Zeita Lands Case, however, he was one of the central participants. The case, which occurred after the deaths of his siblings, was a part of his attempt to establish himself as an influential figure in post-war Palestine. The following chapter will contextualize his actions by examining his history and that of his family. Out of necessity, this account will discuss the actions of Aaron and Sarah, as well as the friends and allies of the Aaronsohn family, before and during the war.

In addition to the sources discussed above, this chapter will rely on Alexander's own 1916 work, entitled *With the Turks in Palestine*.¹⁶⁶ Based on articles originally published in *Atlantic Monthly*, it is primarily a work of propaganda, one that Aaron Aaronsohn felt was singularly ill-timed. "What realistic purpose," he later wrote to Alexander, "do you want to achieve with your writing? I have had no news from home, but it's possible that the articles in the *Atlantic Monthly* will have terribly angered Djemal Pasha [the Turkish military ruler of Ottoman Palestine] at me, and I pray his anger will go no further." Aaron asked his younger brother if he was sure that, "you did not sacrifice too much for the sake of a sensational headline."¹⁶⁷

With the Turks in Palestine is indeed sensational. The following passage gives a sense of its tone:

While Belgium is bleeding and hoping, while Poland suffers and dreams of liberation, while Serbia is waiting for redemption, there is a little country the soul of which is torn to pieces – a little country that is so remote, so remote that her ardent sighs cannot be heard. It is the country of perpetual sacrifice, the country that saw Abraham build the altar upon which he was ready to immolate his only son, the country that Moses saw from a distance, stretching in beauty and loveliness – a land of promise

¹⁶⁶ Alexander Aaronsohn, *With the Turks in Palestine* (Boston: Houghton Mifflin, 1916).

¹⁶⁷ Quoted in Katz, *Aaronsohn Saga*, 127.

never to be attained – the country that gave the world its symbols of soul and spirit. Palestine!¹⁶⁸

Alexander's work has a number of flaws as a historical source. In the first place, it is a work of propaganda rather than history. Secondly, it includes a minimum of background detail, focusing instead on dramatic narrative. Finally, and most importantly for the present study, it only covers the events up until 1916. However, *With the Turks in Palestine* does provide a useful sense of Alexander's own perspective.

The Aaronsohn Family

Zichron Ya'akov, the First Aliyah moshava where Alexander and his siblings grew up, was founded in 1882. His parents, Ephraim and Malkah Aaronsohn, were among its original inhabitants, a group of Romanian Jews sponsored by Hovevei Zion. The settlement was created on land that had belonged to the Palestinian Arab village of Samarin, located fifteen miles South of Haifa.¹⁶⁹ The absentee landlord from whom they purchased the land evicted his tenants to make room for the new arrivals.¹⁷⁰ The fields the settlers inherited were rocky, and nearby swamps generated swarms of malaria mosquitoes. They had little in the way of supplies or agricultural experience. By June of 1883, many of the original group had returned to Romania, and those who stayed were desperate enough to pawn their Torah scrolls to buy food.¹⁷¹

They were rescued by Baron Edmond de Rothschild, whose role in providing financial support for the First Aliyah settlements has been discussed previously.

¹⁶⁸ Aaronsohn, *With the Turks in Palestine*, xiii.

¹⁶⁹ Florence, *Lawrence and Aaronsohn*, 30-33.

¹⁷⁰ Halkin, *A Strange Death*, 22.

¹⁷¹ Florence, *Lawrence and Aaronsohn*, 33-35.

Rothschild sent a message to the Hovevei Zion in Romania offering to support the moshava. In return, he demanded control over its affairs. The inhabitants of Samarin agreed and quickly received sufficient funds to survive for another season.¹⁷² Now under the patronage of the Baron, the colony was renamed Zichron Ya'akov in honour of his father James.¹⁷³

Aaron Aaronsohn was six when his parents immigrated to Palestine. Ephraim and Malkah had five more children in Zichron Ya'akov: Samuel, Tzvi, Alexander, Sarah, and Rivka.¹⁷⁴ The Aaronsohns were raised in the moshava and educated in its school, where they learned French, Hebrew, and Arabic, as well as history, religion, science and agronomy.¹⁷⁵ Under Rothschild's influence, Zichron Ya'akov was run as plantation to produce cash crops for the international market, and the Aaronsohn children were exposed from a young age to the social organization and labour practices that accompanied this form of agriculture.¹⁷⁶

Other moshavot had successfully grown oranges for the export market, but in the case of Zichron Ya'akov Rothschild decided that the settlers should cultivate grapes instead. He planned to produce high-quality wine in the French tradition. This scheme was never a success, despite the enormous sums the Baron invested in it. The conditions in Zichron Ya'akov were simply not favourable for the production of fine wine.¹⁷⁷ Nonetheless, viniculture became the basis of the colony's economy, bringing with it a reliance on Palestinian Arab labour. As Shafir points out, cultivating grapes, particularly

¹⁷² Florence, *Lawrence and Aaronsohn*, 35.

¹⁷³ Florence, *Lawrence and Aaronsohn*, 36.

¹⁷⁴ Goldstone, *Aaronsohn's Maps*, 11, 17.

¹⁷⁵ Florence, *Lawrence and Aaronsohn*, 39.

¹⁷⁶ Florence, *Lawrence and Aaronsohn*, 41-42.

¹⁷⁷ Florence, *Lawrence and Aaronsohn*, 42.

using the methods of the time, was a labour-intensive form of agriculture that demanded large numbers of unskilled labourers, available seasonally and willing to work for low wages. More than any other First Aliyah moshava, Zichron Ya'akov relied on Palestinian Arab workers in its vineyards.¹⁷⁸

Raised in this environment, Alexander and his older brother Aaron became determined opponents of the socialist Zionism of the Second Aliyah, and of the “conquest of labour” in particular. Shafir calls Aaron “the living spirit behind the self-articulation of the younger generation of the planter class.”¹⁷⁹ A pragmatic capitalist who believed that Jewish settlement would succeed through economic development rather than political struggle, he had no qualms about employing Palestinian Arab workers. He detested what he described as the “fanaticism, and lack of humanism and Jewishness, in the separation of our workers,” that he felt characterized the “conquest of labour.”¹⁸⁰ While his attitude towards the Palestinian Arab population was paternalistic, he had a genuine respect for their agricultural experience.¹⁸¹ When it came to farming in Palestine, Aaron argued that:

Not only is the European method not useful but it is harmful to the crops. I wished to emphasize the value of the Arabs' agricultural traditions. Even now (1912) I continue to learn from them. I don't pay attention to their reasons and their explanations because they are usually wrong, but I respect their agricultural experience and I reckon with it.¹⁸²

He faced considerable criticism from within the Yishuv for employing Palestinian Arab workers at the agricultural research station he founded, but persevered nonetheless.¹⁸³

¹⁷⁸ Shafir, *Land, Labor and the Origins*, 51, 143.

¹⁷⁹ Shafir, *Land, Labor and the Origins*, 144.

¹⁸⁰ Quoted in Shafir, *Land, Labor and the Origins*, 143.

¹⁸¹ Shafir, *Land, Labor and the Origins*, 144.

¹⁸² Quoted in Katz, *The Aaronsohn Saga*, 22-23.

¹⁸³ Katz, *The Aaronsohn Saga*, 23-24.

Alexander also took a political role before the war, one that suited his taste for the dramatic. In 1913 he founded a group known as the “Gideonites” with Avshalom Feinberg, who later played an important role during the war.¹⁸⁴ Alexander’s account of the founding of the Gideonites is as follows:

...I determined to build up a fraternal union of young Jewish men from all over the country. Two months after my return from America, [where he stayed between 1910 and 1913] an event occurred which gave impetus to these projects. The physician of our village, and old man who had devoted his entire life to serving and healing the people of Palestine, without distinction of race or religion, was driving home one evening in his carriage from a neighboring settlement. With him was a young girl of sixteen. In a deserted place they were set upon by four armed Arabs, who beat the old man to unconsciousness as he tried, in vain, to defend the girl from the terrible fate which awaited her. Night came on. Alarmed by the absence of the physician, we young men rode out in search of him. We finally discovered what had happened; and then and there, in the serene moonlight of that Eastern night, with tragedy close at hand, I made my comrades take oath on the honor of their sisters to organize themselves into a strong society for the defense of the life and honor of our villagers and of our people at large.¹⁸⁵

By framing the creation of the Gideonites with this story, Alexander casts them as protecting vulnerable young Jewish women from sexually threatening Palestinian Arab men. He relates that he made the men with him swear an oath “on the honor of their sisters,” which further reinforces the idea that this honour was endangered by the surrounding Palestinian Arab population.

Whether these events actually occurred or not, the important place given to them in *With the Turks in Palestine* is likely the product of Alexander’s own fantasies and fixations. Instances of sexual danger and violence directed towards women and girls occur throughout the work. In the section discussing his time in the Turkish army, he relates that: “One day a little Christian soldier – a Nazarene – disappeared from the ranks.

¹⁸⁴ Shafir, *Land, Labor and the Origins*, 144.

¹⁸⁵ Aaronsohn, *With the Turks in Palestine*, 4-5.

We never saw him again, but we learned that his sister, a very young girl, had been forcibly taken by a Turkish officer of the Nazareth garrison.”¹⁸⁶ In Alexander’s account, this incident convinces him to depart the army, which he does by bribing the officer in charge.¹⁸⁷ Again, the issue is not so much whether or not this incident occurred, but what caused it to stick in Alexander’s head, and why he grants it such importance in his narrative. Of course, such accounts made good propaganda, but there is something more disturbing at work as well.

According to Halkin’s interviews in *Zichron Ya’akov*, Alexander himself had a sexual interest in girls in their early teens. One of the villagers related that: “He had them brought to him, fourteen years old, fifteen. The Aaronsohns owned an olive grove beyond the cemetery. He had a pavilion there to which he took them, a regular boudoir.”¹⁸⁸ According to the same informant, the first girl with whom Alexander was sexually involved was Tova Gelberg, who later married Nissam Rutman.¹⁸⁹ Both of these two played important roles in the Aaronsohns’ wartime activities, and later in the Zeita Lands Case.

The Gideonites were a self-defence organization, drawn from the children of the planters and organized along similar lines to the Second Aliyah’s Ha-Shomer. The Gideonites seem to have adopted some of the same theatrical dress. Florence relates that: “In a group portrait they posed with firm expressions, their dress ranging from keffiyas to scattered articles from military uniforms.”¹⁹⁰ The Gideonites supervised Palestinian Arab

¹⁸⁶ Aaronsohn, *With the Turks in Palestine*, 26.

