



Israel and the Holy See

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EXECUTIVE SUMMARY: For many years, the Jewish people of Israel have been effectively paying the taxes of the Catholic Church and other churches in Jerusalem and elsewhere in Israel. It is high time not only for the churches to start paying the taxes they owe the State of Israel but to restore the vast troves of property looted from the Jewish people and stolen from their heritage by the church over a period of centuries.

Pope Paul VI arrived in Jordan on January 4, 1964. The next day he went to Israel to visit Nazareth, Tiberias, and Tel Megiddo, the place where the battle of Armageddon is prophesied to take place. He met the president of the State of Israel at the time, Zalman Shazar, but did not meet PM Levi Eshkol. He avoided visiting West Jerusalem and never, according to journalists, uttered the word "Israel." He apparently took these precautions out of fear that his visit might otherwise constitute a *de facto* recognition of Israel.

Almost two years later, on October 28, 1965, and 25 years after the Shoah, the Declaration on the Relation of the Church to non-Christian religions, the *Nostra Aetate*, was [proclaimed](#). According to the *Nostra Aetate*, "the [Catholic] Church buried the demons of Catholic antisemitism [for good](#)." In the eyes of the Conference of European Rabbis, the Rabbinical Council of America, and the Chief Rabbinate of Israel, "The Catholic Church began a process of introspection that increasingly expurgated from Church doctrine any hostility toward Jews, enabling trust and confidence to grow between our respective [faith communities](#)."

Twenty-eight years later, on December 30, 1993—45 years after Israel's Declaration of Independence on May 14, 1948—the Holy See finally recognized Israel. On that date, a [Fundamental Agreement Between The Holy See and the State of Israel](#) and an additional protocol were [signed](#). The

Fundamental Agreement was ratified by Israel on February 20, 1994, and by the Holy See on March 7, 1994. A Vatican [Nunciature](#) in Israel and an Israeli embassy in Rome were established on January 19, 1994.

On November 10, 1997, the Holy See and Israel entered into a Legal Personality Agreement. Pursuant to Article 11 of this agreement, the Holy See and the State of Israel were to negotiate a comprehensive pact containing solutions acceptable to both parties on any unclear, unsettled, or disputed issues concerning economic and property matters relating to the Catholic Church or to its communities and institutions.

A Permanent Bilateral Working Commission was created and meetings took place over a period of many years, but a definitive agreement was not reached. In 2017, a proposal was made by the Working Commission but neither the Holy See nor Israel was willing to sign it.

The parties originally intended that an agreement should be reached within two years of the beginning of the negotiations (Article 10.3). During the negotiations, the parties agreed to avoid actions incompatible with the Agreement's commitments (Article 10.4).

According to international law, in such circumstances, an agreement should have been reached within a "reasonable time." Over 26 years have passed since the signing of the Agreement but no solutions have been agreed upon. Consequently, Israel cannot be faulted if it applies Israeli law to Catholic Church properties.

Under the Ottomans and the British Mandate, properties of the Church enjoyed a special legal and tax status pursuant to the [Accords of Mytilene](#) of 2, 4, 6, 9 and 10 November 1901 (Exchange of Letters). Under these Accords, French churches, chapels, hospitals, clinics, orphanages, and asylums, as well as other French and protected French institutions, were granted customs and tax privileges. The Turks omitted reference to "treaties and conventions" and referred to past practice and usage. By the [Accords of Constantinople](#) of 18 November 1913, most French Catholic establishments ([schools, churches, convents, hospitals, medical dispensaries](#)) were put under the "protection of France" and privileges were added. These establishments were exempted from customs, income, municipal, and property taxes.

Other churches and European states succeeded in obtaining similar privileges from the Ottoman Empire.

On September 9, 1914, the Ottoman government, taking advantage of the outbreak of war in Europe, announced its decision to abolish "Capitulations"

as of October 1 of that year. The above privileges were abolished and enemy consuls expelled (including the French Consul). The French Religious Protectorate came to an end.

During the British Mandate, Great Britain reinstated some exemptions and privileges to different churches, but there was no doubt that the days of the protectorate were over. Herbert Samuel, the first British High Commissioner in Palestine, reminded Cardinal Gasparri, "[There is no French protectorate anymore ... France gave it up in San Remo](#)".

Church status became unclear with the creation of the State of Israel in 1948. According to international law, Israel was not the successor state of any existing sovereign state. Consequently, such privileges could not continue to apply.

In the Israel Land Registry (the Tabu), French Catholic establishments are registered under the name of their owner. These establishments are not French colonies and do not constitute independent territory that Israel has surrendered to France. They therefore cannot be considered consulates or embassies under international law. Nevertheless, this position was used by Presidents Jacques Chirac and Emmanuel Macron when they visited Christian churches in Israel as grounds to bar the entry of Israeli security guards.

