

# **Law of Commitment Contradicts the Mandate System and Balfour Declaration Palestinian Christian Elites - Study case**

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### **Abstract**

**This study aimed to** read, analyze, and present documents, arguments, and research works that explored the legal and ethical issues raised by the "Balfour Declaration" and the mandate system in Palestine. It contends that the establishment of a Jewish state violates international rules, deeming the idea unjust and asserting that attempts to resolve the issue are based on flawed foundations, starting with accepting the current situation and ignoring the Palestinian reality. The study showcases examples of individuals who played roles in this context: Emil Ghouri, Tawfiq Canaan, Wadih al-Bustani, Antoine Sliem Canaan, Sami Haddawi, George Antonius, and Henry Cattan. They represented the legal-political thought in Palestine and its national role, addressing the glaring conflict between the sanctity with which the English view their private commitments and the levity with which the English nation deals with its commitments to others

**Keywords:** Balfour Declaration, Arab Christians, Law of Commitment.

## Introduction

The Arab Christians in Palestine sought, through their experience, their legal knowledge, their mastery of the English language, and their patriotic concern to nullify and refute the "Balfour Declaration" in the light of the principles of right, justice, equality, and the principle of "the right to self-determination", and in the context of the law of commitment, based on scientific rules and tools in addition to affirmation on the historical right of the Arabs in the land of Palestine, criticizing Britain regarding the violation of its commitment to achieve its interests, and they represented the political-legal thought in the field of defending the historical right of the Arabs in Palestine.

Arab Christians contributed to the establishment of a national Arab discourse that presented the Palestinian cause and represented the Arab cause and defended it in international conferences, presenting the Palestinian cause to British and Western public opinion and refuting the Balfour Declaration with legal scientific evidence in the context of the ethical custom. Doing so, they were helped by their involvement in the study of law and history. They presented this document within the framework of the general international law and constitutional law and in accordance with the jurists of international law within the limits of the law of commitment, because the scientific aspect of legal studies in its formulation and content does not become or be imagined except within the scope of the law of commitment. They made this serious document to be based on the pillars of the science of compliance, and they analyzed it according to the traditional rules of the theory of contractual liability and tort liability. They evaluated the "Balfour" legally, in light of the law of commitment, whether it was a single will, a contract, an international bond, a conditional promise, a suspended obligation, or an act of a mixed nature.

## Preface

Lord Balfour left Cairo heading to Palestine on the evening of Tuesday, March 24, 1925. Musa Kazem Al-Husseini issued a statement during Balfour's visit, confirming the national work program. He emphasized that the nation stands under one banner, with its motto being complete unity and its goal being a dignified life. Anyone who deviates from its consensus seeks humiliation and death [Khalla 1982: p. 258]. Examples of Arab Christian protests against the conditions of Palestine under the mandate include Khalil Al-Sakakini, an Arab Orthodox Christian. On the same day Balfour arrived in Palestine, Al-Sakakini delivered a patriotic speech from the platform of the Noble Sanctuary. Following this, he made a rather blunt decision, calling on Lord Balfour to leave the country, having entered against the wishes of its people. The decision was communicated to the High Commissioner through the governor of the district "Storz" [Khalla 1982: p. 258] Al-Sakakini also composed a national anthem for the youth to sing in defiance of Balfour. [Khalla 1982: 258]

Al-Sakakini intensified Damascus's national stance by welcoming Balfour with bloody demonstrations and vehement condemnation. He expressed, "As for us, we felt ashamed, and we wished Balfour would return to us so that we could greet him as the people of Damascus did. We should have been the first to block his way so he couldn't pass. If they brought him in through a route we didn't anticipate, we would have besieged him where he descended. We wouldn't let him leave or even show his face from a window as long as there was a pulse in us. We had an opportunity, and we wasted it ..". [Khalla 1982: 69].

Arab Christians criticized Balfour's visit through their newspapers, so Najib Michael Saati<sup>1</sup> wrote and began his article by asking: Is Lord "Balfour" ignorant of the history of Palestine? It was he who slaughtered it in his famous letter to his friend Lord Rothschild on November 2, 1917, and Saati explained the importance of Palestine to the three religions.

He says, "Palestine, Your Lordship, is not the concern of just one nation but of all nations. Anyone investigating its affairs should remember that Palestine—the cradle of revelation and the land of prophets—remains sacred in the eyes of followers of three religions. It is equally revered by Muslims, Christians, and Jews. In its land, there are inflammable materials, and a single word or a simple gesture is enough to ignite a fire in half a continent." Saati, in his criticism, also argued that the statement made by Balfour is a legal and ethical violation. The Palestine issue, according to Saati, signifies the selling of a homeland and a nation to a group that has neither a homeland nor a nation. "It is neither just nor fair to decree the original inhabitants of

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<sup>1</sup>An Arab Orthodox Christian, born in Jerusalem in 1885 AD, Al-Oudat, previous reference, p. 255.

Palestine to such a dark future. It is unjust after the law of nature has decreed that the tyrant be expelled from its territories, replaced by the rightful owner. Justice and fairness should prevail, so the strong does not prey on the weak, and the weak does not seize the strong." [Palestine 1925: No 764-7].

The Orthodox community in Jerusalem presented a petition to His Beatitude Patriarch "Dhamianos" in which it begged him to refrain from meeting Lord "Balfour", who made the ominous declaration, and not to allow him to visit the holy places as a manifestation of respect for the feelings of the Arab nation in Palestine [Palestine 1925: No 764-7].

