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Jewish Agency, reply to His Majesty's government, 1947.



CONFIDENTIAL

REPLY OF THE JEWISH AGENCY TO HIS MAJESTY'S GOVERNMENT'S  
MEMORANDUM OF FEBRUARY 7TH, 1947.

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1. The Executive of the Jewish Agency for Palestine has given careful consideration to the memorandum put forward by the representatives of His Majesty's Government on February 7th, 1947.

2. There are three vital interests which the Executive of the Jewish Agency seeks to preserve in any settlement that may be devised for the solution of the Palestine problem. These are:

- A. Freedom of Jewish immigration into Palestine up to the country's economic absorptive capacity.
- B. Freedom to settle on the land, including State lands and waste lands not required for public purposes, and to develop the country's potentialities.
- C. Freedom to develop the Jewish National Home to the position of a self-governing independent Jewish State.

3. The duty of the Mandatory Power to facilitate Jewish immigration and close settlement by Jews on the land is clearly defined in Article 6 of the Mandate.

4. The Royal Commission on Palestine (1937) stated that "unquestionably ... the primary purpose of the Mandate, as expressed in its Preamble and its articles, is to promote the establishment of the Jewish National Home". The Preamble of the Mandate, after quoting the Balfour Declaration, states:

"Recognition has thereby been given to the historical connection of the Jewish people with Palestine and to grounds for reconstituting their national home in that country."

These words express the intention of the Mandate to re-constitute an independent Jewish commonwealth such as existed in the past. A status of political independence was thus envisaged by the authors of the Mandate as the logical outcome of the mandatory process. (Report of the Royal Commission, pp. 24 - 25 - Cmd. 5479, 1937). This was clearly recognised and agreed to by the representatives of the Arab people, as is evident from the declarations of the Emir Feisal (Feisal-Weizmann Treaty published in The Times, 10th June, 1936), and of the Syrian Delegation to the Peace Conference (David Hunter Miller: "My Diary of the Peace Conference", Vol. XIV, pp.389-415).



5. The proposals contained in the memorandum are incompatible with all three basic purposes of the Mandate: Immigration, Land Settlement, and ultimate Statehood.

A. Immigration:

6. The memorandum of the 7th February provides for the immigration of 96,000 Jews at the rate of 4,000 a month over a period of two years. The Executive of the Jewish Agency begs to recall that twenty months have elapsed since the proposal to admit 100,000 Jews immediately was first submitted to His Majesty's Government. The Anglo-American Committee of Enquiry recommended their quickest possible transfer, and even the Morrison Plan, which the Jewish Agency regarded as unacceptable, provided for the entry of 100,000 within a year.

7. The memorandum further provides that after the first two years it shall be open to the High Commissioner, in consultation with his Advisory Council, composed of Arab as well as of Jewish representatives, to determine whether immigration should at all continue, even into the Jewish areas, and if so at what rate. This provision replaces the positive injunction of the Mandate to "facilitate Jewish immigration under suitable conditions", which injunction, as laid down by the Council of the League of Nations, signified that immigration is to proceed up to the economic absorptive capacity of the country.

B. Land Settlement:

8. The obligation of the Mandatory Power to encourage close settlement by Jews on the land is not limited to any area of Palestine, but applies to the whole country. The elementary principle of equality before the law requires that all citizens shall have equal rights of access and settlement in all parts of their country. To discriminate against any citizen on grounds of racial or national origin is repugnant both to the Mandate and to democratic principles. It is especially incongruous to discriminate against Jews in the right of access and settlement in the country designated by history and international law as the Jewish National Home.

9. It is for these reasons that the Jewish Agency has always protested strongly against the Land Ordinance of 1940, which discriminated against Jews in their National Home by allowing them free right of purchase and settlement in no more than five per cent. of Western Palestine (332,160 acres out of 6,504,000 acres). This legislation was officially condemned by the Labour Party.

10. The memorandum now submitted by His Majesty's Government provides for the perpetuation of this discriminatory legislation over the major part of the country. Paragraph 11 reads:



"Control over transfers of land, including the power to amend the existing Land Transfer Regulations, would be conferred on the local authorities."

The local authorities in question are to be established in areas where Arabs and Jews form a substantial majority (Paragraph 7). It follows that in the bulk of the country, the Arab local authorities would be free to prevent the transfer of land to Jews.

11. The effect of the enactment on prospects of Jewish development and of land reclamation in Palestine may be illustrated by two examples:

(i) Galilee: Under the Sykes-Picot agreement of 1916 this area was to have formed part of the French Mandated territory. It was only after the issue of the Balfour Declaration that the British Government laid claim to it, on the ground that its inclusion within the British Mandate was essential for the establishment of the Jewish National Home, and it was in deference to the claim so motivated that France eventually ceded Galilee to British Mandatory rule. If all the derelict areas of mountainous Galilee were reclaimed and properly cultivated, the territory could be made to support a far larger population. For this reason, and also for historical reasons, the Royal Commission in 1937 advocated its inclusion in the Jewish State. The effect of Paragraph 7 of His Majesty's Government's new proposals would be to close that area to new Jewish settlement.