¹⁸⁷ Aaronsohn, *With the Turks in Palestine*, 26.

¹⁸⁸ Quoted in Halkin, *A Strange Death*, 106.

¹⁸⁹ Halkin, *A Strange Death*, 106.

¹⁹⁰ Florence, *Lawrence and Aaronsohn*, 76.

guards in Zichron Ya'akov. They also clashed with the workers of the Second Aliyah on a number of occasions.¹⁹¹

The latter disliked the Gideonites in part because they lacked a socialist “ideology,” but tensions also focused on the divide between those born in Palestine and more recent arrivals. In a 1914 article in *Ha'ahdut*, the Second Aliyah leader Ya'akov Zerubavel wrote that:

In truth, the Gideonites have performed many useful functions; they have brought order to the courtyard of the cemetery, they have cleaned out the runnels (imagine, the grandchildren of the Baron cleaning out runnels!)...the young men of Zichron are accustomed to working, and they love work – but that is all...The same social boorishness...the same empty life, lacking aspiration or ideals and, especially, the same deadly hatred of the “foreigners.”¹⁹²

The two groups were also at odds over their own economic interests. As discussed in the Introduction to this study, the workers of the Second Aliyah needed jobs at wages that could support the standard of living they demanded, and they supported the “conquest of labour” in an attempt to secure them. The children of the planters preferred to hire Palestinian Arabs, who were more experienced and willing to work for less.¹⁹³

While Aaron did not join the Gideonites, he shared many of their views, and the issue of self-defence brought out an uglier tone in his discussion of the Palestinian Arab population. He declared that the Jewish community in Palestine had “strictly avoided Arab infiltration in our villages, and we are glad of it. From national, cultural, educational, technical and mere hygienic points of view this policy has to be strictly adhered to; otherwise the whole Jewish Renaissance movement will fail.”¹⁹⁴ Similarly,

¹⁹¹ Shafir, *Land, Labor and the Origins*, 144.

¹⁹² Quoted in Katz, *The Aaronsohn Saga*, 67.

¹⁹³ Shafir, *Land, Labor and the Origins*, 56-60.

¹⁹⁴ Quoted in Florence, *Lawrence and Aaronsohn*, 77.

Alexander wrote that: “the Arab is a cunning fellow, whose only respect is for brute force. He exercises it himself on every possible victim, and expects the same treatment from his superiors.”¹⁹⁵ The Aaronsohns may have firmly supported the employment of Palestinian Arab workers, but that should not be taken to mean they regarded them as equals. They were much like the farmers of Zichron Ya’akov who Halkin encountered in the 1970s: “right-wingers who took pride in their understanding of the devious Arab mind and dealt with their field hands from a stance of Jewish superiority.”¹⁹⁶

NILI

The First World War brought enormous hardships to the territories of the Ottoman Empire in the Middle East, and Palestine was no exception. A French and British blockade cut off both imports of vital agricultural supplies and exports of cash crops. The Ottoman military requisitioned anything of value, often leaving cultivators with barely enough food to avoid starvation. Djemal Pasha, the military ruler of Syria and Palestine, seemed especially ill-disposed towards the Jewish community. He was suspicious that these recent immigrants from Eastern Europe might include Russian spies. On several occasions during the first year of the war, he expelled hundreds of Jews from Jaffa into the countryside.¹⁹⁷

By the late spring of 1915, Aaron Aaronsohn had concluded that only a British victory would save the Yishuv, and the sooner the better. He enlisted the aid of his siblings, as well as his friend Avshalom Feinberg, and tried to contact the British

¹⁹⁵ Aaronsohn, *With the Turks in Palestine*, 13.

¹⁹⁶ Halkin, *A Strange Death*, 156.

¹⁹⁷ Florence, *Lawrence and Aaronsohn*, 118-123.

authorities in Egypt and offer their services as spies. The first attempt was made by Alexander and Rivka, who escaped from the Ottoman Empire traveling under fake Spanish passports and posing as a married couple. Alexander managed to meet a British intelligence officer in Alexandria, but he did not succeed in convincing the British that the services he was offering were worth having. A few months later Avshalom Feinberg made a second, successful, attempt, and an intelligence organization was born.¹⁹⁸ They christened it NILI, an acronym for the Biblical passage *Nezah Israel Lo Ieshaker*: “The glory of Israel does not deceive.”¹⁹⁹

At around the same time, Sarah Aaronsohn returned to Palestine with first-hand experience of the Armenian genocide. In 1914, she had married a Jewish merchant living in Constantinople, but the marriage was not a happy one. In November 1915 she left for Palestine by train while her husband was away.²⁰⁰ Florence, basing his account on the information contained in Aaron Aaronsohn’s diary, writes that:

Across Anatolia she saw abandoned villages left behind when Turkish troops had driven the Armenians out of their homes...Women and children walked or even crawled along the roads, clothed in rags, their bodies emaciated, begging for scraps of bread. She saw troops evicting entire populations with whips and rifle butts, kicking, beating, or shooting the stragglers...When they stopped in small towns she met women who had been raped, who had seen the men of their villages lined up and shot, who had helplessly watched their children starve or die of exposure...She saw a Turkish train deliberately drive over typhus-stricken Armenians waiting on the tracks of a station.²⁰¹

The members of NILI were convinced that the same fate awaited the Yishuv. “Our turn will come,” Feinberg wrote, “when a moment of ill-will, or a fluttering butterfly, or a sunbeam, or any other poetic reason pushes the great commander to implement his

¹⁹⁸ Florence, *Lawrence and Aaronsohn*, 165-173.

¹⁹⁹ Florence, *Lawrence and Aaronsohn*, 266.

²⁰⁰ Florence, *Lawrence and Aaronsohn*, 157, 178.

²⁰¹ Florence, *Lawrence and Aaronsohn*, 178.

cherished plan.”²⁰²

The story of the NILI spy ring is convoluted, dramatic, and ultimately tragic, but it has been told well elsewhere and it is only tangentially related to the present study. Despite various setbacks, the organization passed a considerable amount of information to British intelligence, but most of its central figures did not survive the war.²⁰³ In 1917, Avshalom Feinberg was killed while attempting to cross the Sinai to Egypt.²⁰⁴ Later that year, NILI was discovered by the Ottoman authorities, and many of its members were arrested. Sarah Aaronsohn endured four days of torture without revealing any information. Her father, her brother, and seven members of NILI were tortured in front of her. On the fourth day, when she was allowed to go and change her clothes, she took a pistol from a hidden compartment and shot herself. She died three days later.²⁰⁵

The other captured members of NILI were taken to Damascus, where two of them were hanged. The rest were taken to Constantinople, where they were imprisoned until the end of the war. Among the prisoners were Nissam Rutman, who acted for Alexander Aaronsohn in the Zeita Lands Case, and Tova Gelberg, who would later become Rutman’s wife, and in whose name part of the land was registered.²⁰⁶ They were not treated kindly. After Rutman’s death, his brother told Halkin that he was beaten twice a day in prison, and that it “made him a hard man.”²⁰⁷ Out of a total of a hundred prisoners,

²⁰² Quoted in Florence, *Lawrence and Aaronsohn*, 180.

²⁰³ When Aaron Aaronsohn was killed in 1919, General Allenby declared that: “The death of Aaron Aaronsohn deprived me of a valued friend and of a staff officer impossible to replace. He was mainly responsible for the formation of my Field Intelligence organization behind Turkish lines...His death is a loss to the British Empire and to Zionism, but the work he has done can never die.” Quoted in Florence, *Lawrence and Aaronsohn*, 419. A detailed assessment of the value of NILI’s intelligence and its place in Allenby’s campaign would be valuable, but it is beyond the scope of this study.

²⁰⁴ Goldstone, *Aaronsohn’s Maps*, 159.

²⁰⁵ Goldstone, *Aaronsohn’s Maps*, 206-208.

²⁰⁶ Katz, *The Aaronsohn Saga*, 290-293.

²⁰⁷ Halkin, *A Strange Death*, 316.

forty died from malnutrition or disease before the war's end in 1918, when the survivors were freed.²⁰⁸

Aaron Aaronsohn survived the end of the war, but by less than a year. He was an advisor to the Zionist delegation to the Paris Peace Conference, but died in a plane crash while crossing the English Channel on May 15, 1919, before the conference was concluded.²⁰⁹ There was speculation at the time that his death was arranged by the British. Aaron, the argument went, had provided too much assistance during the war to be ignored, and he would have insisted that wartime promises be kept. These rumours have never been proved, but neither have the circumstances surrounding his death ever been fully explained.²¹⁰

The members of NILI grew up in Ottoman Palestine, and their rebellion against the Turkish authorities was a product of this context. Like other contemporary nationalist movements, they were members of an ethnic and religious minority fighting for what they saw as their homeland. This position is exemplified by Yosef Lishansky's last words, delivered from the scaffold in Damascus:

We are not traitors, for treason must be preceded by love. Only a lover can betray his beloved. But we never loved the homeland of the falaka and the baksheesh, the homeland of the hangman of the Armenian people. We hated her, hated her so deeply. We didn't betray her, but she disgusted us. We have been digging her grave with all our might so that she should get out of our dear homeland... We, members of NILI, headed by the great Jew Aaron Aaronsohn, have dug you a big grave, contemptible Ottomania. We have made contact with the English army which has come to liberate our country and to hand it over to us. And while you are preparing to hang us, Great Britain's army is entering our Holy City Jerusalem – and your armies are fleeing the city without resistance.²¹¹

²⁰⁸ Katz, *The Aaronsohn Saga*, 293.

²⁰⁹ Florence, *Lawrence and Aaronsohn*, 407-411, 416-418.

²¹⁰ Katz, *The Aaronsohn Saga*, 340-341.

²¹¹ Quoted in Katz, *The Aaronsohn Saga*, 291-292.

The above passage is based on an observer's memory well after the fact, so it almost certainly differs from what Lishansky said in some ways. It has also been translated, because Lishansky delivered the original in Arabic.²¹² We might speculate that he chose to speak Arabic so that a larger proportion of his Damascene audience could understand him, but regardless of his reasons it is clear that he possessed considerable facility with the language.

