

Pompeo States a Home Truth, and the Media Mostly Mocks

by Hugh Fitzgerald



When Secretary of State Mike Pompeo announced on November 18 that the Administration did not regard Israeli settlements in the West Bank as violating international law, there was weeping and wailing and gnashing of teeth among the Great and Good in our media. The New York Times characteristically did not bother to address the truth or falsehood of Pompeo's statement. It merely damned the remark for constituting a "reversal of decades of American policy that may doom any peace efforts." Readers were made to understand that this claim as to the legality of Israeli settlements must be wrong – and all those previous administrations, headed by the likes of the antisemitic Jimmy Carter, and the anti-Israel George H. W. Bush and anti-Israel Barack Obama, that declared them

“illegal,” must surely have been right.

What’s more, the Times article on Pompeo grimly predicted that this “reversal...of American policy...may doom any peace efforts.” One might have thought that “peace efforts” – through treaties rather than through deterrence – had long been doomed not by anything the Israelis have done, but by the persistent refusal of Mahmoud Abbas to engage in negotiations. One might also have thought that “peace” between Israel and the Palestinians might be maintained most effectively not through treaties, given that Muhammad’s breaking of the Treaty of Hudaibiyya – that he made with the Meccans in 628 A.D. – has served as a model for all subsequent treaty-making, and treaty-breaking, by Muslims with non-Muslims. Instead, such a peace can only be maintained through deterrence – the same policy that kept the peace between the United States and the Soviet Union during the Cold War. 620,000 Israeli Jews living in towns and cities in the West Bank and in East Jerusalem constitute a major part of that deterrence.

The Times also noted that the United Nations General Assembly, the United Nations Security Council and the International Court of Justice have all said that Israeli settlements on the West Bank violate the Fourth Geneva Convention. We can dismiss as hopelessly biased the General Assembly and the Security Council of the U.N., but what about the International Court of Justice? In 2004, when the Court rendered its advisory opinion as to the legality of Israeli settlements, three of its fifteen judges were Muslims, the largest single bloc. And since then there have always been at least three Muslim judges on the court at time.

Despite the fact that the U.N. General Assembly, and the U.N. Security Council, and the International Court of Justice, have all claimed that by building settlements in the West Bank, Israel violates the Fourth Geneva Convention, their judgments are flatly contradicted by the facts. We mustn’t let ourselves be overawed.

First, the Fourth Geneva Convention came out of World War II, a response to the behavior of the Nazis in the countries they occupied and where they both moved peoples out – including Jews who were rounded up and sent to death camps, and also Poles and other Slavic peoples considered as untermenschen – and moved in more ethnic Germans, to parts of Poland, the Baltic states, and Czechoslovakia. But Israel was never an “occupying power” in the West Bank; it was there by right, the right conferred on it in the Mandate for Palestine and, one might add, by the fact that Jews had lived in the West Bank continuously for the past two thousand years. It was only between 1948 and 1967 that the West Bank was rendered Judenrein by the Jordanians. Second, Israel did not move any people out of the West Bank, nor did it forcibly move Jews into the West Bank. Those Jews who moved into West Bank settlements did so of their own volition.

It bears repetition: Israel’s status as the only legal claimant to the West Bank (see the Mandate for Palestine, and accompanying maps), renders the Fourth Geneva Convention – with its statement that “an occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies” – inapplicable. Israel is not an occupying power in the West Bank, and furthermore, the Israeli government has not forcibly “deported nor transferred parts of its own civilian population” to the West Bank.

Many in the media treated Secretary Pompeo’s remark as just one more deplorable pro-Israel act by the Trump administration, with the obvious suggestion of political pandering. But the truth is quite the reverse. It was pandering to the Arabs that led successive American administrations to adopt, and to incessantly repeat, the claim that the West Bank settlements, even if they were not strictly illegal, were “obstacles to peace.” No one even felt it necessary to refer to the legal basis of that claim, if such existed; no mention was ever made of the Mandate for

Palestine, which supports not those “decades of American policy,” but rather, the Trump Administration’s “reversal of decades” of such policy.

Pompeo’s remark ought not to have raised any eyebrows among those who knew both the relevant history and international law. He was at long last merely recognizing a truth that should have been insisted upon ever since 1967, when Israel came into possession of the West Bank. All of the West Bank – this has to be constantly underlined, given that merely by constant repetition of the claim that the “Jewish settlements are illegal” so many have been misled – was included in the territory which, according to the Mandate for Palestine, was intended to become the Jewish National Home. [Here](#) is the map of Mandatory Palestine just before the 1948 war. Had Israel captured the West Bank in 1948-49, that would have been the end of the matter. The Western world would have recognized Israel’s right to settle everywhere in the West Bank (it would become known by that name only after 1949, when the Jordanians, as occupiers, imposed the toponym “West Bank” to replace “Judea” and “Samaria”), and moved on.

But it was Jordan that won the West Bank, and from 1949 to 1967 held it as an “occupying power.” Israel’s legal right to the West Bank was not extinguished during this period, and when Israel came into its possession in 1967, the Jewish state could at long last enforce that legal right. That is all that Secretary Pompeo and the Trump Administration have done: they have recognized that legal right of the Jews to settle in the West Bank, a right that originates in the Mandate for Palestine itself. Article 6 of the Mandate requires the Mandatory authority to both “facilitate Jewish immigration” and “encourage...close settlement by Jews on the land.” That is exactly what has been going on since 1967 in the West Bank, which remained part of the territory assigned for inclusion in the Jewish National Home: “close settlement by Jews on the land.” It is a source of constant amazement that so many

people feel qualified to dismiss those settlements as “illegal” without having read the Mandate for Palestine or studied the Mandate maps. Few seek to study the matter, but instead simply repeat what they have heard before. Laziness and fear also play their part. Politicians and members of the media think to themselves “why should I have to do research on my own when others have told us, with great certainty, that Jewish settlements in the West Bank are ‘illegal’? If the U.N. General Assembly, and the Security Council, and the International Court of Justice, all declare them ‘illegal,’ who am I to say them nay? And besides, it takes fortitude to upset geopolitical applecarts, and dare to question the received wisdom that insists – wrongly, but so self-assuredly – on that ‘illegality.’”

This would be the opportune moment for those who know why the Fourth Geneva Convention is not applicable to Jewish settlements in what was always meant, by the Mandate for Palestine, to be part of the Jewish National Home, to produce articles reinforcing the Administration’s welcome conclusion. It should not be left to Secretary Pompeo to face the mickey-mockers alone, nor should Israel be left alone at the U.N. and similar kangaroo courts to explain, as it now has an opening to do, why those settlements in the West Bank are not only legal, but through the increased deterrence they provide against potential aggressors from the east, will help rather than hinder the cause of peace.

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