The New Orthodox School in Jerusalem, which is run by Khalil Sakakini, decided in its sixteenth session, which was held on the twentieth of March 1925, to strike on the day of the arrival of Lord "Balfour" to Palestine [Palestine 1925: No 764-7].

The opening article in the newspaper "Palestine" portrayed the situation in Palestine and the mandate policy through satire. It described an idealized reality in Palestine characterized by overall peace, the rule of just law, the absence of oppressors and oppressed, poverty, crimes, ignorance, and unemployment. Then, it depicted the harsh reality of economic recession, lack of financial resources, the poverty of farmers, and the closure of opportunities due to emigration and taxes. Poverty spread, security became unsettled, and criticism was directed towards the mandate government's policy, which was accused of fueling animosities and digging into grievances [Palestine 1925: No 765-8].

The Melkite Greek Catholic Church in Jaffa also held a religious celebration on the occasion of the Annunciation Feast, headed by Archimandrite "Kirles Rizk", the Patriarchal Vicar, in which the Archimandrite explained the reasons for the strike of the people of Palestine due to the arrival of Lord "Balfour", explaining the damages resulting from the "Balfour Declaration" on the ground: where he explained the moral damage of corruption that immigration carried, and the sectarian religious damage, which appears with the realization of the Zionists' political ambition to establish a Jewish state, in addition to the economic damage; with their economic capabilities and relations with colonial countries, and the Zionists pursuing a policy of economic assimilation that will lead to the collapse of the economy of Palestine, and the archimandrite stressed in the conclusion of his article on the unity and solidarity, "I invite you, as a section of the people of Palestine, to share with your brothers their emotions and strive with them, as you have been until now, to work in order to save the homeland and prevent this declaration from being realized as it is harmful to everyone alike" [Palestine 1925: No 766-9].

The opposition in the Palestinian national movement to the British Mandate was represented in three intellectual currents: Islamic unity, Arab nationalism, and hostility to Zionism, so the Arab Christian national protest began with the first practical steps of British and Zionism colonialism. [Al-Kayyali 1970: 189].

The appointment of a High Commissioner for Palestine marked the first step in endorsing the decisions of the San Remo Conference and the provisions of the 1922 Mandate, as well as the earlier Balfour Declaration of 1917, which designated Palestine as a national homeland for the Jews. The British government's initiative in appointing a High Commissioner, especially choosing Herbert Samuel, an English Zionist, fulfilled the aspirations of Zionism while disregarding the rights of the Palestinians. The newspaper "Mirror of the East" commented on this appointment, stating: "Today's newspapers raise their voices alongside the people's voice, protesting against it and demanding the endorsement and implementation of their previous demands." [Mirror of the East 1920: No 40]

Najeeb Nassar<sup>2</sup>, the editor-in-chief of Al-Karmel newspaper, wrote in his response to what was published by the "Morning Post" - a British newspaper - on the subject, whereas the editor-in-chief of Al-Karmel newspaper published an article in which he asserted that: "No one has in the sanctities of Palestine more than every one of the Muslims and Christians of the world has, and their God is more worthy than us to protect them, but we demand our civil, political and national rights in Palestine." [Al-Karmel 1920: No 678].

And "The Morning Post" had discussed British rule in the Holy Land and the apprehensions of the Arabs regarding their stance on the British administration, which operated within the framework of implementing the Balfour Declaration.

The Balfour Declaration gave the Arab Christians in Palestine an incentive to unite under the banner of the Palestinian identity. [Lawrence 2006: 305]. During this period from 1917-1936 AD, national intellectual figures emerged among the Arab Christians. Their primary concern was the affairs of the homeland and the challenges imposed on it by the Mandate policy. The Arab Christians in Palestine emphasized their denial of the dual commitment on which the Mandate policy was based.

### **1- Emile Al-Ghouri<sup>3</sup>:**

In his book "The Tormented on Earth," Al-Ghouri contends that the Palestinian cause has ancient and deep-seated roots in colonial politics and Jewish plans. It emerged at its core from the perpetual, violent conflict between the Arab nation on one side and colonialism and the ancient covenant Jewish aspirations on the other. Various political, religious, and economic elements converged to form this cause. [Al-Ghouri 1961: 481].

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<sup>2</sup>An Arab Christian, born in (Ain Anoub) in Lebanon in 1865 AD, moved to Palestine, and founded in Haifa Al-Karmel Newspaper, Al-Oudat, Yaqoub (1976 AD): one of the most prominent figures of thought and literature in Palestine, Amman, Cooperative Printing Press Workers Association, p. 635.

<sup>3</sup>An Arab Orthodox Christian, born in Jerusalem in 1907, he contributed to the Palestinian national movement and participated in the actions of the Palestinian jihad, Al-Oudat, previous reference, p. 481.

Al-Ghouri presented the catastrophe of Arabism in Palestine, which begins with a misunderstanding of the Palestinian cause, as it is, in his opinion, not only the result of the collision of two ideas, a struggle between two desires, and a struggle between two parties, but rather a struggle between a ruler and the ruled, and between the colonizer and the colonized. [Al-Ghouri 1961: 33].

He believes that Palestinian cause is radically different in its origin, nature, and essence from other colonial causes in several respects, as this issue is related to ideological, spiritual, military, economic, and national issues, and its opponents' front includes global Judaism, colonial states, the United States of America, and general western policy [Al-Ghouri 1961: 34].