The children of the First Aliyah were perhaps the only truly Ottoman generation of Jewish settlers in Palestine. While they might not have respected the majority Palestinian Arab population, or been on good terms with them, they were certainly familiar with their customs and their language. Their reasons for rebelling against the Turkish authorities would have been comprehensible to members of any other religious or ethnic minority within the empire. Lishansky's speech refers explicitly to the Armenian genocide. Sarah Aaronsohn personally witnessed some of these atrocities, and the news of them played a crucial role in Aaron Aaronsohn and Avshalom Feinberg's decision to form NILI.²¹³ They rebelled because they were convinced that the Yishuv would suffer the same fate if the British did not occupy Palestine first.

Alexander Aaronsohn's Role in the Zeita Lands Case

Alexander spent most of the war in America, where he and Rivka traveled following their escape from the Ottoman Empire in 1915 and Alexander's unsuccessful

²¹² Katz, *The Aaronsohn Saga*, 291.

²¹³ Florence, *Lawrence and Aaronsohn*, 165-178.

attempt to make an alliance with British intelligence in Egypt.²¹⁴ In 1917 he returned to Egypt and took a position formerly occupied by Aaron at British headquarters, where he served as their liaison with NILI.²¹⁵ After NILI was discovered and destroyed he enlisted in the British army, where he was immediately promoted to the rank of captain in the intelligence service.²¹⁶ He reentered Palestine with the British later the same year.

In the immediate aftermath of the war, the former members of NILI were shunned by the Jewish community. Most of the Yishuv, including the members of Hashomer, had taken a loyalist stance during the hostilities in fear of Ottoman reprisals. Shafir sees this as an early indication of the different sensibilities possessed by the workers and the planters:

Nili members expected to gain power and influence the British by military audacity and by diplomatic activity alone; Hashomer foresaw the growth of Jewish influence in Palestine as a derivative of its socio-economic strengthening. Nili, lacking a strong public hinterland, set its store by a small activist group; Hashomer aspired by and large, to the establishment of a defence force through the overlapping of guarding and laboring. Nili was more adventurous; Hashomer more cautious.²¹⁷

This argument is too simplistic. While Shafir's analysis of the conflicts between the First and Second Aliyah is insightful, NILI is not an ideal case study with which to support it.

In the first place, the parallel Shafir draws between NILI and Hashomer is not particularly strong. NILI was a spy ring; Hashomer a guard organization. One would not expect the two to take a similar approach. However, the First Aliyah did produce its own guard organization, and Alexander Aaronsohn's Gideonites seem to have performed

²¹⁴ Florence, *Lawrence and Aaronsohn*, 167-170, 212.

²¹⁵ Florence, *Lawrence and Aaronsohn*, 303; Katz, *Aaronsohn Saga*, 215.

²¹⁶ Katz, *Aaronsohn Saga*, 294-295.

²¹⁷ Shafir, *Land, Labor and the Origins*, 144.

“guarding and laboring” duties much like Hashomer.²¹⁸ Furthermore, NILI represented a minority position within the First Aliyah settlements and even in Zichron Ya’akov itself.

In 1917, shortly before NILI was destroyed by the Turkish authorities, the village council ordered Sarah Aaronsohn to shut down the organization:

...we have to inform you that you are working at unclean [*traife*] work, and that you are the head of all this work. You are a daughter of this village. Your family stands to bear the brunt of the whole danger...Today we don’t want to hear any more explanations from you. Only one word, the right answer: Your promise to stop this work, which has gone beyond all bounds...If you want to work at espionage, leave the territory and the lands of the Jews and go and work in a distant land. Otherwise there will simply break out a war between Jews and Jews!²¹⁹

When NILI was discovered in 1917, the entire village was endangered. The wives of four members of the council struck and cursed Nissam Rutman as he was led through the streets in chains in an attempt to prove their husbands’ loyalty.²²⁰

Even after the war, many did not forgive the Aaronsohns and their friends for putting the Yishuv in danger. In 1918 Alexander wrote to Aaron that:

For months we were the loneliest people in the land. When we passed people in the street they stopped talking. They called us spies, scoundrels, traitors. They created a veritable boycott against us. Moreover, not a single Nili member was spared by the community. They and their parents, and their children.²²¹

There were even suggestions that they be expelled from Palestine.²²²

Despite this widespread hostility, Alexander appears to have retained some influence. In 1920, along with his friend Itamar Ben-Avi, he founded a fascist party to

²¹⁸ Shafir, *Land, Labor and the Origins*, 144; Florence, *Lawrence and Aaronsohn*, 76; Katz, *The Aaronsohn Saga*, 67.

²¹⁹ Quoted in Florence, *Lawrence and Aaronsohn*, 303.

²²⁰ Halkin, *A Strange Death*, 83, 177-178, 187.

²²¹ Quoted in Katz, *Aaronsohn Saga*, 313.

²²² Florence, *Lawrence and Aaronsohn*, 362.

promote the interests of the planters and oppose the socialists of the Second Aliyah.²²³

The impetus to create this movement, according to Ben-Avi, was a strike by workers to protest the introduction of a labour-saving printing press at the *Palestine Daily Mail*, the right-wing publication which he edited. He wrote that:

The strike so embittered me that I decided it was time to realize the old dream of establishing a political movement for us Palestinian natives...In several articles, I spoke of the need for a fascist party. These articles were not aimed at workers or their trade unions as such, but at the 'Reds and Bolshies' who were fomenting strikes and riots and endangering, I thought, the country's future. At that time, Alexander Aaronsohn had a similar idea of uniting Palestine's native sons. One day we met...and laid the groundwork for a party to be called the 'Sons of Benjamin' in honour of Theodor Herzl and Edmond de Rothschild [the Hebrew first name of both men was Benjamin].²²⁴

As Halkin points out, fascism in 1920 did not mean what it means now. Alexander and Ben-Avi were not proposing a totalitarian movement. An organized right-wing opposition to Labour Zionism, and a certain amount of what Halkin terms "rough-and-tumble extra-parliamentary action," were the limit of their ambitions.²²⁵

It is interesting that Ben-Avi chose to refer to the children of the First Aliyah settlers as "Palestine's native sons." Similarly, Shafir refers to the Gideonites as "a body of the native-born."²²⁶ These statements indicate that, both before and after the war, the second generation of the First Aliyah, those who were born and grew up in Palestine, considered this an important part of their identity. They appear to have differentiated themselves from the later arrivals using the dichotomy between "natives" and "immigrants" that has appeared in so many other contexts. Of course, they themselves

²²³ Halkin, *A Strange Death*, 273-274.

²²⁴ Quoted in Halkin, *A Strange Death*, 274.

²²⁵ Halkin, *A Strange Death*, 274.

²²⁶ Shafir, *Land, Labor and the Origins*, 144.

were comparatively recent arrivals to Palestine, but many of them clearly saw themselves as natives.

In *With the Turks in Palestine*, Alexander attempts to have it both ways, portraying himself and the First Aliyah settlers as both civilized Europeans and Palestinian natives. He contrasts the colonists with the Palestinian Arabs by emphasizing their European standard of living. Describing Zichron Ya'akov, he writes that: "the village was far more suggestive of Switzerland than of the conventional slovenly villages of the East, mud-built and filthy."²²⁷ On the other hand, in a later passage he explains that: "to us Orientals intuition speaks in very audible tones and we are trained from childhood to listen to its voice."²²⁸ He portrays himself as more European than the Palestinian Arabs while simultaneously more Eastern than the Americans and Europeans who form his audience.

When Alexander Aaronsohn founded the Sons of Benjamin, there was no established political leader to speak for the right-wing planter class, who considered themselves "native sons" of Palestine. Avshalom Feinberg and Aaron Aaronsohn were dead. Ze'ev Jabotinsky did not found his Revisionist Party until 1925, and, as a Russian immigrant and recent arrival, he did not have a base among the First Aliyah settlers. Alexander sought to fill this vacuum.²²⁹ According to Goldstone, it was rumoured that he was funded by the British. In any case, he had access to substantial amounts of money and traveled surrounded by bodyguards.²³⁰ According to one of

²²⁷ Aaronsohn, *With the Turks in Palestine*, 1.

²²⁸ Aaronsohn, *With the Turks in Palestine*, 79.

²²⁹ Halkin, *A Strange Death*, 275.

²³⁰ Goldstone, *Aaronsohn's Maps*, 264.

Halkin's informants: "Alexander had half of Zichron on his payroll after the war. He had a following of toadies. If you weren't one of them, you had to watch out."²³¹

The most important act of Alexander's political career, and the one which caused its end, was the purchase of Ghor el-Wassah. He bought the land with money supplied by Mary Fels, the wealthy widow of the head of a soap manufacturing firm and a committed Zionist. She had met Aaron Aaronsohn and Ben-Avi in New York during the war. In 1922, she accepted an invitation from the Sons of Benjamin to visit Palestine. Alexander welcomed her to Palestine in a manner that reflected both his own theatrical bent and the tendency of Jewish paramilitary groups in Palestine to appropriate Arab dress. According to Ben-Avi, Alexander arrived to greet her at the train that brought her from Egypt dressed as "a Muslim sheikh," with a sword at his hip and a keffiyah, topped with a gold circlet, on his head. A mounted group of the Sons of Benjamin performed elaborate maneuvers and fired their rifles in the air.²³²

By her own account, Fels was immediately enthused with what she found in Zichron Ya'akov. In a 1928 letter to the Attorney General, Norman Bentwich, she described her visit to Palestine in 1921:

On my first visit to Palestine in 1921 I was taken around by Dr. Rupin [Arthur Ruppin] and shown the activities of the Zionist Organization. I had a distinct feeling of disappointment in all that I saw. I then visited some of the Colonies established by the early Jewish pioneers with the assistance of Baron Edmond de Rothschild. They were a revelation to me. Strangely enough the Zionist Organization, both in Palestine and in the United States has minimized and even belittled the efforts and achievements of these pioneers. I was therefore more struck with the tremendous potentialities that I found in the old Colonies. The days I spent at Zichron-Jacob [Zichron Ya'akov], at the home of the Aaronsohns,

²³¹ Quoted in Halkin, *A Strange Death*, 105.

²³² Halkin, *A Strange Death*, 272-276.

made me realize the greatness of the Rothschild vision as well as the sturdiness and achievement of the old pioneers.²³³

She decided to assist Alexander Aaronsohn and the Sons of Benjamin by purchasing land to allow them to expand.

