

At AIPAC, Biden Disappoints (Part 1)

by Hugh Fitzgerald



Former US vice president and Democratic presidential candidate Joe Biden [told](#) the pro-Israel lobby AIPAC on March 2 that Israel's annexation and settlement policies are undermining support for the Jewish state among young people.

What is "undermining support" for Israel "among young people" and others is the failure of those politicians like Biden who consider themselves "pro-Israel" but are misinformed about the legal status of the West Bank, and consequently are not capable of understanding, explaining, and defending Israel's rights to that area. Biden himself does not know why the settlements are legal, and merely assumes, like tens of millions of others, that they are illegitimate because everyone tells him so – the New York Times, the Washington Post, the BBC, the U.N. General Assembly, the Arab League, the O.I.C. But his statement at AIPAC merely reveals his ignorance of the history of the Jewish state. It is not enough to consider oneself "pro-Israel" – you have to get Israel's

history straight, in order to adequately defend the country. This Joe Biden has not done. He doesn't dislike Israel, unlike some in his party, including the infamous "Squad" and Bernie Sanders; Biden likes Israel, but doesn't know enough to make its case.

Let's review the history of the Mandate for Palestine. Biden does not know that when the League of Nations established the Mandates system, following the collapse of the Ottoman Empire after World War I, several mandates were created exclusively for the Arabs. France held the Mandate for Syria and Lebanon, Great Britain held the Mandate for Iraq. Those European powers were responsible for guiding the local populations to achieve independence. In the end, as we all know, the Arabs have by now managed to acquire 22 separate states, far more than any other people, places where they treat non-Arab Muslims – Kurds, Berbers, black Africans – with contumely or worse. And in many of those Arab states, non-Muslims are often humiliated, persecuted, and sometimes killed.

The one territory reserved for the Jews was that set aside for inclusion in the Mandate for Palestine. It extended from the Golan in the north to the Gulf of Aqaba in the south, and from an area east of the Jordan River "out into the desert" to the Mediterranean. The British, who held the Mandate for Palestine, then unilaterally decided that all the territory east of the Jordan – 78% of the territory that was originally to be included the Mandate – would be closed to Jewish immigration, so that it would instead become part of the newly-created Emirate of Transjordan (later the Kingdom of Jordan). What was left in the Palestine Mandate for the Jews was 22% of the territory that was originally to have been included. This was the sliver of land that went from the Jordan River to the Mediterranean, and from the Golan to the Gulf of Aqaba. That Mandatory territory, that was to have formed the future Jewish state, included all of what became known as the West Bank. I doubt that Joe Biden knows any of

this. He doesn't strike me as having done his homework. He doesn't feel he has to, you see, because his heart's in the right place, he's "pro-Israel." How wrong he is.

When the League of Nations closed in 1946, soon to be replaced by the United Nations, there remained the question of what would happen to the Mandate for Palestine. Article 80 of the U.N. Charter – "the Jewish people's article," as it was called – made clear that the provisions of the Mandate still held, and would be honored by the United Nations as the successor organization to the League of Nations. The Mandate finally came to an end on May 14, 1948, when Israel, the successor state to the Mandate, declared its independence.

In the 1948-49 war, at the end of hostilities the Arab Legion of Jordan held onto those parts of Judea and Samaria west of the Jordan that the Jordanians soon renamed the "West Bank." In taking possession of the West Bank, Jordan did not establish a legal claim; it remained a military "occupier." Israel, which did have a legal claim to the West Bank, was not in a position to enforce that claim; that would come only after the Six-Day War. But juridically the West Bank remained, as it had been under the Mandate, part of the Jewish National Home. In 1967, Israel did not establish a new legal claim, but merely became able, through force of arms, to enforce the claim it had always possessed since the Mandate was created . Joe Biden needs to understand the exclusive intent of the Mandate for Palestine – to create the Jewish National Home – and to recognize the territory , including the entire West Bank, that had been assigned to it. He might then take quite a different view of Israeli villages and cities (tendentiously described by so many as "settlements") and of Israel's so-called "occupation" of the West Bank. He owes it to Israel, and to himself, to get this story straight.

When Biden tells an AIPAC audience that he thinks Israel's "settlement and annexation" policies are causing Israel to lose support, instead of blaming Israel, he should have made a

different claim: "We who are pro-Israel need to do better to make the case for that embattled country. We need to understand Israel's overwhelming legal right to the West Bank. Even if, on practical grounds, some may question the wisdom of Israel annexing the entire West Bank, no one should deny that Israel has a perfect right to do so. We need to study the relevant history to make the case for Israel, instead of mindlessly repeating such loaded, and inaccurate descriptions, as "occupied Palestinian lands."

Biden should deepen his own understanding, by reading – perhaps for the first time though he has been in Washington for the past 40 years – the Mandate for Palestine. The most important part of the Mandate document is the Preamble:

Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2nd, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favour of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.

The declaration of November 2, 1917, which is referred to in the preamble, is the Balfour Declaration, which declared British support for the establishment of the Jewish National Home.

Note the phrase, too, about how "nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine." The drafters quite deliberately left out any mention of "political rights" because, of course, a Jewish National Home, leading to the establishment of a Jewish state, would necessarily impinge on

the political rights of local Arabs.

Article 4 of the Mandate makes clear that it is to lead to the creation of a single Jewish National Home, and not to the creation of two states, Jewish and Arab, in the territory west of the Jordan that was ultimately assigned to the Mandate:

An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration to assist and take part in the development of the country.

The Zionist organization, so long as its organization and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

Then there is Article 6 of the Mandate, which Biden might profitably commit to memory. It calls on the mandatory authority to “facilitate Jewish immigration” and “encourage...close settlement by Jews on the land, including State lands and waste lands”:

The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in Article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

So to repeat yet again for Joe Biden's sake, and it deserves this constant repetition, the West Bank was always intended to be part of the Jewish National Home. Thus it was intended by the Mandates Commission, headed by the distinguished Swiss law professor William Rappard, who was outraged when the British ended all Jewish immigration in the land east of the Jordan, which had supposed to have been subject to the provisions of the Mandate. Had the Jews managed to hold onto the West Bank in the 1948-49 war, it would have become, as the Mandate always intended, part of Israel, every bit as much as Tel Aviv or Haifa or Ashdod. No one in the Western world would have objected. When the Jordanian army seized and held territory west of the Jordan in the 1948-49 war, Jordan emulated the Romans, who had renamed "Judea" as "Syria Palaestina" or "Palestine" to efface the Jewish connection to the land. The Jordanians renamed the parts of Judea and Samaria it now controlled as "the West Bank" for the same reason.

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