Al-Ghouri criticized British policies in offering political solutions to persuade Arabs of the feasibility of the mandate. He debunked the myths surrounding these proposals and outlined the reasons for Arab rejection. He saw these offers and projects as a "trap" for Arabs to recognize the mandate. The British employed various means and methods to convince the Arabs in Palestine to accept the mandate and cooperate based on it. In 1922, the British government issued the White Paper, which included a detailed explanation of its policy in Palestine. It also proposed a constitution for the country based on the mandate and the Balfour Declaration. In 1922, a project was presented to establish a legislative council for Palestine, inviting Arabs and Jews to participate in the elections. However, the Arabs rejected the project and boycotted the elections for fundamental reasons [Al-Ghouri 1961: 38].

Al-Ghouri presented the principle of (take and demand), and he believes that it is a wise and reasonable principle, and it is permissible to follow it in all Arab issues with the exception of the Palestinian cause, as this principle in the Palestinian cause involves giving up the country's demands and neglecting the rights, because Colonialism and Zionism aim to harm the Palestinian Arab entity at its core with each step they take [Al-Ghouri 1961: 63-64].

As for the White Book, it was the first British document that spoke clearly about the policy that Britain decided to follow in Palestine, and despite the importance of this document, it was drafted with the intention of what the British government does not intend to do in Palestine [Palestinian Affairs 1979: 49]. The British government clarified the concept of (the Jewish national home) in this Book in a practical way. The White Book added a new text to the Balfour Declaration that it did not contain before, because establishing the Jewish national home is one thing and striving to develop it after its establishment is something else [Palestinian Affairs 1979: 49].



Al-Ghouri set out to refute the "Balfour Declaration" in terms of the ethical and legal principle: This letter represents the worst injustice in history, and constitutes the most serious crime in the international law and the accepted universal principles, and involves a blatant departure from justice and honesty, and a vicious attack on the rights and entity of the Arabs of Palestine, and therefore it is considered a void and illegal document, so its consequences shall be void and illegal [Al-iGhouri 1962: 52].

This message overflows in every line of treachery and betrayal, and it also enshrines a policy designed to harm the Arabs of Palestine and harm their entity, their interests, and their religious and civil rights by Judaizing Palestine, converting it from a purely Arab homeland into a Jewish country, and eliminating the traces of its legitimate owners and original inhabitants of the Arab Muslims and Christians by expelling them or exterminate them therein.[Al-Ghouri, (without date of publication): 6]

Al-Ghouri also criticized the duplicity of the British policy in the "Balfour Declaration", because this Declaration recognizes the Jews' enjoyment of political status, while overlooking the political status of the Arabs of Palestine, as the Declaration views all non-Jewish residents of Palestine as minorities whose religious and civil rights shall be preserved. From this perspective, the Declaration considers the non-Jewish Arabs of Palestine as sects and not as the owners of the land or the majority, and therefore it does not equate them in power or political rights with the Jews, but rather as sects whose rights shall be preserved [Al-Ghouri 1962: 54].

Additionally, interpreting the declaration for minorities implies racism and a denial of rights. It negates the political status of Arabs and denies the Arab character of the country, highlighting the racial nature of the overwhelming majority of Palestine's population [Al-Ghouri 1962: 55].

Al-Ghouri criticized the Declaration from a legal point of view, saying: "It does not constitute a declaration or a covenant that has an obligatory quality, and there is nothing in it that requires Britain to adhere to it and consider it legal and obligatory for it to work towards achieving it, and that it is devoid of the terms of the contract, and is far from being an international treaty or a bilateral agreement, and that it was issued in November 1917, meaning one year before its occupation of Palestine, and therefore this Declaration cannot have any value or legal capacity." [Al-Ghouri 1962: 56].

## **2- Tawfiq Kanaan<sup>4</sup>:**

In his works, which based on the future of Palestine and the future of Palestinian Arab Christians, he expressed his hatred for the oppressive and inhumane British policy that contradicted the Christian spirit. He began by presenting the case and history of Arab Palestine, starting with the disturbances in 1920, 1921, 1922, and 1933. He saw these events as a result of an unjust policy, under which the Arabs of Palestine suffered since the occupation began [Kanaan 1936: 5].

Kanaan viewed the contradictory promises and agreements of the British government with regard to the Arab-Palestinian cause, and began with the British government's declaration to Sharif Al-Hussein bin Ali of the borders specified for the proposed Arab Kingdom, but it followed that in March 1916 with signing the Sykes-Picot Agreement, which removed Palestine from the scope of the proposed independent Arab Kingdom that was promised. On November 2, 1917, Lord Balfour sent his well-known letter to Lord Rothschild declaring the establishment of a national home for the Jews in Palestine [Kanaan 1936: 6].

Kanaan viewed the criticisms directed by British politicians to the experience of establishing a national home for the Jews in Palestine, which criticizes the Declaration in terms of the absence of the democratic spirit and the legal principle, as Mr. Meyer, a Jewish writer, believes that the Jewish national home is a new heresy that has no equivalent in the international law, and an attempt is being made to create it in countries most of which are inhabited by another nation .." [Kanaan 1936: 6] .

