

# France's Religious "National Domains" in Jerusalem

By Dominique Trimbur

## Abstract

*This paper examines the background to the close, special relationship that secular France has with the Holy Land, a special relationship based on its past role as protector of Catholics in Palestine and on its "national domains" in Jerusalem.*

During an official visit to Jerusalem in January 2020, French President Emmanuel Macron prevented his Israeli security detail from escorting him into the Church of Saint Anne, in an incident reminiscent of President Jacques Chirac's dramatic encounter with his Israeli security detail at the same church in 1996.<sup>1</sup> President Macron was symbolically asserting that the church was a French "national domain", that is, French sovereign territory.

For a state that strictly upholds the separation of church and religion through the concept known as *laïcité*, it may seem paradoxical to apply the term "national domain" to a church. This paper examines the origins and functions of that seeming paradox — France's extraterritorial enclaves comprising four religious sites in the Holy Land, which have a unique status as part of the French national heritage.

## Foreign Powers and the Status Quo of the Holy Places

France was the first of the European powers to sign capitulations with the Ottomans in 1536. These were agreements that gave the Europeans residency rights and rights of extraterritorial jurisdiction in Ottoman territory, along with commercial privileges such as substantial cuts in taxes and customs duties. They facilitated the Europeans' economic penetration of the Ottoman empire.

The European governments took advantage of these treaties to intervene in religious affairs as well. In particular, France, the so-called "eldest daughter of the church", managed to establish a protectorate over the Latin (Catholic) foreign residents in the Ottoman empire. It played the role of a mediator between the Holy See and the Ottoman authorities and supported Catholic predominance at the holy places, which were at the centre of internecine disputes among the various Christian denominations. This French protectorate over the Catholics in the Holy Land was later expanded by custom to cover the local, Oriental "united Christians" linked to Rome.

France's special role was strengthened at the end of the first half of the 19th century, the period of religious revival in France. The French, among other powers, cast their eyes on Palestine to expand their spheres of influence. France established a consulate in Jerusalem in 1843, three years after the British had established the first foreign consulate in the holy city. Soon, French pilgrims began to flock into the Holy Land while a network of Catholic institutions closely linked to France sprang up in the area. This network included orphanages, hospitals, dispensaries, general and professional schools, buildings to host French pilgrims and seminaries for French clerics. France's privileged position as protector of the

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<sup>1</sup> BBC News, "'Go outside': France's Macron berates Israeli police at Jerusalem church", *BBC News*, 23 January 2020, <https://www.bbc.com/news/world-middle-east-51212543>.

Catholics gave it special privileges: its representatives enjoyed liturgical honours during religious ceremonies held in the Holy Land, in particular, at the Church of the Holy Sepulchre.

The situation prevailing at the Christian holy places by then was based on what is known as the “Status Quo”, the Ottoman decree of 1852 confirming the customary practices existing in 1757 in terms of control of and access to these sites by the various Christian denominations. The status quo holds till today. According to Bernardin Collin, an expert on the subject, the status quo recognised the reality there, based on two principles: that “facts create law” and that “regarding buildings, possession means lawful ownership”.<sup>2</sup>

## The National Domains

Among the network of French institutions in the Holy Land, four are “national domains”, involving proper land appropriation by the French government. This is unlike the case of the institutions associated with the Italians and the Germans, for instance. Also, the national domains should be distinguished from religious institutions placed under French patronage but which are not French possessions. For instance, the École biblique et archéologique française de Jérusalem, a school established by the French in 1920, is hosted by the Dominican St Stephen’s convent but the land on which the convent stands does not entail extraterritorial status for the French, unlike in the case of the national domains. The French national domains — three located in Jerusalem and the fourth located in its vicinity — are:

- (1) **The Church of Saint Anne.** This property, which has belonged to France since 1 November 1856, was the first property it acquired. It is a Roman church dating back to the Latin kingdom of Jerusalem (1140) and is located at the spot where, according to an apocryphal tradition, the Virgin Mary was born. The place was named the house of Anne and Joachim, after the parents of Mary. The church had been transformed into a *madrasah* under Saladin, the Muslim warrior who wrested Jerusalem back from the Crusaders in 1187. The Probatic pool (or Bethesda pool), where Jesus is believed to have performed the miracle of healing a lame man, is part of the domain. In 1914, at the outset of the First World War, the Ottomans unilaterally abrogated the capitulations and requisitioned Saint Anne, converting it to a *madrasah* again.
- (2) **Benedictine monastery of Abu Gosh,** acquired in 1873, is a Roman church, also dating back to the Latin kingdom. According to tradition, it is one of the possible locations of Emmaus, the town mentioned in the Bible as the place where Jesus appeared after his resurrection.
- (3) **The Church of the Pater Noster and the Sanctuary of Eleona.** This has been in French possession since some time between 1868 and 1874. It comprises various plots of land on Mount of Olives, and, according to tradition, was the place where Jesus was believed to have taught the Lord’s Prayer to his disciples. French excavations at the site in 1910 uncovered remnants of the Byzantine-era Eleona basilica.
- (4) **The Tomb of the Kings.** This has been French property since 1886. Located north of the Old City, French archaeologists excavated this plot of land, which used to be a Jewish mausoleum dating back to the first century.

