

THE MANDATE FOR PALESTINE STILL MATTERS NEARLY A CENTURY LATER

Eli E. Hertz, MythsAndFacts.org

Israelis and friends of the Jewish State alike are accustomed to the never-ending scorn that United Nations heaps on the Middle East's only free democracy, never mind its desire for peace with all of its Arab neighbors. It may seem unfathomable that the very same institution was ultimately responsible for the creation of Israel.

The roots of the "Mandate for Palestine"—a legally binding document published by the League of Nations, the forerunner of the United Nations—can be traced back to both the founding of modern Zionism in 1897 and the Balfour Declaration of November 1917.

After witnessing the spread of anti-Semitism around the world, Theodor Herzl felt compelled to create a political movement with the goal of establishing a Jewish National Home in historic Palestine, and assembled the first Zionist Congress in Basel, Switzerland, Aug 1897. During World War I, Foreign Secretary Arthur Balfour simply expressed Great Britain's view with favor for "the establishment in Palestine of a national home for the Jewish people."

In contrast, the Mandate is the multilateral binding agreement which laid down the Jewish legal right to settle anywhere in the geographical area called Palestine, the land between the Jordan River and the Mediterranean Sea, an entitlement unaltered in international law.

The Mandate was not a naive vision briefly embraced by the international community. The entire League of Nations – 51 countries – unanimously declared on July 24th, 1922: "Whereas recognition has been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country."

Washington went a step further: In September of that year, President Warren Harding signed the Lodge-Fish Joint Resolution, which had passed both Houses of Congress without dissent, which read, "Favors the establishment in Palestine of a National Home for the Jewish people."

The Mandate clearly differentiates between political rights referring to Jewish self-determination as an emerging polity—and civil and religious rights, referring to guarantees of equal personal freedoms to non-Jewish residents as individuals and within select communities. Not once are Arabs as a people mentioned in the Mandate for Palestine. Nowhere in the document is there any granting of political rights to the Arab population.

Article 5 of the Mandate clearly states that "The Mandatory [Great Britain] shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any foreign power." The territory of Palestine was exclusively assigned for the Jewish National Home.

Article 6 states that "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."

Accordingly, article 6 clearly states that the creation of Jewish settlements is not only permissible, but actually encouraged. Jewish settlements in Judea and Samaria (i.e., the West Bank) are perfectly legal. The use of the phrase "Occupied Palestinian Territories" is a disingenuous term that misleads the international community, while encouraging Palestinian Arabs, with the right to use all measures to attack Israel, including the use of terrorism.

The Mandate was subsequently protected by Article 80 of the United Nations Charter that recognizes the continued validity of the rights granted to all states or peoples, or already existing international instruments including those adopted by the League of Nations. The International Court of Justice has consistently recognized that the Mandate survived the demise of the League of Nations.

Legal arguments aside, it is worth noting that the Arabs never established a Palestinian state when the UN in 1947 recommended to partition Palestine, and to establish "an Arab and a Jewish state" - not a Palestinian state. Additionally, the Arab countries never recognize or established a Palestinian state during the two decades prior to the Six-Day War when the West Bank was under Jordanian control and the Gaza Strip was under Egyptian control, nor did the Palestinian Arabs clamor for autonomy, independence, or self-determination during those years.

It is important to point out that political rights to self-determination as a polity for Arabs were guaranteed by the same League of Nations in four other mandates—in Lebanon and Syria [The French Mandate], Iraq, and later Trans-Jordan [The British Mandate].

Any attempt to negate the Jewish people's rights to Palestine, and to deny them access and control in the area designated for the Jewish people by the League of Nations, is in serious conflict with the Mandate's legal framework.

L E A G U E O F N A T I O N S
MANDATE FOR PALESTINE
(Eretz-Israel)

TOGETHER WITH A
NOTE BY THE SECRETARY-GENERAL
RELATING TO ITS APPLICATION
TO THE TERRITORY KNOWN AS TRANS-JORDAN,
under the provisions of Article 25

*Presented to Parliament by Command of His Majesty,
December, 1922.*



The Council of the League of Nations:

Whereas the Principal Allied Powers have agreed, for the purpose of giving effect to the provisions of Article 22 of the Covenant of the League of Nations, to entrust to a Mandatory selected by the said Powers the administration of the territory of Palestine, which formerly belonged to the Turkish Empire, within such boundaries as may be fixed by them; and

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 favor 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; and

Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as the Mandatory for Palestine; and

Whereas the mandate in respect of Palestine has been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions; and

Whereas by the afore-mentioned Article 22 (paragraph 8), it is provided that the degree of authority, control or administration to be exercised by the Mandatory, not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations;

Confirming the said Mandate, defines its terms as follows:

Article 2.

The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.

Article 4.

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.

Article 5.