Kanaan believed that there are contradictions between the Mandate and its conditions and the "Balfour Declaration". The Mandate deed deprived Palestine of independence so that it could govern itself, according to the fourth paragraph of Article 22 of the League of Nations Charter in class (A): "Under the guidance and assistance of a mandated state, until such time as it can do the same itself". Britain, however, worked ceaselessly to establish a national home for the Jews.

The British government's sympathy for Jewish interests and the national homeland harms the interests of the Arabs and contradicts the Declaration of Britain's King "George V", which stipulates: "These measures will not in any way affect the civil and religious rights of the general population of Palestine or reduce its progress and prosperity" [Kanaan 1936: 98].

He viewed the British policy based on favoritism and double treatment of the Jews, and cited the neglect of treaties, laws, and decisions recommended by the

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<sup>4</sup>An Arab Christian, born in (Beit Jala) in Palestine in the year 1882. He has many books in English that he wrote to present the Palestinian cause to British public opinion: *The Issue of the Arabs of Palestine*, *The Conflict in the Land of Peace* (printed in 1938 AD), in addition to his articles that study the Palestinian cause: *The Zionism Problem and the Crisis of Palestine*, Al-Oudat, Previous Reference, p. 548-549.

British experts and committees and the advice they gave because they support the Arabs, such as the Treaty of Lausanne, the Treaty of Sevres (August 20, 1920), the Land Transfer Act of 1920-1921 AD, and the White Book issued on November 19, 1928, and with regard to Jewish immigration, he cites the book of Sir John Campbell, an expert sent by the Jews to submit a report on the amount of progress and advancement that can be achieved in Palestine, the annual government report for the year 1928 AD, the Parliamentary Commission of Inquiry 1929 AD, and the report of "John Hope Simpson", the WhiteBook for the year 1930, and the Agenda of the Parliament for the year 1922 AD.[Kanaan 1936: 9-10].

Kanaan refuted what was spread by the Jews in the world that the immigration of Jews to Palestine had improved the condition of the farmer<sup>5</sup>, and pointed to the evidence of a harmful Zionist policy, which could be discovered through the regulations through which the Jewish lands are registered.

The existence of this policy was confirmed by the books of experts and foreigners such as "Mendel Silber" and "Keren Hayesod", who said: "The goal envisaged by the modern Jewish worker is to prepare a place and work for the thousands and millions who are waiting abroad", and the report of Sir "John Hope Simpson": "No Hope for the Arabs to rent or cultivate the lands bought by the Jews, as the strict conditions contained in the lease contract of the Jewish national capital deprive the Arabs of using the land forever" [Kanaan 1936: 22].

When Kanaan tackled the relationship of the Arabs with the British, he tackled the Arab Christians of Palestine, most of whom were educated in British schools, and who had hoped for Britain and its people for its decency and morals more than the rest of the Palestinians, however, they have come to abhor the British policy, which is contrary to Christian principles, with the most abhorrence [Kanaan 1936: 34].

Kanaan talked about the historical relations between Arabs and Jews in Palestine during the Middle Ages, [hadawi 1961: 7-8]. and that the reason for the tension between the two parties in these relations is the "Balfour Declaration", and Kanaan ends his statement by defining the demands of the Arabs, which are:

First: Stopping the Zionist immigration.

Second: Forming a Parliament.

Third: Stopping the sale of lands.

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<sup>5</sup>Jewish immigration to Palestine and the problems arising therefrom were not an ethical issue or a purely national issue, but rather had direct economic repercussions with a growing daily impact, very tangible, on the Arab people in Palestine, especially on small and middle peasants, workers and sectors of the small and intermediate bourgeoisie. At the time when immigration was keen to secure a Jewish capitalist concentration in Palestine that dominated the process of transforming the Palestinian economy from an agricultural economy to an industrial economy, the Jewish immigration was keen to provide this transformation with a Jewish proletariat, which had serious consequences on Arab workers, Palestinian Affairs, Ghassan Kanafani, "The Revolution of 1936-36 AD: Backgrounds, Details and Analysis", Edition6, January 1972, p. 46-47.

Fourth: The farmer's ownership of the lands.

Fifth: Regulating the Palestinian nationality in accordance with the regulations in force in the countries under the British Mandate government [Kanaan 1936: 36-38].

### **3- Wadih Al-Bustani<sup>6</sup>:**

In his collection "Al-Filasteeniyat," Wadih Al-Bustani referred to his connection with the bloody Arab-Palestinian cause since November 1917, the month when the Balfour Declaration was issued. He commented on it by saying, "Today we witness its manifestations, its sources evident in both hearing and sight. From unauthorized migration ships guarded by British armored vehicles to the sounds of explosions targeting government buildings... Throughout this long period, my commitment to this issue, as indicated by these 'Filasteeniyat,' has been steadfast in its nature and extent. In the year 1936, I published a book on this matter." [Al-Bustani 1946: 3].

Al-Bustani presented the Palestinian dilemma in his book "The Palestinian Mandate is Invalid and Impossible." He discussed the political strike in its sixth month, coinciding with Tawfiq Canaan's statement on the Palestinian cause, which was issued in Jerusalem

Al-Bustani spoke about the British policy and the covenants it made, "which are covenants consistent with the covenant of the League of Nations to which this mandate refers, and on the other hand, they oppose the incorporation of the "Balfour Declaration" into the basic provisions of the mandate, which emphasize the recognition of the Jewish people's historical connection with Palestine and the recognition for them of a national home therein [Al-Bustani 1936: D,H] .