The day after her arrival, according to Halkin, Fels announced that she would buy ten thousand dunams of land near Hadera to settle First Aliyah farmers on.²³⁴ In the event, Ghor el-Wassah was less than six thousand dunams. Perhaps Halkin was misinformed, or perhaps Fels exaggerated. As discussed in the preceding chapter, the purchase of the lands involved a complicated fraud perpetrated against the villagers of Raml Zeita. The lands were formally purchased in 1925, but the machinations that led to the sale appear to have begun in 1923. In that year, the reader will recall, Samara withdrew from an action filed by several villagers from Raml Zeita against the nominees who held title to the village lands as *musha'*. British court records reveal that Nissam Rutman was present when he did so, and this likely marks the beginning of their collusive partnership.²³⁵

As well as the villagers of Raml Zeita, the farmers of the Sons of Benjamin were also defrauded. As the previous chapter notes, after it was purchased land was registered in the names of Rivka Aaronsohn and Tova Rutman. Nissam Rutman acted for Alexander in the transactions regarding the land. This small group, according to Halkin's

²³³ "Letter from Mrs. Fels to the Attorney General," November 12 1928, CO 733/177/67489. The reader will note that there is a discrepancy between the dates given by Halkin and those provided by Fels herself. A possible interpretation is that she arrived in Palestine in 1921, but spent a considerable amount of time being shown around Arthur Ruppin and did not get to Zichron Ya'akov until 1922.

²³⁴ Halkin, *A Strange Death*, 276.

²³⁵ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 20-2.

informants, divided up the land amongst themselves. The Sons of Benjamin never received what they had been promised.²³⁶

The scandal that ensued, which broke out even before the purchase of the land was concluded, ended Alexander Aaronsohn's political career. In 1924, the office of the Sons of Benjamin in Zichron Ya'akov was broken into and the organization's records were stolen. An incriminating letter found its way into the hands of a prominent member of the Sons of Benjamin. At the organization's second convention that man angrily accused Alexander of stealing the land that had been promised to them. Incensed, Alexander resigned as the head of the organization. Several weeks later, he left the country for New York, where he lived with Mary Fels, with whom he was sexually involved. The Sons of Benjamin never became a major force in the politics of the Yishuv.²³⁷

²³⁶ Halkin, *A Strange Death*, 276-277.

²³⁷ Halkin, *A Strange Death*, 278-281.

Chapter 3: “The Elementary Principles of English Justice”

During the Zeita Lands Case, Norman Bentwich was the attorney general of Palestine, and in that capacity played an important role in the case. A moderate Jewish Zionist and an official in the mandatory government, he often found himself in the awkward position of being criticized from all sides. Interestingly enough, given that the case involved the purchase of land for Jewish settlement, Bentwich did his best to uncover the fraud perpetrated by Alexander Aaronsohn and his accomplices. In fact, he tried so hard to prosecute Nissam Rutman for his actions that he was criticized by his British colleagues for overstepping his authority.²³⁸ The following chapter will explore Bentwich’s upbringing and career in an attempt to contextualize his actions during the case. In particular, it seeks to explain why Bentwich, as a Zionist himself, should have gone so far in attempting to prosecute Jews for buying land in Palestine.

Throughout the mandate, the British rulers of Palestine found themselves in an uncomfortable position. Shepherd notes that: “British officials in Palestine – and their critics – described themselves repeatedly as umpires ‘holding the ring,’ between Arabs and Jews.”²³⁹ Under the terms of the League of Nations mandate, they were committed to facilitating Zionist settlement and the creation of a Jewish national home, while and simultaneously being required to ensure “that the rights and position of other sections of the population are not prejudiced.”²⁴⁰

These two commitments quickly proved to be incompatible. British officials on the ground in Palestine differed substantially from policy makers in England as to how

²³⁸ “Re Nissam Rutman: Opinion,” CO 733/177/67489.

²³⁹ Naomi Shepherd, *Ploughing Sand: British Rule in Palestine, 1917-1948* (New Brunswick, NJ: Rutgers University Press, 1999), 2.

²⁴⁰ “The Mandate for Palestine,” in Smith, *Palestine and the Arab-Israeli Conflict*, 110.

the situation should be managed.²⁴¹ Throughout the mandate, both the Jewish and Palestinian Arab communities accused the British of betraying their promises.²⁴²

Yet, regardless of what they said or believed, the British were not even-handed rulers. As Shepherd argues:

British rule protected the Zionist beachhead in Palestine during its most vulnerable, insecure period during the 1920s and 1930s. This was, politically, the main legacy of the Mandate, despite the hostility of so many officials to the whole Zionist enterprise and despite the armed confrontations with Jewish militants in the last two years of British rule.²⁴³

Similarly, Benny Morris comments that: “in the Mandatory period the British supplied the military umbrella under whose protection the Zionist enterprise grew into a state.”²⁴⁴

Rashid Khalidi makes a related case, arguing that under the terms of the mandate:

The tiny Jewish community of Palestine, composing about 10 percent of the country’s population at that time, was...placed in a distinctly privileged position. By contrast, the Arab majority, constituting 90 percent of Palestine’s population, was effectively ignored as a national or political entity...As far as Great Britain and the League of Nations were concerned, they were definitely *not* a people.²⁴⁵

The British administrators who ruled Palestine during the mandate did not always get along well with the leaders of the Yishuv. On a personal level, many of them were quite anti-Semitic.²⁴⁶ However, the overall effect of the mandate was unquestionably to aid the Zionist movement in settling Palestine and to repress Palestinian Arab efforts to achieve self-determination.

²⁴¹ Bernard Wasserstein, *The British in Palestine: The Mandatory Government and the Arab-Jewish Conflict, 1917-1929* (London: Royal Historical Society, 1978.), vi.

²⁴² Shepherd, *Ploughing Sand*, 2.

²⁴³ Shepherd, *Ploughing Sand*, 244.

²⁴⁴ Quoted in Piterberg, *The Returns of Zionism*, 29.

²⁴⁵ Rashid Khalidi, *The Iron Cage: The Story of the Palestinian Struggle for Statehood* (Boston: Beacon Press, 2006), 33.

²⁴⁶ A.J. Sherman, *Mandate Days: British Lives in Palestine, 1918-1948* (New York: Thames and Hudson, 1997), 26-30.

Notwithstanding Shepherd's remark that the most important political legacy of the mandate is its facilitation of Jewish settlement in Palestine, several scholars have recently argued for a more nuanced study of this period. In his work on land policy during the mandate, Bunton argues that the existing historiography focuses on Zionism and inter-communal conflict to the exclusion of other significant aspects of the period:

...attempts to assess the dynamics of establishing a Jewish national home have emphasized the role of British colonial policies in providing the protective umbrella necessary to assume legal possession of a national territory. Seen from another perspective, the focus on political troubles between Arabs and Jews has narrowed the history of land policies to a narrative of loss, with an emphasis on how colonial policies were inimical to, and disruptive of, the indigenous Arab society.²⁴⁷

He argues for a comparative approach to British land policy in Palestine and for a focus on factors other than Zionism.²⁴⁸

Another interesting revisionist approach to the study of British rule in Palestine is Susan Pedersen's work on the role played by the League of Nations in determining British policy. She notes that:

The game played for high stakes in interwar Palestine had, we tend to think, three players: the Zionist movement, the Arabs, and the British. Yet, there was always a fourth player in the room – one that, however, only occasionally entered the fray. More often, that player wore the uniform of referee or umpire, adjudicating disputes, calling fouls, or even rewriting the rules of the game. Occasionally, though, and confusingly, the player would join one or another side, shifting the state of play and forcing the other players to change tactics. This player was, of course, the League of Nations...²⁴⁹

Pedersen argues that, while it has often been overlooked by scholars, the League of Nations played an important role in the history of mandate Palestine. She claims that its

²⁴⁷ Bunton, *Colonial Land Policies*, 1.

²⁴⁸ Bunton, *Colonial Land Policies*, 4.

²⁴⁹ Susan Pedersen, "The Impact of League Oversight on British Policy in Palestine," in *Britain, Palestine, and Empire: The Mandate Years*, ed. Rory Miller (Burlington, VT: Ashgate, 2010), 39.

oversight reduced the ability of the British to change their policies and contributed substantially to the “stasis and sclerosis” that characterized the mandate and led to many of its failures.²⁵⁰

If British officials found themselves in an uncomfortable and contentious position in Palestine, things were doubly bad for those, like Norman Bentwich, who were both British and Jewish. Bernard Wasserstein includes a brief discussion of three such officials: Max Nurock, Albert Hyamson, and Bentwich himself. The careers of all three were controversial. For political reasons the British hesitated to appoint Jews to prominent positions within the mandatory government. Ostensibly for this reason, Nurock was turned down for a position in the colonial office’s Middle East section, and Bentwich was eventually forced to resign his post as attorney general. Anglo-Jewish officials were often disliked by both the Palestinian Arab and the Jewish communities. The former regarded them as biased no matter what they did, while the latter considered any attempt at even-handedness a betrayal. Both Nurock and Bentwich survived assassination attempts by Palestinian Arabs, while Hyamson outraged the Yishuv by refusing to take a sympathetic stance in his role as the head of the immigration department.²⁵¹

Wasserstein’s brief biography is the longest discussion of Bentwich’s life and career in the secondary literature.²⁵² While he was a relatively prominent figure in the mandate territory during his time as attorney general, he has not been considered

²⁵⁰ Pedersen, “Impact of League Oversight,” 39-41.

²⁵¹ Wasserstein, *The British in Palestine*, 206-216.

²⁵² There is also an entry on Bentwich in the *Oxford Dictionary of National Biography*, but as far as his career in Palestine is concerned it relies heavily on Wasserstein’s work. See: Walter Zander and rev. Robert Brown, “Bentwich, Norman de Mattos (1883–1971),” in *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004, <http://www.oxforddnb.com/view/article/30811> (accessed March 21, 2012)).

significant enough for a full-length study. In the various histories of the mandate discussed above he is mentioned in passing, but his actions are rarely described in detail. Conveniently for the present study, Bentwich was an unusually prolific author, and a variety of autobiographical works are available to the historian.