France argued that it has rights and privileges mentioned in the Accords of Mytilene, the Accord of Constantinople (18 December 1913), and the [Accords Chauvel-Fischer](#) (6 September 1948-31 January 1949), and that Israel recognized these rights as a result of an exchange of letters between the provisional government of the State of Israel and the French Republic between 6 September 1948 and 31 January 1949. French recognition of the State of Israel depended on this, and on the acceptance of the eventual internationalization of Jerusalem.

In a letter dated 6 September 1948 from Maurice Fischer, Representative of the Provisionary Government of the State of Israel in Paris, to Jean Binoche, Director for Africa-Levant in the French Foreign Affairs Ministry, the Israeli government reaffirmed that "it has [on] principle to respect the acquired rights and privileges of the French Catholic Establishments." France requested confirmation on 24 January 1949 and it was immediately given. France then recognized the State of Israel on the same day: 24 January 1949.

These rights and privileges are limited to specific French Catholic institutions ([Oeuvres Françaises établies sur l'ensemble de l'ex-territoire Palestinien](#)) as listed in the letter dated 24 January 1949. They do not apply to all churches.

Under Israeli law, international agreements must be voted into law by the Israeli Parliament (Knesset). The Israeli Supreme Court did not grant any legal weight to the Accord Chauvel-Fischer because no law was voted on by the Knesset. Still, the Israeli government agreed to maintain the tax exemptions and privileges accorded to the French Catholic establishments.

According to the New Testament, Jesus said one should “Render unto Caesar the things that are Caesar’s” ([Mark 12:17](#) and [Luke 20:25](#)) and “Pay everyone what you owe him: taxes to whom taxes are due, revenue to whom revenue is due, respect to whom respect is due, honor to whom honor is due” ([Romans 13:7](#)).

However, ever since the creation of the State of Israel in 1948, Catholic and other Christian churches have refused to pay taxes due Israel and its municipalities on their properties and local income. In 2002, the Knesset canceled certain tax exemptions to religious institutions (of any denomination) that offer health, hospitality, and welfare services (with the exception of houses of prayer like synagogues, churches, and convents), ritual baths, and educational institutions that are not [commercial activities](#).

While it may seem reasonable that houses of prayer, ritual baths, and educational institutions be exempt from taxes, it is against internationally accepted rules of fair competition to exempt from taxes hotels, stores, restaurants, hostels, guest houses, hospitals, welfare services, and leases of apartments belonging to churches. They operate like regular [commercial businesses](#). They are classified as [unrelated business activities](#) and should therefore be subject to taxes.

In 2012, the European Court of Justice obliged Italy to close a loophole enabling the Vatican and religious orders to avoid property tax on commercial activities as long as the premises contained a chapel. This action was brought by directly concerned competitors: the private educational establishment Scuola Elementare Maria Montessori and Pietro Ferracci, the owner of a bed and breakfast. In 2018, the [European Court of Justice ruled](#) that the Vatican must pay Italy €4 billion in unpaid taxes from 2006-11, and annulled the EU Commission’s decision not to order recovery of unlawful aid granted by Italy in the form of an exemption from municipal tax on real property.

If we follow these [decisions](#), churches should pay taxes in Israel on the profits made in Israel by their schools, hotels, hostels, hospitals, and so on, and pay state and municipality taxes relating to properties that are not places of prayer, such as dormitories and priest residences.

In December 2017, the Jerusalem Municipality asked for payment of unpaid commercial taxes amounting to 650 million shekels (about \$186 million) and froze church bank accounts.

This led the Church of the Holy Sepulcher and other churches to demonize Israel, going so far as to imply that [Jerusalem does not belong to the Jewish State](#). For the Holy See and other churches, Jerusalem must be internationalized and become a *corpus separatum*. (This is not a new demand. During the Mandate period in Palestine, Catholic Church leaders complained, as do Arabs today, about the “Judaization” of Jerusalem.)

The Churches insist that they are not obliged to pay taxes to the Jewish State, even though their scripture states that “...it is necessary to submit to authority, not only to avoid punishment, but also as a matter of conscience”(Romans 13:5).

Following protests and international pressure, then-Israeli PM Benjamin Netanyahu suspended tax procedures on Jerusalem church institutions, and committees were set up to “bury” the problem (a common tactic). The COVID-19 pandemic temporarily led to the closure of some of the affected “tax-free” places.