Al-Bustani faced this dilemma with arguments and facts that explain the provisions of this international document and its violation of the Covenant of the League of Nations: The Palestinian Mandate is invalid by virtue of Article 16 of the Treaty of Lausanne and the provisions of Article 20 and the fourth paragraph of Article 22 of the Covenant of the League of Nations, and its provisions are not a mandate of the first category (A), and Britain should have got rid of the "Balfour Declaration", and as for its covenants to King Hussein, it is compatible with the covenant of the League and includes Palestine [Al-Bustani 1936: 17].

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<sup>6</sup>An Arab Christian, born in 1888 AD in Dibiya (in the Chouf district in Lebanon), worked in the Palestinian government until 1920 AD, sought to establish the Christian Islamic Association, and contributed to national activity and national unity, and was elected in 1923 AD as secretary of the Palestinian Arab Delegation to London to negotiate with Britain in finding a solution to the Palestinian cause, Al-Oudat, Previous Reference, p. 44-46, and for more on the national activity of Wade Al-Bustani, see the detailed translation of Wade Al-Bustani in: Al-Bustani, Melhem Ibrahim (no publication date): Kawthar Al-Nufuf wa Safar al-Khalidin, p. 362-364.

Al-Bustani pointed out the contradiction in the British commitments to the gradual creation of a Jewish government, and its commitment to make the best efforts to establish a national home for the Jews "instead of a constitution for the Palestinian country that fulfills the will of the people of this country and establishes an independent government therefrom" [Al-Bustani 1936: 32].

Al-Bustani began by refuting this contradiction in the commitments of the British government, as the "Balfour Declaration" is not an international commitment, and it was not obligatory for the British government to include and integrate it in the provisions of the Mandate, or for the League Council to include or integrate it, so the Declaration was contradictory and in violation of Article 20 of the Covenant of the League of Nations, and also in violation of the provisions of the fourth paragraph of Article 22 of the Covenant. Al-Bustani presents the text of Article 20 of the Covenant [Al-Bustani 1936: 35], where it stipulates that the members of the League agree, member by member, that accepting this covenant cancels all commitments or understandings between one and the other, thus making it inconsistent with the provisions of this the covenant, and they also undertake not to be associated with any association that conflicts with its provisions, and any member of the League who assumes an commitments that conflicts with the provisions of this covenant before becoming a member, then he shall get rid of that commitment.

The British government got rid of its commitments towards the Arabs by denying the official memorandums that were exchanged between the British government and King Hussein, in which it denied that Palestine was excluded from the commitments made to the Arabs "All of Palestine, west of Jordan, was taken out as a way out of the of those memorandums" [Al-Bustani 1936: 37].

Al-Bustani confronted this denial, considering it a baseless statement that contradicted the facts. The Arab Palestinian delegation refuted it thoroughly in their historical memorandum to the Minister of Colonies on June 17, 1922. They demonstrated that the agreements included Palestine, contradicting the British denial<sup>7</sup>.

In the second topic, Al-Bustani presented British investigations that provided evidence that Palestine did not deviate from the definite agreements for the Arabs. "Jeffries" mentioned in his book "The Palestine Deception" how the British government violated and breached its commitments [Al-Bustani 1936: 43].

He stated, "The first breach and the first betrayal were revealed in that declaration. The British government had previously pledged an additional commitment to the Arabs for the independence of the country, which we now see this government striving to establish the Zionist national homeland in its heart. Thus, it became clear that the national homeland was preceded by a broken covenant and

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<sup>7</sup>Same Reference, p. 37, 39, and see the verbatim text of a paragraph of the memorandum sent by the Palestinian Arab Delegation to the Minister of Colonies, p. 38-39.

followed by another broken covenant. The first was a British covenant, and the second was a British-French covenant issued in 1918." [Al-Bustani 1936: 44].

Al-Bustani continued to present documents, arguments, and facts as evidence of the invalidity of the Mandate based on its failure to carry out its mandate commitments, and that these commitments are contradictory and beyond the realm of actual possibility, as the "Balfour Declaration" is read on two sides and has two aspects, and is interpreted by two interpretations; and one of the two interpretations is that the second negative aspect - that is, not prejudice the civil and religious rights of existing non-Jewish communities in Palestine - is the overriding condition on which every serious step for the sake of the first positive aspect stops. As for the other interpretation, it is that priority and overcoming are for the first aspect, meaning that His Majesty's government has assumed a commitment imposed on it to prepare the two parties and pave the way for a Jewish national home in Palestine; and the second aspect of consideration is only negligible" [Al-Bustani 1936: 100].

Al-Bustani analyzed, by viewing the British documents and reports (Sir John Hope Simpson's report), the contradiction in achieving interests between the two parties (Arabs and Jews) and presents an example of the policy of economic assimilation. Al-Bustani referred to the position of the British policy on these issues, which says that the interests and objectives of the two parties are contradictory (first item), and that closer cooperation between the government and Arab and Jewish leaders is the only way to prevent the deterioration of Palestine into a situation that constitutes an imminent danger that threatens, on the one hand, "those pure actions undertaken by those who demand a Jewish national home, and, on the other hand, the interests of the majority of the population who do not have among the utilities are what they guarantee energy for the struggle for survival, and in this case it is necessary that the two parties agree to live together and that each of them respect the needs and demands of the other" [Al-Bustani 1936: 154-156].