(ii) The Negev: This area, comprising the Beersheba sub-district, is sparsely inhabited and almost entirely derelict. The effect of the Government's proposals would be to deny the Jews access to the largest undeveloped and underpopulated tract of land in the country, and thus to perpetuate the stagnation in which it has lain for centuries past.

#### C. Constitution and Statehood:

12. The memorandum envisages a trusteeship period of five years during which the provisions of the Mandate relative to Jewish immigration and land settlement would be superseded by the restrictive and discriminatory enactments of paragraphs 7 and 11. After five years, the intention is to confer independence on Palestine as a unitary State. Thus, when the Jewish population reaches some 700,000 to 800,000, it would come under the domination of the Arab majority, whereupon Jewish immigration would cease.

13. The Executive of the Jewish Agency can in no way agree that this measure is in accordance either with the purpose or the provisions of the Mandate. A clear and purposeful distinction was made between the constitutional principles of the Palestine Mandate and those of other Mandates of the same category. Thus, Article 1 of the Mandate for Syria and the Lebanon reads:



"The Mandatory shall frame, within a period of three years from the coming into force of this Mandate, an organic law for Syria and the Lebanon ....

"The Mandatory shall ..... enact measures to facilitate the progressive development of Syria and the Lebanon as independent States ....."

The Draft Mandate for Mesopotamia, as submitted by Mr. Balfour on December 7th, 1920, to the Secretariat-General of the League of Nations for the approval of the Council of the League of Nations, reads as follows:

"Article 1. The Mandatory will frame ..... an organic Law for Mesopotamia .... It shall contain provisions designed to facilitate the progressive development of Mesopotamia as an independent State ...."

It will be observed that instead of the term "independent State" used here, the Palestine Mandate provided only for the development of "self-governing institutions". This careful distinction is clear evidence that the primary purpose of the Palestine Mandate was not the establishment of an independent State but, as emphasized by the Royal Commission, the establishment of a Jewish National Home.

The Balfour Declaration which was embodied in the Mandate safeguards the civil and religious rights of the non-Jewish communities. Had a minority position been envisaged for the Jews, it is their rights and not those of the Arabs which would have required such safeguards.

14. To condemn the Jewish National Home to the position of a permanent minority would not merely be contrary to the clear intention of the Mandate; the denial of statehood and independence to the Jewish people even in its homeland would constitute a grave historic injustice. On the other hand, if the Arabs of Palestine found themselves in a minority, their position would not similarly affect the Arab people as a whole, since it enjoys independence and sovereignty in a number of countries covering an area vastly greater than Palestine.

15. Paragraph 12 of the memorandum, which provides for the supersession of the Jewish Agency by the Jewish members of the Advisory Council in all communications with the Mandatory Administration, is repugnant to the Mandate, which in Article 4 recognizes the Jewish people as a whole, and not only the Jews of Palestine, as a partner in the establishment of the Jewish National Home.



16. For all these reasons, the Jewish Agency cannot accept the proposals contained in the memorandum as a basis for further discussion and will find itself constrained to oppose the conclusion of the trusteeship agreement envisaged in the memorandum.

17. While unable to negotiate on the basis of these proposals, the Jewish Agency on its part made, in the course of the recent discussions, the following alternative suggestions for the solution of the problem:

(a) That, in accordance with the original intentions of the Balfour Declaration and the Mandate, large-scale Jewish immigration and settlement should be effected, with the result that Palestine would become a Jewish State, i.e. a free democratic State with a Jewish majority, in which all citizens, irrespective of race or creed, would enjoy complete equality of rights with all proper safeguards for religious, cultural and linguistic needs.

(b) That if, for any reason, His Majesty's Government is not prepared at this stage to adopt a decision as to the ultimate status of Palestine and would prefer for the time being to continue the mandatory regime, the Jewish Agency would urge that the execution of the Mandate should be true to its letter and spirit, viz. that Jewish immigration be regulated up to the full extent of the country's economic absorptive capacity, that close settlement of Jews on the land be encouraged, and that no part of the country be closed to Jewish land purchase and settlement. The Jewish Agency would then also urge the promotion and development of municipal self-government and education autonomy, and the establishment of functional boards for industrial relations, trade and industry, public health, etc.

+ (c) That, in the event of a final settlement being required immediately, the Jewish Agency would be ready, as stated by the Executive in its letter to His Majesty's Government of August 16th, 1946, and again in the recent talks, to consider a compromise scheme for the setting up of a "viable Jewish State in an adequate area of Palestine". If the proposed State would, on examination, be found viable and its area adequate, the Executive would recommend the acceptance of the scheme. The State should have complete control over immigration and development and be represented in the United Nations. Such a State, too, would be based on complete equality for all citizens with the necessary safeguards for religious, cultural and linguistic needs.

18. The Executive of the Jewish Agency regrets to state that all these suggestions were rejected by the British Delegation.



19. So long as a satisfactory agreement on the future of Palestine is not reached, the Jewish Agency is bound to maintain the rights of the Jewish people to return to its historic homeland and reconstitute there its National Home, to the full extent envisaged in the Balfour Declaration and the Mandate.

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London,  
13. 2. 1947.