The following study relies principally on two works by Bentwich: *Fulfillment in the Promised Land*, published in 1938, and *Mandate Memories*, written with his wife Helen and published in 1965.²⁵³ Both discuss the years leading up to the Zeita Lands Case in some detail. There is a notable difference in tone between these two accounts, which cover many of the same events. *Fulfillment in the Promised Land*, as the title suggests, focuses optimistically on the successes of Zionist settlement in Palestine. Discussion of the Palestinian population is largely absent from this work. While trouble was by this time brewing between the Jewish and Palestinian Arab communities – the Arab Revolt began in 1936 – Bentwich still thought that these differences could be resolved. He notes that: “History offers several examples of two nationalities originally hostile living side by side, either in one territory or in two, and passing from feud and strife to the recognition of a common patriotism and mutual helpfulness.”²⁵⁴ Bentwich concludes the book by declaring that: “the pursuit of friendship with the Arab peoples must become part of the morality of the Jewish people in Palestine.”²⁵⁵

Mandate Memories, written after the 1948 war, takes a much less optimistic tone. In this work, Bentwich focuses more on the Palestinian Arab population, and on the

²⁵³ Norman Bentwich, , *Fulfillment in the Promised Land: 1917-1937* (Westport: Hyperion Press, 1976); Norman Bentwich and Helen Bentwich, *Mandate Memories, 1918-1948* (New York: Schocken Books, 1965).

²⁵⁴ Bentwich, *Fulfillment in the Promised Land*, 239.

²⁵⁵ Bentwich, *Fulfillment in the Promised Land*, 242.

conflicts between it and the Yishuv. The work concludes with a description of a 1963 trip to East Jerusalem. Helen Bentwich wrote that:

I think of the thousands of Arabs, many of them friends of old, now leading wasted lives in the refugee camps the other side of Jerusalem. And despite my deep admiration for the achievements of Israel, I feel infinitely sad as I remember the Jerusalem where I once lived, and the hopes I had then for a peaceful and united Palestine.²⁵⁶

While *Fulfilment in the Promised Land* takes a generally optimistic tone, the same events in *Mandate Memories* become tragic.

The following chapter relies on the secondary literature, Bentwich's own accounts, and the British court records to describe his career and contextualize his participation in the Zeita Lands Case. It discusses the difficult position he occupied as an Anglo-Jewish official in the mandatory government, and explores the various controversies that he was involved in throughout his career. It attempts to explain his actions during the Zeita Lands Case. Finally, it discusses the end of his career, when his political unpopularity and professional incompetence led to his dismissal.

Bentwich's Early Life and Career

Norman De Mattos Bentwich was born in 1883 in London. His father, Herbert Bentwich, was a prominent English Zionist. Bentwich received a classic upper-class education at St. Paul's school and Cambridge. He took an early interest in Zionism, to which he was exposed by his father. He was particularly influenced by Solomon Schechter and Ahad Ha'am. In 1907 he attended the Zionist Congress as a delegate, and

²⁵⁶ Bentwich, *Mandate Memories*, 225.

he visited Palestine in both 1908 and 1911. To further his ambition to settle in Palestine he took a post with the Egyptian Ministry of Justice in 1912.²⁵⁷

When war broke out in 1914, Bentwich volunteered for military service. He was turned down by the Zion Mule Corps, but succeeded in enlisting in the Camel Transport Corps of the Egyptian Expeditionary Force in 1915.²⁵⁸ In 1917, he was entrusted with interviewing Aaron Aaronsohn to determine if he could actually deliver the kind of information he had promised the British. Bentwich, as a member of what Goldstone calls “Foreign Office-approved Jewish students’ circles at Oxford,” was tasked with finding Jewish friends who would be willing to work in intelligence.²⁵⁹ Bentwich, who had met Aaron in Palestine before the war, was very impressed by him.²⁶⁰ In *Mandate Memories* he described him in the following terms:

Aaronson was a new type of native Palestine Jew, –he was born in Roumania, but brought as an infant to Zichron; he grew up a ‘Sabra’, self-assured, fearless, free, concentrated in purpose and direct in manner. He was the fore-runner of Israel’s leaders of the next generation, and he had the same power as Weizman of impressing English statesman, generals and civil officials, or American scientists, judges and magnates. He was a man of the world at the same time as an ardent Jewish patriot.²⁶¹

Aaron seems to have been less favourably impressed by his interviewer. “Truthfully speaking,” he wrote, “I am afraid Bentwich’s mind is too English-like – in other words, that it works slowly.”²⁶²

Bentwich entered Palestine with the Egyptian Expeditionary Force in 1917, and in 1918 he was appointed to the post of senior judicial officer in the military

²⁵⁷ Wasserstein, *The British in Palestine*, 209-210.

²⁵⁸ Wasserstein, *The British in Palestine*, 210.

²⁵⁹ Goldstone, *Aaronsohn’s Maps*, 159.

²⁶⁰ Bentwich, *Mandate Memories*, 13.

²⁶¹ Bentwich, *Mandate Memories*, 38.

²⁶² Quoted in Goldstone, *Aaronsohn’s Maps*, 160.

administration.²⁶³ His appointment provoked immediate protests from the Palestinian Arabs, a group of whom complained to the chief administrator that: “The Palestine Government has issued orders that no one of its officials should belong to a political society and yet Colonel Bentovich [sic], the Director of Justice is one of the biggest Zionists and their moving spirit.”²⁶⁴ When the military administration was replaced by the civil administration in 1920, Bentwich retained his position, although his title was changed first to legal secretary and subsequently to attorney general.²⁶⁵

As one of the most important legal officials in the early years of the British administration, Bentwich played a central role in setting up the legal system of the mandate. He focused on providing the mandate with modern commercial laws. This, he believed, would encourage economic growth and provide the basis for increased Jewish immigration and settlement.²⁶⁶

The courts operated in Hebrew and Arabic as well as in English, which complicated matters somewhat. Bentwich noted that: “The class of interpreters, legally qualified, played an important part in the administration of justice; much turned on their more, or less, accurate translation of the evidence and of the advocates’ speeches for the British presiding judge.”²⁶⁷ On a more humorous note, he commented on the adaptation of Hebrew to legal purposes: “When first Hebrew law processes were issued from the Courts, a warrant of arrest was addressed to ‘His Honour, the Accused.’ That excessive politeness is not preserved in the warrants of today.”²⁶⁸

²⁶³ Wasserstein, *The British in Palestine*, 210.

²⁶⁴ Quoted in Wasserstein, *The British in Palestine*, 196.

²⁶⁵ Wasserstein, *The British in Palestine*, 210.

²⁶⁶ Likhovski, *Law and Identity*, 57.

²⁶⁷ Bentwich, *Mandate Memories*, 208.

²⁶⁸ Bentwich, *Fulfilment in the Promised Land*, 119.

Bentwich believed strongly in the benefits of the English legal system, which he considered one of the most positive legacies of the mandate. After the end of the mandate, he wrote that, despite some modifications to the legal code by the Israeli government,

...what has not been touched is the spirit of English Law, which is also the spirit of Hebraic Law, the regard for the dignity of man and the protection of individual liberty. It has been said that the English Common Law and Equity reflect the character of the English and American gentleman, which they have helped to mould. They continue to mould the character of Israelis.²⁶⁹

This was a widely-held view among Bentwich's contemporaries in the British colonial service. Chanock notes that the claim to have brought a civilizing influence in the form of the English judicial system formed an important source of legitimation for colonialism in Africa.²⁷⁰ Bentwich extols the virtues of British justice in similar terms.

Bentwich was a committed Zionist, but a moderate one. By his own account, during the early days of the mandate he genuinely believed that Jews and Palestinian Arabs could live peacefully together in a single state.²⁷¹ He was an early supporter of Brit Shalom, and he described its program in the following terms:

The society stated that Palestine should be neither a Jewish nor an Arab state, but a bi-racial state in which Jews and Arabs should enjoy equal civil, political and social rights, without distinction between majority and minority, and should be free in the administration of their internal affairs, united in their common interests. This bi-racial state could only be achieved by Jewish immigration, on the one hand, and by an improvement in the economic and cultural conditions of the Arabs on the other. The programme advocated the formation of joint Jewish and Arab trade-

²⁶⁹ Bentwich, *Mandate Memories*, 215.

²⁷⁰ Martin Chanock, "The Law Market: The Legal Encounter in British East and Central Africa," in *European Expansion and Law: The Encounter of European and Indigenous Law in Nineteenth and Twentieth Century Africa and Asia*, ed. W.J. Mommsen and J.A. de Moor (Oxford: Berg, 1992), 279-281.

²⁷¹ Wasserstein, *The British in Palestine*, 211.

unions, and opposed the exclusion of Arab labour from Jewish enterprises and of Jewish labour from Arab enterprises.²⁷²

Though Bentwich was committed to the idea of peaceful coexistence, he nonetheless found himself attacked from all sides throughout his career.

To the Palestinian Arabs, and to many of his British colleagues, Bentwich was suspect because he was Jewish. On the other hand, to the Yishuv he was too British. During the enquiry that followed the 1921 riots, Helen Bentwich wrote that: “At times like this condition are particularly difficult for Norman. The Arabs expect him to favour the Jews, and the Jews are resentful at his complete impartiality.”²⁷³ While Bentwich may not have been entirely impartial, he was clearly less pro-Zionist than many members of the Yishuv would have liked. Nevertheless, Palestinian Arab nationalists were not willing to accept a Jew holding such a prominent position in the mandatory government. They, as well as the right-wing British press, continued to protest throughout Bentwich’s career.²⁷⁴

In addition to the opposition of the Palestinian Arab nationalists on the one hand, and the complaints of the more radical members of the Yishuv on the other, Bentwich experienced significant difficulty with the anti-Semitism of his British colleagues. While the terms of the mandate committed the British to encourage and facilitate Zionist settlement, most were personally more sympathetic to the Palestinian Arabs. British officials often found the Jewish community humourless, combative, and lacking in deference.²⁷⁵ One officer explained that:

²⁷² Bentwich, *Fulfilment in the Promised Land*, 199.

²⁷³ Bentwich, *Mandate Memories*, 80.

²⁷⁴ Wasserstein, *The British in Palestine*, 210.

²⁷⁵ Sherman, *Mandate Days*, 28-29.

the Englishman ‘gets on’ with the Arab. He finds him a cheerful, courteous and companionable sort of chap, often a bit slippery in his business methods but rather as one playing a game than making any deliberate effort to cheat. The Jew in Palestine is inclined to be surly, morose and un-cooperative: the Arab at least looks as though he is glad to see you.²⁷⁶

Another summed it up in the following terms: “There was a saying that everyone who came to Palestine came there to a certain degree pro-Jew, but after a time became essentially pro-Arab, and generally ended pro-British.”²⁷⁷

Bentwich, who despite his moderate stance was a fervent Zionist, was clearly irritated by these attitudes. He commented that:

...the attitude of the heads of the Colonial Office, and of the officers who were brought from British colonies to occupy the higher positions in the mandated territory, was inevitably, if not invariably, to prefer the population which was less intelligent, less argumentative, and more courteous in manner.²⁷⁸

It is true one of the principle complaints that British officials had against the Jewish population was their lack of deference and their aggressive attitude.²⁷⁹ However, this passage betrays the same unconscious assumption of British superiority that informed Bentwich’s colleagues’ contempt for both the Jews and the Palestinian Arabs. The way in which he discusses the Palestinian Arab population also belies his supposed desire for binational cooperation. Perhaps what he envisioned was less cooperation between equals and more a civilizing mission on the part of the Zionist immigrants.