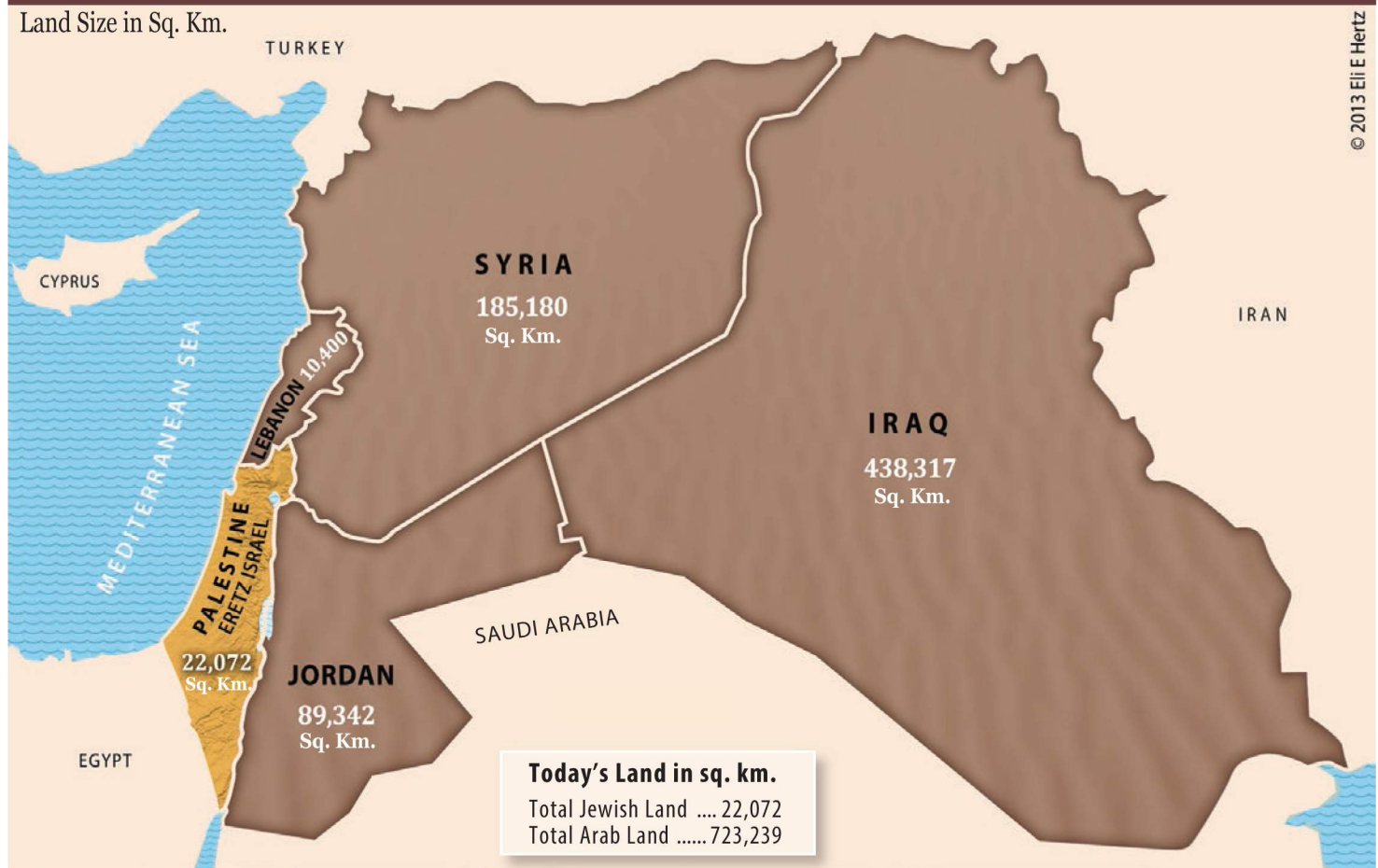
The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any foreign Power.

Article 6.

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.

Land Divided by the Mandate System

Jewish 3% | Arab 97%



Israel Has the Better Title to the Territory of Palestine, Including the Whole of Jerusalem

**International law makes it clear:
All of Israel's wars with its Arab neighbors were in self-defence.**

Professor, Judge Schwebel, wrote in *What Weight to Conquest*:

“(a) a state [Israel] acting in lawful exercise of its right of self-defense may seize and occupy foreign territory as long as such seizure and occupation are necessary to its self-defense;

(b) as a condition of its withdrawal from such territory, that State may require the institution of security measures reasonably designed to ensure that that territory shall not again be used to mount a threat or use of force against it of such a nature as to justify exercise of self-defense;

(c) Where the prior holder of territory had seized that territory unlawfully, the state which subsequently takes that territory in the lawful exercise of self-defense has, against that prior holder, better title.

“... as between Israel, acting defensively in 1948 and 1967, on the one hand, and her Arab neighbors, acting aggressively, in 1948 and 1967, on the other, Israel has the better title in the territory of what was Palestine, including the whole of Jerusalem, than do Jordan and Egypt.”

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