The domains were acquired by the French in two different ways:

- (i) As gifts from the Ottoman empire. This was the case with Saint Anne. In the middle of the 19th century, Sultan Abd al-Majid gave France the church and the disused *madrasah*. The gift was an expression of his gratitude for France coming to his assistance against Russia during the Crimean War. Likewise, Abu Gosh church, which was also disused, was given to France by the Ottoman rulers as compensation after the Saint-Georges Catholic church in Lod had been transferred to the Greek Orthodox patriarchate.

<sup>2</sup> Bernardin Collin, *Les Lieux saints*, Paris, Presses universitaires de France, 1962, 107.

- (ii) As gifts from individuals. The domain of Pater and Eleona was donated by the French princess of La Tour d'Auvergne in 1868. As for the Tomb of the Kings, it was donated by the Péreire brothers, notorious French-Jewish businessmen who had bought the tomb on the advice of the archaeologist Félicien de Saulcy. (The archaeologist had conducted excavations at the site in the 1860s and sent the sarcophagi he discovered there to the Louvre in Paris, where they are still housed today.)

France's first step upon acquiring these properties was to ensure that the title deeds were properly established in its name. From then on, France had the right to hoist its flag on the sites and to assert its sovereignty. The domain of Saint Anne was subsequently extended with the purchase of additional plots, while a cloister and a church were added to the Eleona.

Eager for scientific valorisation of its acquisitions, France subsequently arranged for archaeological excavations to be conducted at these sites. The excavations were intended primarily to establish the location of the Bethesda pool at Saint Anne and to confirm Abu Gosh as *the* place of the Emmaus encounter, which France believed would give the status of a quasi-holy place to both domains. In September 1938, the church of Abu Gosh, restored from its derelict state, was registered in the list of French national monuments.

Following the appropriation of the domains, France had to entrust them to appropriate custodians. The Tomb of the Kings, a Jewish site, was placed under the custody of a local Arab-Muslim family that had traditionally been employed by the French consulate-general. As for the Catholic domains, custodianship was entrusted to friars or nuns from various Catholic communities. In each case, France imposed strict conditions on the custodians: the superior had to be a French citizen, a criterion that was also applied to the whole, or at least two-thirds, of the community.

That friars and nuns were chosen to keep an eye on the domains that France had acquired under either the Second Empire or the Third Republic — that is, at the height of the French anti-clerical campaign — may seem paradoxical. But it was probably a reflection of the view attributed to the French politician Léon Gambetta, that “anti-clericalism is not an export good”.

## Political Upheavals of the 20th Century

By the beginning of the 20th century, the French protectorate had been weakened progressively by the efforts of the other European powers, who were concerned about protecting their citizens and resentful of the special honours that the representatives of France were receiving at the holy places. Russia had already challenged the French a century earlier, positioning itself as the protector of the Orthodox community. The weakening of the French protectorate was especially felt after the separation of church and state in France in 1904–1905 and the consequent freeze in relations between France and the Vatican.<sup>3</sup> In early 1917, as Ottoman defeat was approaching, the Vatican indicated to the French that it intended to end the French protectorate over Catholics once the Ottomans left the city.

In the 1920s, a new French cultural policy in Palestine emerged. This was when the British Mandate had come into force and the Zionist movement was gaining in strength, with the migration of Jews to Palestine. Fearing that these developments might mean the end of the French protectorate and the loss of French privileges in the Holy Land, France recognised and began promoting the seminaries for Oriental united Christians at its national domains as they contributed to the dissemination of both the French language and culture. Indeed, France saw the seminaries, schools and other religious institutions affiliated with it as a spearhead for the diffusion of French values.

For pragmatic reasons, the British Mandate authorities allowed the pre-war tax privileges and privileged status for the French institutions to continue as a means of appeasing its ally in the war and to avoid getting entangled in the squabbles between the various Christian denominations. But France's

<sup>3</sup> Catherine Nicault, “The End of the French Religious Protectorate in Jerusalem (1918–1924)”, *Bulletin du Centre de recherche français à Jérusalem* 4, 1999.

effectiveness as an interlocutor with the British on behalf of the Catholics later declined later in the face of the British Mandate authorities' indifference and preference for dealing directly with the various communities.