In fact, despite his Judaism and his Zionist convictions, Bentwich remained very British. His perspective on Palestine and the Palestinian Arabs was in many ways quite like that of his British colleagues. He had enormous faith in British justice and a

²⁷⁶ Quoted in Sherman, *Mandate Days*, 29.

²⁷⁷ Quoted in Sherman, *Mandate Days*, 30.

²⁷⁸ Bentwich, *Mandate Memories*, 68.

²⁷⁹ Sherman, *Mandate Days*, 28-29.

sympathetic but ultimately condescending attitude towards the indigenous population. His binationalism was natural enough, given his position. As an official of the government, Bentwich was bound to keep the peace, and as a Zionist he was committed to fostering continued Jewish immigration. The only way that he could reconcile the two was to cling to the belief that the two communities could somehow coexist peacefully, and that, as the terms of the mandate required, the creation of a Jewish national home could occur without harming the Palestinian Arab population.

Bentwich's Role in the Zeita Lands Case

Bentwich first became involved with the history of Ghor el-Wassah in 1927. The following section approaches his involvement with the land, and later in the Zeita Lands Case, primarily through a series of letters which he exchanged with Mary Fels between 1927 and 1929. In addition, it focuses on the commentary by Bentwich's colleagues in the British judiciary on his handling of the case, particularly his repeated attempts to prosecute Nissam Rutman for fraud. By drawing on these sources and the background information contained in the section above, it attempts to explain why Bentwich was so zealous in the performance of his duties that he incurred the censure of his British contemporaries.

In a letter written in 1925, Helen Bentwich recorded that: "Norman is working on the problem of unemployment, which is growing among the immigrants."²⁸⁰ Concern over this issue prompted Bentwich to write to Mary Fels and ask for her assistance. In a letter dated December 12, 1927, he began with a certain amount of judicious flattery:

²⁸⁰ Bentwich, *Mandate Memories*, 107.

I have to thank you very sincerely for sending me a copy of your book “Toward the Light” – which is indeed enlightening to the eyes. I believe that you have caught glimpses of Truth from many angles, and what you say about the spiritual promise to revive Palestine exactly represents my own views. I am venturing very humbly to send you in return a copy of a brief appreciation which I wrote last year of the great awakening in our day of a spiritual Zion.²⁸¹

Whether any of this was sincere is impossible to establish after the fact. It does seem that Bentwich and Fels shared a mystical bent when it came to Zionism. Having concluded these pleasantries, Bentwich proceeded to the reason for his letter:

For the moment we are grappling with the problems physical and material of Zion and particularly with the hard plight of the 5000 unemployed working men in Tel-Aviv and Haifa. One scheme on which I have been working with the Committee containing members of the Economic Corporation, is the creation of a large scale orange plantation on which a thousand, anyhow, could be permanently settled. It is for that purpose some lands of yours near Hadera [Hadera], it is said, could be eminently suitable. If we could combine those lands with a large area of the P.I.C.A [the Hebrew acronym for the Palestine Jewish Colonization Association] in the same neighbourhood it would be a very great help. I feel sure that you will not only consent to make the lands available, but will further this scheme by some financial participation. Some great effort must be made if the Yeshuv is not to lose heart and hope.²⁸²

The land in question, of course, was Ghor el-Wassah. At this point in time Bentwich was unaware of the legal issues involving the land.

Fels’ response, dated November 12, 1928, was written after the legal difficulties over the purchase of the land began.²⁸³ As discussed in the first chapter of this study, Rutman tried to sell a small portion of Ghor el-Wassah in 1926. When the director of lands prevented the sale, he petitioned the court to allow it to proceed. Rutman’s petition was filed on January 2, 1927, less than a month after Bentwich’s letter to Fels was

²⁸¹ “Letter from the Attorney General to Mrs. Fels,” December 12 1927, CO 733/177/67489.

²⁸² “Letter from the Attorney General to Mrs. Fels,” December 12 1927, CO 733/177/67489.

²⁸³ “Letter from Mrs. Fels to the Attorney General,” November 12 1928, CO 733/177/67489.

written.²⁸⁴ On February 5, 1927, the government agreed to drop the case in exchange for a payment of 1000 Egyptian pounds.²⁸⁵

In her letter, Fels explained that she had purchased the land at the suggestion of Alexander Aaronsohn, and that she intended to allow the Sons of Benjamin to settle on it. These events are discussed in greater detail in the preceding chapter. She complained to Bentwich that the Zionist Organization had impeded her purchase of the land, which had been done independently:

At that time land was to be bought in Palestine only through the Zionist Organization. Owing to the latter's attitude towards the old colonists, and the fact of my support for Justice Brandeis, and our withdrawal from the Zionist Organization I made all my transactions and dealings with Palestine entirely independent of the Zionist organization. I can sincerely say that from the very beginning of my work in Palestine I could feel a marked hostility on the part of the Zionist Organization in Palestine.²⁸⁶

This was, she argued, in marked contrast to the way land purchases that were conducted under the auspices of the Organization were treated:

Every time land was bought by Jews in Palestine through the Zionist Organization, no matter where and at what price and under what conditions, there was always big ado and rejoicing in the Palestine press. In my case, there was to the contrary a continual putting up of obstacles and intriguing on the part of our people so that Government Officials in Palestine, as well as Arabs selling their land to me were certainly not, to say the least, influenced by our people to facilitate this transaction.²⁸⁷

This resistance, she claimed, stemmed both from a general dislike of land purchases that were not conducted through the Zionist Organization and from a personal hostility to the Aaronsohn family. "Never once," she wrote, "have the backbiters and maligners of Alex Aaronson shown their ability to rise above personal feelings for the sake of a general

²⁸⁴ "Re Nissam Rutman: Proceedings in the Supreme Court," January 2 1927, CO 733/177/67489.

²⁸⁵ "The High Commissioner for Palestine and Mrs. Toba Rutman and Mrs. Rifka Aaronson," February 5 1927, CO 733/177/67489.

²⁸⁶ "Letter from Mrs. Fels to the Attorney General," November 12 1928, CO 733/177/67489.

²⁸⁷ "Letter from Mrs. Fels to the Attorney General," November 12 1928, CO 733/177/67489.

idea. I have always found them perfectly willing to sacrifice any of the interests of Palestine if by so doing they could hurt the Aaronsohns.”²⁸⁸

Fels’ accused Bentwich of deliberately manufacturing the legal difficulties surrounding the sale of Ghor el-Wassah:

You will remember that you wrote to me December 12, 1927, asking me to let you have some of “my” land near Hedera [Hadera] for the purpose of orange plantations to be used to settled [sic] unemployed Jewish laborers. I am at a loss to understand how you, the head of the Judicial System of Palestine, could be led to believe that the land is mine, and apparently rightly mine, and still keep harassing my representative [Nissam Rutman] about it. Am I not justified in thinking that had I been willing to hand over this land to any of the mighty and ruling institutions of Palestine, that in all probability nothing more would have been heard of the illegalities of this land transaction. It is an ever growing belief with me that there are some officials in the Palestine Government who have a particular interest in causing all this trouble, and I am constrained to say that these officials are evidently of my own people.²⁸⁹

In sum, Fels alleged that the legal difficulties that surrounded her purchase of Ghor el-Wassah had occurred primarily because the land had not been bought through the Zionist Organization, and because she had not been willing to turn it over for Bentwich’s scheme to settle unemployed Jewish workers. Furthermore, she claimed that there existed what amounted to a conspiracy to hinder anything done by the Aaronsohn family, in which Bentwich was personally involved.

In a response dated December 3, 1928, Bentwich – predictably – denied all of these charges. He briefly explained the fraud that led to the sale of the land, and argued that: “I think that your belief that the trouble was cause [sic] by the jealousies of the Zionist Organizaion is unfounded. So far as I know, the irregularity was discovered by

²⁸⁸ “Letter from Mrs. Fels to the Attorney General,” November 12 1928, CO 733/177/67489.

²⁸⁹ “Letter from Mrs. Fels to the Attorney General,” November 12 1928, CO 733/177/67489.

Government investigation.”²⁹⁰ Furthermore, he explained that when he had asked to use the land to settle Jewish workers he had not been aware that it was the subject of an inquiry.²⁹¹

A little over a year after this exchange, Bentwich became embroiled in another controversy over his handling of the Zeita Lands Case, and faced criticism from another quarter. Several members of the British judiciary felt that he had gone too far in attempting to prosecute Nissam Rutman. In 1929, Bentwich attempted to have Rutman charged with fraud for his part in the sale of Ghor el-Wassah. On January 29 of that year, however, the presiding magistrate ruled that the evidence available did not support the charge, and dismissed Bentwich’s application for a trial.²⁹² Bentwich responded by using his authority as attorney general to override the magistrate’s decision, and ordered Rutman committed to trial.²⁹³

The government sought the opinion of a King’s Counsel in London before proceeding.²⁹⁴ What they received in reply was a damning indictment of Bentwich’s conduct. In the first place, the two commentators, Greaves-Lord and Holford Knight, pointed out that Rutman had been committed to trial months previously, but that the trial had yet to occur. “In other words,” they wrote, “TO KEEP A CHARGE HANGING OVER A MAN’S HEAD SAVOURS OF OPPRESSION and is opposed to all traditions of British Criminal procedure.”²⁹⁵ Furthermore, they declared that, while Bentwich did

²⁹⁰ “Reply from the Attorney General to Mrs. Fels,” December 3 1928, CO 733/177/67489.

²⁹¹ “Reply from the Attorney General to Mrs. Fels,” December 3 1928, CO 733/177/67489.

²⁹² “COPY in the Magistrates Court at Haifa Comprising Judgment of the Examining Magistrate,” January 29 1929, CO 733/177/67489.

²⁹³ “Re Nissam Rutman,” April 4 1929, CO 733/177/67489.

²⁹⁴ “Re Nissam Rutman in Palestine,” July 4 1929, CO 733/177/67489.