Al-Bustani's point of view of the solution is summed up in an introduction and results. The introduction represented a dilemma for him, as the issue is: the issue of complexity and contradiction, the issue of demands and regulations on the part of Jews and Arabs that were obscured by the Mandate, and the issue of shortcomings, administrative defects, and economic problems, all resulting from the execution of the Mandate policy of the year 1922, which is the basis of the policy of the year 1930, that contain no departure or return, and the results are represented by a call for cooperation: "The issue has its doors closed, and there is no salvation except in cooperation with the consent and choice of the Jews and the Arabs to the Mandated in order to ward off the danger from building the Jewish national homeland and from the entity of the Arab population that their position has become the position of the Jihad of survival and the executioner of annihilation in their country" [Al-Bustani 1936: 156].

Al-Bustani called for examining the "Balfour Declaration", which included intended fallacies such as: homeland. Some Zionist writers believe that the word "homeland" is less aggressive than the word "State". The "Balfour Declaration" talked about a national home for the Jews, which represented a call to the Jewish people who lived without a home, and not to a Jewish state, so the Zionist policy, in its representation of dual intentions, contradicts the law of commitment [Samuel 1968: p.52], so what is the national homeland? Who knows? No one, and "Weizmann" removed the ambiguity when the US Secretary of State asked him at the peace conference in Paris (what is meant by the national homeland) and he replied: That what is meant is that conditions will arise in Palestine that will eventually lead to the transformation of Palestine into Judaism just as America is American and England is English [Al-Bustani 1936: 167].

One of the fallacies is that "nothing will be done that may prejudice the civil and religious rights of the existing non-Jewish communities in Palestine". Al-Bustani asked: What are the civil rights and where are the political rights? It includes that the Palestinians have a national government that is responsible before a parliament elected by the people of Palestine, Muslims, Christians and Jews, and he cites the interpretation of "Cohen Israel" by not including political rights so that the Arab majority - which is composed of Muslims and Christians - will not be able to oppose the Jewish national homeland [Al-Bustani 1936: 168].

One of the fallacies is that the Declaration referred to the people of Palestine as non-Jewish societies<sup>8</sup>, and in Palestine there are 80 thousand Jews and 670 thousand non-Jews, and the expression suggests that these societies are types of ad hoc bodies, and they are not the overwhelming majority [Al-Bustani 1936: 169].

In 1915, commitments were made to the Arabs (Hussein-McMahon Correspondence), and in 1917, the Balfour Declaration was issued. This made one kingdom hostage to two conflicting interests: the Arabs and the Jews. Ultimately, the Jews prevailed over Britain by demanding their debts and exploiting the hostage situation, leading to the issuance of the Balfour Declaration.

While Lord "Balfour" recognized the Jewish cause, he did not give the Arab cause the recognition it deserves, and goes so far as to stand as a barrier without resolving it, and this Declaration is completely contrary to the principle of self-determination, and the practical application of this Declaration caused resentment in the souls and delayed the progress of the Arabs in all fields because he turned their

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<sup>8</sup>Jewish thinking cannot be separated from the Talmud, which mainly determines their behavior with regard to religion, morals, and politics, and which denies other nations of non-Jews humanity and that this is an established fact, see: The League Of Arab States, Secretariat-General Palestine Department (1965): The Calamity Of Christianity In Israel, Documents And Facts, Second Edition, P4.

beneficial peaceful forces to confront the aspirations of the Jews who wanted to achieve through disturbances their goals that they did not achieve through the Declaration [Al-Bustani 1936: 42].

#### **4- Anton Salim Kanaan<sup>9</sup>:**

It's customary for Palestinian Christians to challenge the Balfour Declaration in many of their writings and testimonies before investigative committees. Prominent figures among them, such as Wadih Al-Bustani, Henry Cattat, Sami Haddawi, Anton Slim Canaan, George Antonius, Emil Ghouri, are well-versed in law and history. They approached this document within the framework of public international law and constitutional law, according to the scholars of international law within the bounds of the law of commitment. The scientific aspect of legal studies in its formulation and composition can only be understood within the scope of the law of commitment. They worked to evaluate this significant document on the pillars of the science of commitment, analyzing it according to the traditional rules of contractual liability and tort liability [Kanaan 1964: 4].

Anton Salim Kanaan evaluated the "Balfour document" legally, in light of the law of commitment, whether it was a single will, a contract, an international bond, a conditional promise, a suspended obligation, or an act of a mixed nature [Kanaan 1964: 1].

He viewed the Zionist project in its beginnings in 1915 AD, which is based on: Officially recognizing the Jewish people in Palestine as the nucleus of the Jewish nation, first: Britain's recognition of the necessity of settlement and immigration of Jews to Palestine, second: To facilitate Jewish settlement and purchase of land, third: The recognition of a Jewish organization whose goal is to colonize Palestine under the protection of the British government [Kanaan 1964: 1], and Kanaan follows the development of the Zionist project and the change that occurred in the text of the project in light of international circumstances, so Zionism took advantage of the Bolshevik revolution to present its resolution to establish a Jewish national homeland which contradicts the first draft resolution.

Kanaan referred to the amendments noted by the US President's adviser "Prentice" in the Declaration of November 1917, "For example, the Declaration talked about the support of a political entity for the Jews, so he replaced it with the phrase "a national homeland", and the Declaration included the entire Jewish race,

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<sup>9</sup>An Arab Christian, born in Cairo, prepared a doctoral thesis entitled "The Legal Justifications for the Theory of the Arabs of Palestine", known for his national role in defending the Palestinian cause, Al-Oudat, Previous Reference, p. 546, figures of Palestine, Vol. 1, p. 332, 333.



and was replaced by the word "Jewish people", and the document included the sentence "making its good efforts" and it was replaced by "making its efforts" [Kanaan 1964: 3].