What all this means is that Israelis (of Jerusalem and elsewhere) are paying sanitation, garbage collection, municipal service, and other taxes that are not paid by the churches or by their commercial businesses (shops, hotels, and restaurants). The [Mamilla Hotel](#), like other hotels, pays taxes (income and municipal). The [Notre Dame Hotel](#), situated less than 100 meters from the Mamilla Hotel, does not pay any taxes.

The churches have apparently forgotten that the Gospel says:

Everyone must submit himself to the governing authorities, for there is no authority except that which is from God. The authorities that exist have been appointed by God. Consequently, whoever resists authority is opposing what God has set in place, and those who do so will bring judgment on themselves... [Romans 13: 1-2](#)

For Israel, the behavior of the churches is a [continuation of the past](#). For Greek Orthodox Patriarch of Jerusalem Theophilos III, Israel’s actions “remind us all of laws of a similar nature which were enacted against the Jews during dark periods in Europe. This systematic and unprecedented attack against Christians in the Holy Land severely violates the most basic...[sovereign rights](#).”

That is an astonishing assertion. After all the discrimination, humiliation, deprivations, and thefts of property and assets perpetrated on the Jews in the world and in Israel over the course of history—wrongs and cruelties often inspired by the church—church leaders are happy to allow the Jews of today to pay their taxes for them, and are affronted by the suggestion that this is an injustice. Rather than blaming the Jewish people, church leaders should instead be thinking about how to compensate them.

Another subject that has not been mentioned in any committee until now is the return of the Jewish national and cultural heritage to the Israel Chief Rabbinate.

Pope Francis presumably understands the words “Thou shalt not steal,” “The thief comes only to steal, kill, and destroy” ([John 10:10](#)), and “For I the Lord love justice, I hate robbery” ([Isaiah 61: 8](#)).

Will he atone, as have many Christians, for the sins of previous church leaders and return to Israel’s Chief Rabbinate what was looted by the church from God’s people over the course of history? These thefts include Temple candelabra given to Pope Innocent III by Baldwin I after the [sacking of Constantinople](#) and the massacre of the Christian Orthodox population; Temple shofars and utensils; garments of the High Priest; the Tzitz (crown); the Nezer (blade); a gold plaque with the words Kodesh le-YHWH (“Dedicated to the Lord”); books of prayer; documents; writings; sacred objects; cultural objects; and many other *objets d’art*, books, Talmuds, and manuscripts that the Vatican and other churches have appropriated and placed in their own storerooms, libraries, and museums.

These objects are the Jewish People’s national, religious, and cultural heritage. They are Jewish and they belong to Israel, the State of the Jewish people, where more than half the world’s Jews live.

Pope Paul VI initiated a process of returning relics to the Orthodox Church. In 1965, relics of Saint Titus, which had been taken to Venice in 1669, were returned to Crete. In 2000, Pope John Paul II returned relics of Saint Gregory the Illuminator to the Armenian Orthodox Church. In 2004, relics of Saint Gregory the Theologian and Saint John Chrysostom were returned to Patriarch Bartholomew I of Constantinople. In 2004, the same Pope returned the Madonna of Kazan to the Russian Orthodox Church in Moscow. Are Jews less entitled to their heritage than others?

After two millennia of robbery, discrimination, persecution, torture, murder, burnings, expulsions, expropriations, book burnings, kidnapping and forced conversion, Israel should demand in the name of the Jewish People that the

Roman Catholic Church, the Christian Greek Orthodox Church, and all other churches present in the Holy Land return to the Jewish State all lands and properties situated in Israel that are not places of worship.

According to a study by the Jerusalem Institute for Policy Studies, in Jerusalem alone churches hold some 5,000 dunams (approximately 1,235 acres) of land in important areas of the city, such as the Old City, the Historic Basin, the Mount of Olives, Liberty Bell Park, Bloomfield Garden, Keren Hayesod Street and the surrounding area, the Talbiyeh neighborhood, the Valley of the Cross and the surrounding area, the public park around San Simon Monastery, the area around Mar Elias Monastery close to the Har Homa neighborhood, and more.

These lands and properties were given to the Jews by God. The churches held them in trust until the present return of the Jews to the land He gave them. The churches did not purchase them from anyone with genuine title. If they bought the lands, they did so from illegitimate owners who had taken them from their legitimate owner, the Jewish People.

Voluntary restitution of such possessions would be a small token of compensation after thousands of years of spoliation and theft of holy Jewish land and property.

Whatever happens, Israel has the right and should begin an intensive program of restitution of property and land in Israel (including the West Bank) that are not places of worship. This would be just, and would in no way be an assault on freedom of religion.

As the indigenous people of the land, the Jews

... have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent" ([Art. 28.1 of the United Nations Declaration on the Rights of Indigenous People \(UNDRIP\)](#)).

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