²⁹⁵ “Re Nissam Rutman: Opinion,” CO 733/177/67489.

have the authority to commit Rutman to trial, in their opinion he should never have done so.²⁹⁶

Like Fels, Greaves-Lord and Knight pointed out the coincidence of Rutman's prosecution with her decision to give the land to the Sons of Benjamin. "It is a curious circumstance," they commented, "that the proceedings against Rutman appear to follow the action of Mrs. Fels in handing over her land to persons who do not appear to be in favour with the Attorney General."²⁹⁷ Finally, they accused Bentwich in the strongest terms of abusing his authority:

The action of the Attorney General in exercising his power under Article 26 (ii) (a) of the Trial Upon Information Ordinance 1924 is in our opinion an abuse of that power, and wholly out of accord with the elementary principles of English Justice. The habit of harassing persons who are in possession of or who purchase land in Palestine was we know as unpleasant feature of life in the Country during the days of Turkish Rule, but such conduct is foreign to British tradition. The criminal law does not exist for the purpose of oppression, and it is early to see that an abuse of power such as appears in these documents would tend to encourage a return to methods which the adoption of the principles of British Administration ought to prevent.²⁹⁸

These comments must have stung Bentwich. As discussed above, he believed strongly in the merits of the British legal tradition, and the comparison of his actions to the presumed methods employed by the Ottomans must have seemed particularly insulting.

Was there any truth to the various charges? Fels' accusation, that Bentwich was deliberately oppressing the Aaronsohns and their allies because his sympathies lay with the Zionist Organization, is not particularly convincing. There is no evidence in Bentwich's own writings, or in the secondary sources, that he favoured one strand of Zionism over another. He did, it must be acknowledged, include a substantial and

²⁹⁶ "Re Nissam Rutman: Opinion," CO 733/177/67489.

²⁹⁷ "Re Nissam Rutman: Opinion," CO 733/177/67489.

²⁹⁸ "Re Nissam Rutman: Opinion," CO 733/177/67489.

laudatory section on socialist Zionism in *Fulfilment in the Promised Land*. For example, he wrote that:

It is remarkable that, while in Russia the adoption of the ideas of Karl Marx threatens the destruction of traditional Judaism, and in Germany the brutal reaction against his doctrines threatens the destruction of the Jewish community, in Palestine the application of his teaching by a people of his race had modified his materialistic interpretation of history with the idealistic tradition of the Jew, and fostered the development of a Socialist community without either the dictatorship of the proletariat or the capture of the state. The Jew may be the best socialist because he believes in the “Millenium.”²⁹⁹

These were certainly not sentiments that Alex Aaronsohn and the Sons of Benjamin would have agreed with.

On the other hand, Bentwich recognized some of the negative consequences of the “conquest of labour.” In *Mandate Memories* he commented that, “More and more the two communities [Jews and Palestinian Arabs] fostered ‘Apartheid.’”³⁰⁰ As discussed above, he was an early supporter of Brit Shalom, and he appears to have genuinely believed in and supported the creation of a bi-national state and society in Palestine. Brit Shalom supported the creation of joint Jewish and Palestinian Arab trade unions, which certainly put the society at odds with the doctrine of the “conquest of labour” and with the mainstream of socialist Zionism.³⁰¹ Bentwich himself admits that after the 1929 riots the members of Brit Shalom were “attacked as unreal sentimentalists and traitors to the national cause.”³⁰²

²⁹⁹ Bentwich, *Fulfilment in the Promised Land*, 49.

³⁰⁰ Bentwich, *Mandate Memories*, 87.

³⁰¹ Bentwich, *Mandate Memories*, 119.

³⁰² Bentwich, *Mandate Memories*, 120.

It must also be remembered that Bentwich had personally met Aaron Aaronsohn during the war, and was by his own account deeply impressed by him.³⁰³ It seems unlikely that he would have formed an irrational dislike of the Aaronsohns after the war. Furthermore, no such elaborate rationale is needed to explain his actions in the Zeita Lands Case. As chapter 1 discusses in detail, Alexander Aaronsohn and his associates did buy Ghor el-Wassah under false pretenses. There was a genuine fraud committed, and as a British official Bentwich would have been in dereliction of his professional duty if he had ignored it.

Greaves-Lord and Knight's criticisms of Bentwich were more justified. He had, after all, committed Rutman to trial despite the examining magistrate's opinion that there was not enough evidence to do so. The commentators' vehement criticism indicates that his actions, rather than the magistrate's decision, were out of keeping with the British legal tradition. In the event, it seems that the prosecution of Nissam Rutman did not go any further.³⁰⁴ Nonetheless, it seems fairly certain that Rutman had, in fact, committed a fraud. All subsequent investigations into the sale of Ghor el-Wassah found that sale had been collusive, and that Rutman had played a central role in it.³⁰⁵ Bentwich's desire to hold Rutman accountable was legitimate, but the means he employed to do so were questionable.

³⁰³ Bentwich, *Mandate Memories*, 38.

³⁰⁴ "Memorandum," CO 733/204/87165.

³⁰⁵ "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 22; "Judgment in Case No. 92/30," June 26 1931, CO 733/204/87165, 25.

The End of Bentwich's Career

Bentwich's career in the mandatory government came to an end at around the same time as he was facing criticism for his handling of the case of Nissam Rutman. In fact, his conduct in this case may have helped to precipitate his dismissal. Wasserstein argues that Bentwich was dismissed primarily due to political considerations, because the British became convinced that in the aftermath of the 1929 riots a Zionist attorney general was no longer acceptable.³⁰⁶ Bunton, on the other hand, points out that colonial office officials had been criticizing Bentwich's professional abilities for years, and argues that the political situation may actually have prolonged his time in office.³⁰⁷

Wasserstein attributes Bentwich's dismissal to his continued unpopularity among the Palestinian Arab population as well as the actions of Sir Michael McDonnell, who took over as chief justice of Palestine in 1927. McDonnell, according to Wasserstein, disliked Bentwich and eventually managed to drive him from his post as attorney general.³⁰⁸ In 1929, McDonnell stated that he "felt strongly that the Government was being seriously hampered at the present time by the presence of Mr. Bentwich, a Jew and an ardent partizan [sic] of Zionism, in the high legal office of Attorney-General."³⁰⁹ McDonnell was a devout Catholic and a staunch conservative. He sympathized with the Palestinian Arabs more than the Yishuv, and according to the High Commissioner of the day he was known to be anti-Semitic.³¹⁰

³⁰⁶ Wasserstein, *The British in Palestine*, 211-215.

³⁰⁷ Martin Bunton, "Inventing the Status Quo: Ottoman Land-Law during the Palestine Mandate, 1917-1936," *The International History Review* vol. 21, no. 1 (1999): 50-52.

³⁰⁸ Wasserstein, *The British in Palestine*, 211-212.

³⁰⁹ Quoted in Wasserstein, *The British in Palestine*, 212.

³¹⁰ Likhovski, *Law and Identity*, 66; Wasserstein, *The British in Palestine*, 212.

Wasserstein argues that by 1929, and especially in the wake of the riots that occurred in that year, most colonial office officials were inclined to agree with McDonnell's view of Bentwich. One wrote:

I am quite certain that the views of the Chief Justice [McDonnell] are not dictated by any motives other than an appreciation of the true facts. It is not only the Arabs who hold these views; I have heard them from many British officials. Mr. Bentwich is known as "the uncrowned king of Palestine," and it is universally believed that it is he who dictates the policy of the Government. I do not think for a moment that he would consciously give any advice which was biased, as he is a man of the highest character, but his views are so extreme that I think he is unconsciously biased, and at any rate there is a general belief to that effect which from the point of view of efficiency is almost as bad as though it were true.³¹¹

According to Wasserstein, these views were supported and justified by the continued protests by Palestinian Arab organizations against Bentwich. These intensified during the preparations for the commission of inquiry that investigated the riots of 1929. As attorney general, Bentwich would have been responsible for all the cases of persons accused of crimes committed during the riots. The Mufti of Jerusalem and the Arab Executive both objected to the idea of Bentwich dealing with cases involving Palestinians. They threatened a general strike if he was not removed from office. Chancellor, who was at that time the high commissioner, gave way to the protests and informed Bentwich that he would not be permitted to represent the government during the commission. This only served to intensify calls for his dismissal.³¹²

In contrast to Wasserstein, Bunton argues that Bentwich's unpopularity with his British colleagues had more to do with his professional abilities than with his politics. As early as 1924, he argues, Bentwich's colleagues were criticizing his performance as

³¹¹ Quoted in Wasserstein, *The British in Palestine*, 212.

³¹² Wasserstein, *The British in Palestine*, 213.

attorney general. It is certainly indicative that, as Bunton notes, “the adjective ‘Bentwichian’ was used in colonial office minutes to describe legislation in dramatic need of revision.”³¹³ Bentwich’s colleagues and superiors complained that he lacked the necessary experience for his post, and that his training in international law hindered rather than helped him in performing his duties. One wrote that:

Mr. Bentwich, able and hardworking though he is, is of the ‘international jurist’ type of lawyer and has had little practical experience of English law and practice and no previous experience as a Colonial Law officer, and his tastes lie in the direction of foreign rather than English jurisprudence.³¹⁴

Another official commented that:

Much as I like Mr. Bentwich personally, I think that his talents are wasted in his present post, for which he is not really qualified technically. We shall never have a satisfactory legal department so long as he is here. Cases are continually cropping up on which the Government makes quite elementary mistakes on legal matters owing to lack of vigilance or knowledge on the part of the Attorney General.³¹⁵

Bentwich’s handling of the Zeita Lands Case, as discussed above, led to particularly harsh criticism and likely contributed to the ending of his career.

Bunton argues that, far from ensuring Bentwich’s replacement as attorney general, the Palestinian Arab calls for his dismissal may well have prolonged his time in office. In 1929 Chancellor, who Wasserstein accuses of caving to Arab pressure in his treatment of Bentwich, wrote to the colonial office that, given the precedent that might be set: “I hope you will share my view as to the inappropriateness of taking an action to secure Bentwich’s resignation at the present time.”³¹⁶ The colonial office agreed, responding that: “Although there is a great deal more support here than the Arabs

³¹³ Quoted in Bunton, “Inventing the Status Quo,” 51.

³¹⁴ Quoted in Bunton, “Inventing the Status Quo,” 50.

³¹⁵ Quoted in Bunton, “Inventing the Status Quo,” 51.