Anton Salim Kanaan presented the Declaration with questions that store the legal dimensions of the issue: What is its nature and what is its near and far purpose? Where is the contentment, the place and the reason? Rather, who are the parties to this legal behavior? Because every action legally requires parties, and the party is one of the pillars of commitment, then what is the place of this agreement, or this legal will? Then, is there mutual consent between two wills? Or act stems from the will of one? Then, what is the legitimate, possible, and permissible reason that generates and authorizes this dangerous commitment? [Kanaan 1964: 4] Then, Kanaan presented the conditions abrogated by the Declaration: Not to harm the civil and religious rights enjoyed by the non-Jewish communities, which enable the citizen to practice public affairs and exercise power in his country, which is an integral part of civil rights, and this harm has been achieved and thus the abrogating condition in the clearest way has been achieved, hence the civil rights of the Arabs have been wasted to the greatest extent, not only in the general political field, but also in the view of the ordinary daily right [Kanaan 1964: 7], and Anton Salim Kanaan also discussed the religious rights which is a pillar of the provision of Mandate and is the basis of the "Balfour Declaration", and he also followed the Zionist practices that do not respect rights and religious beliefs and criticized the legal value of the Declaration that carries between its lines all the reasons for logical incoherence, legal corruption and historical disorder [Kanaan 1964: 8].

### **5- Sami Hadawi<sup>10</sup>:**

Sami Hadawi believes that the conflict, which marked the entire period of the Mandate, and which has continued since the establishment of the State of Israel in 1948 AD, is originally due to the unfairness implied by the pledge and commitment in the "Balfour Declaration", when a superpower, relying solely on force, promised to hand over part of a country to a third party whose claim to that country is based on meager and flimsy biblical ties, in addition to the clear rapprochement in the covenants included in the promise, which were marked by contradiction [Hadawi 1968: 26].

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<sup>10</sup>An Arab Christian, born in Jerusalem, Palestine, in 1904 AD. He joined the Palestinian government in 1920 AD. He was elected an expert in the International Conciliation Commission, which the United Nations called for in its Resolution issued on December 9, 1948 AD. Al-Oudat, Previous Reference, p. 654-655.

Sami Hadawi divides the "Balfour Declaration" into three parts; the first: The commitment includes that "His Majesty's Government consider with favor the establishment of a national homeland for the Jewish people in Palestine and will use their best endeavors to facilitate the achievement of this goal", and the second: The first part of the Declaration does not imply anything more than a "national home" in Palestine, and does not turn Palestine into a "national homeland", and the third: It declares the position of the Jews outside Palestine that "no action shall be taken which may prejudice the rights or political status enjoyed by Jews in other countries." [Hadawi 1968: 24-25, Laqueur 1968: 17].

## **6- Henry Kitten<sup>11</sup>:**

In his testimony as a member of the Arab Higher Committee, before the Anglo-American Joint Committee 1946, Henry Kitten began his testimony before the committee by examining the rights and claims of the two groups (the Arabs and the Jews). The Arabs in this country have a natural and legal right to Palestine, their country [Al-Shukairy 1946: 89], then he presented the rights and history of the Jews who claim that they have rights in Palestine through a historical relationship<sup>12</sup>, and Kitten refuted the basis of this right that the historical relationship legally does not grant anyone the right of ownership<sup>13</sup>, and the Jews relied on another basis in their right to Palestine, which is the "Balfour Declaration" and Henry Kitten refuted it because it was issued without the consent of the Arabs, and Britain did not have the right to dispose of Palestine, and it did not have sovereignty over it, just as it did not possess sovereignty over Palestine at all.

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<sup>11</sup>An Arab Christian, born in Jerusalem, Palestine, in 1906 AD. He was elected by the Palestinian people to defend the Palestinian cause in the United Nations in the 1947-1948 session. Al-Oudat, Previous Reference, p. 524.

<sup>12</sup>Ahmed Al- Shukairy presents the Zionist cause in his testimony before the Anglo-American Commission of Inquiry: Firstly, it relies on the alleged historical ties. Secondly, the Zionist cause is based on the Mandate Deed and the Balfour Declaration, which are null and void, because neither Britain nor any other country in the world has the right to grant a strange people a homeland that does not belong to it. Third: The Zionists present the argument of their competence and ability to improve and rebuild. Fourth: The Zionists rely on the argument of economic assimilation to lure businessmen. Fifth: The Zionists present the humanitarian and emotional reasons to take advantage of the sympathy of human groups, see: Al- Shukairy, Previous Reference, p. 139-140.

<sup>13</sup>The Jews dye their cause with a spiritual character that distinguishes their people to justify their historical and religious attachment to the Holy Land and that there is no connection between a people and its land as the Jews relate to the Holy Land. Louvish, Misha (1975): A People That Dwells Alone, Speeches And Writings Of Yaacov Herzog, Wedeufeld And Nicolson, London, P26.