Officially, the capitulations were abolished by Article 8 of the 1922 British Mandate for Palestine and Article 28 of the 1923 Treaty of Lausanne ending the First World War, which effectively ended the French protectorate. Earlier, at the San Remo conference of 1920 between the allies in the First World War, France grudgingly abandoned its call to retain its protectorate status but later quibbled to retain its liturgical honours. The French Quai d'Orsay claimed that it had given up only its right to intervene on behalf of the Catholics, not the right to honours, so "if the representative of France can no longer demand honours, he still has the right to accept them (...) nothing prevents the Holy See from ordering their preservation (...) nothing authorises the British from breaking with tradition".<sup>4</sup>

In 1927, France and the Vatican finally reached an agreement to the effect that the liturgical honours throughout the former Ottoman territories could be reinstated with the permission of local governments. Thus, France managed to preserve its privileged position and prestige, albeit only at French institutions or institutions connected to France.

## Current Status and Significance

Although the protection that the French still claim to exercise over Catholics in the Holy Land may be little more than a façade today, the legal ownership of the national domains has not, for the most part, been challenged by the successive agreements between France and the local authorities, beginning with the Ottoman empire (although the Ottomans requisitioned Saint Anne just before the collapse of the empire), then the British Mandate authorities, followed by Jordan and Israel and, finally, the Palestinian authority.

But while France's possession of these domains has not been questioned by the local authorities, it has been contested by other entities. This is particularly so in the case of the only non-Catholic French national domain — the Tomb of the Kings, considered holy to the Jews. Orthodox Jews have tried to challenge its possession by a foreign state, especially one considered a Catholic power.

The valorisation of the sites remains a preoccupation for the French. Archaeological work is continuing at the Tomb of the Kings and at the Pater. France has also continued to invest in conservation and enhancement works right through the 21st century. Such works have been conducted the past several years at the Probatic pool in Saint Anne while the frescos in Abu Gosh church have also being restored. Likewise, the Tomb of the Kings underwent a decade-long restoration programme and was provisionally reopened to the public in November 2019.

Although France has the right to exercise sovereignty over the national domains, any restoration or excavation work it plans to carry out requires the approval of the Israeli Antiquities Authority. Such compliance with local building and heritage controls is not contradictory to the immunities granted to foreign diplomats and their premises through international diplomatic conventions. Controversially, even work meant to be carried out at Saint Anne, a non-Jewish site located in the contested Old City, requires Israeli authorisation.

The domains remain important in the day-to-day lives of the French in Jerusalem. At the political level, they constitute a special area of responsibility for the French diplomats based in the Holy Land. The consul-general is responsible for the management of the national domains and provides allocations for their functioning. At the religious level, the friars and nuns in charge of the domains ascribe great significance to them. The custody of the national domains has remained in the same hands, except Abu Gosh, where the original Benedictines have been replaced by the Monte-Olivetto congregation, whose monks are still French, or at least French-speaking people.

The national domains today are sites for what are known as "consular masses", that is, religious services on specific occasions during which the French consul-general is accorded a special place. At Saint

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<sup>4</sup> Cited in Catherine Nicault, "The End of the French Religious Protectorate in Jerusalem".

Anne, consular masses take place every year on the French national day (14 July), on the Nativity of the Virgin Mary (8 September), and, on the Feast of the Immaculate Conception (8 December). At the Pater church, a special service takes place every year to honour Saint Thérèse d'Avila (15 October). At Abu Gosh, a celebration is held on every anniversary of the dedication of the church (28 November). Furthermore, since 1924, Saint Anne has been celebrating the arrival of every new French consul-general by hosting a *Te Deum* honouring France.

In terms of heritage value, the significance of France's acquisitions revolves around their functions: while one of them, the Tomb of the Kings, constitutes a "passive" good, the other three constitute "active" goods. The latter are real *lieux de mémoire*, a concept popularised by the French historian Pierre Nora. In Nora's words, a *lieu de mémoire* is "any significant entity, whether material or non-material in nature, which by dint of human will or the work of time, has become a symbolic element of the memorial heritage of any community".<sup>5</sup> In the case of Saint Anne and Abu Gosh, each of which houses an Oriental united Christian seminary, they are also French *lieux de vie* (living spaces, as opposed to uninhabited ancient monuments).

Today, the national domains in the Holy Land give France great prestige and virtually unparalleled status as part of the Holy Land's, Palestine's and Israel's space. Although legally immutable, the status of the domains has nevertheless evolved. Once symbols of France's role as inheritor of the Crusader tradition and protector of Catholics in the Holy Land, today they belong more to the realm of French cultural heritage. In the eyes of the average observer, the peculiarity lies in the fact that this national heritage of secular France is embodied in Catholic institutions, hosting friars and nuns. But this is not a paradox; it constitutes a pragmatic instrumentalisation of religion for the spread of secular France's influence in the region.

## About the Author

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<sup>5</sup> Pierre Nora, "Preface to English Language Edition: From *Lieux de mémoire* to Realms of Memory", in *Realms of Memory: Rethinking the French Past*, ed Pierre Nora, [http://faculty.smu.edu/bwheeler/Joan\\_of\\_Arc/OLR/03\\_PierreNora\\_LieuxdeMemoire.pdf](http://faculty.smu.edu/bwheeler/Joan_of_Arc/OLR/03_PierreNora_LieuxdeMemoire.pdf).