³¹⁶ Quoted in Bunton, “Inventing the Status Quo,” 51.

imagine for the ‘Bentwich Must Go’ slogan, the one thing we cannot do is present the Arabs with his head on a charger.”³¹⁷

In other words, by this point the mandatory government was committed to getting rid of Bentwich, but they preferred to do so gracefully and without appearing to yield to pressure from the Palestinian Arab nationalists. This effort was aided by an assassination attempt that took place on November 24, 1929.³¹⁸ According to Helen Bentwich:

As Norman was leaving his office at lunch-time, and was walking along the corridor of the building, which, being Sunday, was almost empty, he heard a loud explosion behind him. He turned and saw a lad dressed as a police messenger. He went to speak to him, when the lad rushed past him, stood in front of him with a pistol in his hand, and fired twice more, missing each time. Norman returned to his room – rather rapidly I gather – and told his clerk to phone for the police. By then he felt a queer pain in his thigh, and found he was bleeding.³¹⁹

The remarkably inept assassin was a Palestinian Arab messenger in the police force.

Bentwich was not badly wounded. He recovered in time to defend the man who had shot him in court. Apparently he did a good job, as his would-be killer received only a light sentence.³²⁰

The attempt on Bentwich’s life caused only a brief pause in the campaign to have him replaced as attorney general.³²¹ He was offered posts as Chief Justice in Mauritius and Cyprus, both of which he turned down. Bentwich resisted all efforts to ease him out of his post, refused to resign, and was eventually fired by the colonial secretary.

Following his dismissal, he was offered a position at the Hebrew University of

³¹⁷ Quoted in Bunton, “Inventing the Status Quo,” 51-52.

³¹⁸ Wasserstein, *The British in Palestine*, 214.

³¹⁹ Bentwich, *Mandate Memories*, 137.

³²⁰ Bentwich, *Mandate Memories*, 138-139.

³²¹ Bentwich, *Mandate Memories*, 139.

Jerusalem.³²² Even there, controversy followed him. Helen Bentwich described his first lecture:

No sooner had he started it than shouts came from the audience. 'Go and talk peace to the Mufti, not to us.' For a quarter hour they kept up the row. Then he started again, but they kept up the row, throwing stink bombs, and showering pamphlets saying that the student society of Revisionists resented Norman's appointment, and objected to the subject of the chair, which was the International Law of Peace...In the end the British police were called in, and Norman gave his lecture on peace with an armed guard standing on each side of him. It's bad enough to be persecuted by the British for being a Jew, but it's worse to be persecuted by your fellow-Jews for being the kind of Jew you are.³²³

Bentwich had been too much a Zionist to be popular as attorney general, but he was still too moderate for much of the Yishuv.

³²² Wasserstein, *The British in Palestine*, 215.

³²³ Bentwich, *Mandate Memories*, 150-151.

Conclusion

The introduction to this study referenced Lockman and Piterberg's call to write history in a way that preserves a sense of contingency. One of the conclusions to be drawn from the preceding chapters is that microhistory is a particularly effective way to achieve this goal. When discussing historical events at the level of the individual it is immediately clear that each decision could have been made differently. By relating personal stories to the larger narratives of the period, it becomes apparent that all historical processes are the product of the actions of individuals as well. The story of a single life can restore the sense of individual agency and contingency that is so often missing from grand historical narratives.

Microhistory is also a useful way to illuminate those minority positions and failed movements that do not rate a mention in larger-scale studies. This is not simply an antiquarian project; it has something important to contribute to our understanding of the past. Focusing only on those trends and movements that were successful is profoundly ahistorical, and it distorts our perceptions of past reality. When historians do not acknowledge historical blind alleys and dead ends they fail to capture something important about the period they describe. Histories that are guided too much by hindsight lend a sense of inevitability to events that were always contingent. Those who lived in the times we write about did not know how things would turn out. As E.P. Thompson famously wrote in *The Making of the English Working Class*: "they lived through these times of acute social disturbance, and we did not. Their aspirations were valid in terms of

their own experience; and, if they were casualties of history, they remain, condemned in their own lives, as casualties.”³²⁴

The historiography of mandate Palestine is particularly in need of a more nuanced approach that preserves a sense of contingency. Despite the presence of some excellent revisionist histories, it is still dominated by the Israeli and Palestinian nationalist narratives. The ongoing conflict has a profound influence on the way the history of Zionist settlement in Palestine is discussed and written about. This focus tends to obscure the complexities of collective and individual identity. The two communities are often discussed in simplistic terms as monolithic blocks, with little attention given to the variety of perspectives within each community.

Historians must recognize variation within political and ethnic communities, and the complexity of individual and collective identity. Furthermore, in recognition of the complicated nature of past reality, they must strive to write histories that preserve a sense of contingency and a respect for the perspectives of contemporary actors. In addition, they must bear in mind the role played by underlying social and political structures. The perspectives of Bentwich and Aaronsohn were products of their individual personalities, but they were also heavily influenced by their economic and social position. To better represent the past, history must balance the desire to preserve a sense of agency with the need to acknowledge structural constraints.

Historical discussion of early Zionist settlement in Palestine has generally focused on the socialist Zionism of the Second Aliyah (1904-1914). While this wave of immigration did provide the political elite of the State of Israel after 1948, they were not the only strand of Zionism in Palestine during the 1920s, nor the only strand important

³²⁴ Thompson, *English Working Class*, 13.

enough to discuss. As Shafir points out, the Second Aliyah developed their ideology and their approach to settlement in Palestine partially as a result of their conflicts with the First Aliyah planters. To take their perspective, and their success in settling in Palestine, as a given and focus only on their influence on later immigrants is simply teleological.³²⁵

In early mandate Palestine socialist Zionists were an influential voice, but they did not speak for the entire Yishuv. As the preceding chapters have shown, there existed a wide variety of positions within the Jewish community. In their day both Alexander Aaronsohn and Norman Bentwich had substantial influence, as did their respective communities. Aaronsohn briefly spoke for a considerable number of the First Aliyah planters, while Bentwich was a member of a small but influential group of Anglo-Jewish officials within the mandatory government. Of course, there were other minority strains of Zionism within Palestine, as well as Jews who did not believe in Zionism. This study approaches only two alternatives to the socialist Zionism of the Second Aliyah. The intention is not to argue that things could have been otherwise so much as to point out that things *were* otherwise than they are usually portrayed.

As Shafir and Piterberg point out, Zionist settlement inevitably involved the displacement of Palestinian Arabs. As a settler society, the Yishuv cannot be discussed in isolation from the indigenous population. In fact, the differences between the various strands of the Zionist movement often stemmed from their different approaches to settlement and to the Palestinian population. Aaronsohn and Bentwich represented minority positions primarily because of their stance on relations between the two communities. Despite their radical differences of opinion, both were binationalists. In a

³²⁵ Shafir, *Land, Labor and the Origins*, 4.

climate of increasing conflict and separation between the Jewish and Palestinian Arab communities, these views were controversial and unpopular.

Aaronsohn represented a distinctly First Aliyah perspective. He had grown up in Zichron Ya'akov, where the planters employed primarily Palestinian Arab workers. He was raised in an Ottoman milieu where Jewish settlers were a small minority, and he was familiar with Palestinian Arab culture and customs. Despite his background, or because of it, he did not regard the Palestinians as equals, or even consider them in a positive light. Nonetheless, he saw the future of Jewish settlement in Palestine in terms of Jewish economic and agricultural development built on Palestinian Arab labour.

Bentwich, on the other hand, subscribed to the utopian binationalism of Brit Shalom. While he also did not regard the Palestinian Arabs as equals at the time, he envisioned a shared future for the two communities built on racial and religious equality. From this perspective, Jewish settlement had something of the colonial civilizing mission about it. The point of the present study is not to argue that either of these perspectives represented a possible or preferable alternative to socialist Zionism, with its economic separatism and pure settlement model in the form of the kibbutzim. Neither was ever a serious possibility.

The value in studying these minority positions is twofold. First, studying them opens up a more nuanced picture of the Jewish community in early mandate Palestine, with more space for individual variation and a multiplicity of identities. Bentwich, with his moderate politics and conflicted loyalties, found himself under fire from his British colleagues, the Yishuv, and the Palestinian Arabs. Aaronsohn was also a controversial outlier, both for his participation in the NILI spy ring and for his right-wing politics. The

two men may not have won widespread support, but even being widely disliked is influence of a kind. More importantly, this discussion of alternative visions of a Jewish Palestine provides a more useful context in which to consider the strand of Zionism that ultimately triumphed. The socialist Zionism of the Second Aliyah, exemplified in the kibbutz, won out precisely because it could do what neither Bentwich's or Aaronsohn's approaches could: provide a workable model for Jewish settlement and the corresponding process of Palestinian displacement.

Another significant question raised by the Zeita Lands Case is what role the British land courts played in the process of Jewish settlement and Palestinian displacement. In this particular example, it seems that the courts were concerned primarily with upholding the British legal tradition and preserving the appearance of justice. Bentwich was harshly criticized for his handling of Nissam Rutman's prosecution not because of political considerations but because he was seen to have misused his authority and acted in a manner out of keeping with "the elementary principles of English Justice."³²⁶ In overall terms, the British were committed to facilitating Jewish settlement in Palestine. However, this should not be taken to mean that every British official was personally committed to this goal, nor that the British courts in Palestine existed to serve it.

Finally, given that this study focuses on a case that revolved around the buying of land by Jewish settlers, it is worth asking what it can tell us about Jewish land purchase in general. In the first place, it is worth remarking on how small the piece of land was that formed the centre of the Zeita Lands Case. Ghor el-Wassah was only 5358 dunams, less

³²⁶ "Re Nissam Rutman: Opinion," CO 733/177/67489.

than six square kilometres.³²⁷ It is indicative of how difficult land was to come by that this was seen as a significant parcel, suitable for a substantial expansion by the Sons of Benjamin. Moreover, it is also worth noting how difficult the purchase was to conclude, and that the legal history of the land trails off inconclusively. Granted, not every Zionist land purchase was attended by this kind of fraud or controversy, but by 1948 Jewish landholdings amounted to less than ten percent of the mandate.³²⁸ Most of the land that became the State of Israel was not bought, it was conquered.

³²⁷ The dimensions of Ghor el-Wassah appear in: "Report of the Judicial Commission," July 8 1930, CO 733/189/77156, 20. The conversion from dunams to square kilometres was done using the table contained in: Tyler, *State Lands and Rural Development*, ix.

³²⁸ Bunton, *Colonial Land Policies*, 3.

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