Kitten cited the committee' statements that was formed to discuss the issue of the Hussein-McMahon correspondence, "It is clear from the foregoing that the British government could not act in the affairs of Palestine without taking care of the interests of the country's residents, so the Declaration is not only illegal but also contrary to morals, then where is it in terms of the principle of self-determination .." [Al-Shukairy 1946: 90]

Henry Kitten tackled the "Balfour Declaration" in light of the Mandate. He referred to Article (2) which includes the establishment of the Jewish national homeland, according to what was mentioned in the introduction, and the introduction referred to the Declaration, and he noted from this that there is no double commitment<sup>14</sup>, and the only commitment that is provided for by the Mandate Deed is the issue of self-government and the affirmation of efforts to establish the Jewish national homeland [Al-Shukairy 1946: 91]

Henry Kitten presented the allegations of the Jews and ends with the conclusion that they are allegations that have no legal basis, and it is not a cause of right against right, but rather a cause of right against ambitions and illusions supported by political influence and long and broad propaganda [Al-Shukairy 1946: 93-94]

### **7- George Antonius:**

George Antonius was selected to accompany Balfour during his visit, attempting to explain to him the growing national opposition against Zionism [Khalla 1982: 258] George Antonius, with his book "The Arab Awakening," described by Eskandar El-Yaziji as "ammunition of historical maturity and the ferment of conscious thought [Palestine 1939: No 24-4012], " played a significant role. The Palestinian cause transitioned from regional concerns to global issues. Antonius began his political activities in Palestine by supporting the Councils against the Nashashibis (opposition) and participated as the secretary of the Palestinian delegation to London in 1939. His book revealed the truth of the British experience and substantiated historical documents that saved the Arab cause and refuted the Balfour Declaration. He showcased historical correspondence between Sharif Hussein and McMahon, translated and published in his book, presenting them to the British public. Antonius

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<sup>14</sup>The traditional Arab political point of view presents the Mandate and the "double commitment": The truth is that the Mandate Deed was formulated with two different structures and two distinct spirits. On one hand, it is harmonized so that it applies to the provisions of Article 22 of the Charter, and is consistent with the mandate deeds drawn up for the countries surrounding Palestine to the maximum extent possible of this harmony and applicability, and on the other hand, the Mandate aimed to implement the covenant contained in the "Balfour Declaration", and it is clear from this that it placed on the shoulders of the Mandatory State commitments that would be difficult to reconcile with great difficulty, if not impossible. The problem of Palestine, the publications of the Arab Bureau ( Second Bulletin), an overview of the materials presented by the Arab Bureau in Jerusalem to the British-American Commission of Inquiry for consideration during the month of March 1946 AD, Jerusalem, Bayt Al-Maqdis Press, 1946 AD, p. 37-38.

discussed the annulment of the Balfour Declaration and its powers, arguing that it came after Arab promises and clarified that the mandate for Palestine was arranged between the Jews and the English, without the knowledge of the Arabs, incorporating the Balfour Declaration without consulting the locals<sup>15</sup>.

George Antonius criticized the double commitment in the British politics by presenting and explaining the deficiency in the research of the Royal Commission in 1937 AD in the historical origins, as they delve deeper into the issue of the commitments included in the "Balfour Declaration", but they intentionally leave their research on the commitments made to the Arabs, and they quote some parts that fit their research from some of McMahon's correspondence (not all) and analyze them, but they do not mention anything about the covenant he made to Sharif Hussein in January 1918 on the extent of "Balfour Declaration." [Antonius 1969: 528].

Antonius criticized the partition project for the year 1937 as complicating the problem that it intends to solve, as it outlines the transformation of the proposed Jewish national homeland into a Jewish State. In other words: "The partition project faces the objections of the Arabs to the "Balfour Declaration" by recommending that it gives the Zionists a much larger space than they promised in the widest possible interpretation of that Declaration, and it faces the difficulties arising from the evacuation of the Arab population by recommending the evacuation of a larger number of them on a larger scale." [Antonius 1969: 530].

George Antonius believes that the partition project is not practical, does not agree with Britain's commitment, and does not bring justice to the Arabs. He describes the committee's project as weak because it mixes what is desirable with what is just and practical. It is desirable to free the Jews from the persecution they were subjected to in Europe, and to build this project on the brink of crumbling foundations in the hope that the Arabs will abandon their natural and political rights [Antonius 1969: 531].

Moreover, George Antonius confirmed that the partition project is based on a series of moral, political and practical obstacles, a series of frightening and terrifying, and makes it a project that cannot be applied [Antonius 1969: 533].

## Conclusion

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<sup>15</sup>The content of the Mandate was the legal basis on which the British civil rule in Palestine was based, and which the Zionists made great efforts to formulate in a manner that served their interests. See Grace Sabri, Palestinian Affairs, the Mandate System, No. 96, p. 34-37.

- The Arab Christians in Palestine expressed the national aspirations of the Arabs of Palestine and refuted, with scientific evidence, the British-Zionist project.
- The Arab Christians in Palestine stressed that the Palestine Cause is of a political nature, and that the Arabs resented the idea of transforming Palestine into a national homeland. They emphasized the illegality of the Zionist project, first on the moral level, then on the historical and legal level.
- The Arab Christians national discourse coincided with the aspirations of the general national demands in emphasizing the right of the Arabs in Palestine.
- The Arab Christians expressed the foundation of the Arab movement in resisting the Zionist project represented by the "Balfour Declaration".
- Realizing the importance of the national role of Arab Christians in presenting the Palestinian cause to the British public opinion and to the British elite due to their mastery of languages and their experience with Western culture.



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