

## Will America's Energy Policy Makers Learn the Tragic Lessons of Jewish History From 2000 Years Ago?

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Since taking office on January 20, President Joseph Biden has taken direct aim at the fossil fuel industry. By Executive Order, Biden already has placed a moratorium on issuing new oil and gas drilling permits on federal land, and he has canceled permits needed to complete the Keystone XL Pipeline. These likely are only first steps.

The question is how far will the President go in acting against the industry? Despite repeating endlessly that he would not ban "fracking" during the Presidential election campaign, many believe Biden intends to do just that. Such a move would have enormous consequences in terms of national energy production, self-sufficiency, and security – both economic and military.

Biden started implementing his "Green" Agenda on his first day in office. One of his first acts was to rejoin the Paris Climate Accords. This pleased the Progressive wing of the Democratic Party. However, the President's initial moves won't go nearly far enough for those who insist upon the "Green New Deal."

President Biden needs to remember, however, that all of his decisions come with a price. Winter still has six more weeks to go and the Coronavirus continues to rage out of control - so much so that Biden himself has said nothing can change the trajectory of its spread. Now, we are worried about mutation variants causing yet another wave of illness.

There is no doubt that it will take enormous amounts of energy just to fight COVID-19. It's not an exaggeration to say that President Biden's energy policies may determine how the United States gets through these next few weeks and months. Environmental extremists want fossil fuel use eliminated in the short term. Moderates will accept a phased implementation of "renewable energy" projects, but they also want to see fossil fuel use ended, or at least limited substantially.

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The goals of producing a cleaner world and fighting climate change certainly are vital, but the new President must take care not to make things worse unintentionally. Taking office during one of the most tumultuous times in the post-World War II era, President Biden must ensure that his decisions strengthen both the country and the environment. He would be wise to appreciate that, throughout history, those trying to do great things sometimes produce bad results, at times bordering on catastrophic.

If those who refuse to learn from history are doomed to repeat it, a lesson from Jewish history from shortly after the time of Jesus is instructive. While the story may be apocryphal, and many respected Jewish historians and academics cast doubt on its authenticity, it illustrates how good intentions, bereft of political reality, can produce disastrous results.

The leading actors were two of the greatest Jewish sages of all time, one widely remembered and one largely forgotten. The first, Rabbi Akiba, remains to this day a towering presence of Jewish scholarship and wisdom. The second, Rabbi Yochanan Ben Zakkai, is not nearly as remembered. He should be. In fact, Yochanan Ben Zakkai may be the most important Jewish figure of the last 2,500 years. It was his pragmatism and spiritual insight that established the foundation of modern Jewish practice, which in turn enabled the Jewish people to survive nearly 2,000 years in exile.

Contrarily, for all of Akiba's brilliant religious scholarship, the story which has been passed down the generations claims that his political recklessness and extremism almost destroyed the Jewish nation. While President Biden's energy choices are not so stark, he might study the choices supposedly made by each great sage, as well as their consequences.

Prior to the Holocaust, the greatest tragedy in Jewish history was the Great Revolt against the Romans, which occurred from 66-73 AD. There are many theories as to what caused the Great Revolt, but whatever the actual reasons the fighting was brutal.

Roman Emperor Nero ordered his General Vespasian to destroy the rebellion, and dispatched four military Legions to do so. Systematically, the Romans regained control over most of Judea (roughly modern day Israel). Near the end of the fighting, they sought the surrender of and laid siege to Jerusalem. As occurs so often in Jewish history, the nation was riven with factions. At times the Jewish fighters cared more about preventing other Jews from gaining political advantage than in fighting the besieging Romans. This is where the story, known in Jewish parlance as a "Midrash" (roughly a commentary on Jewish scripture and history), begins. With the Romans at the gates of Jerusalem, Yochanan Ben Zakkai, the leader of one of the groups called the Pharisees, managed to smuggle himself out of the besieged city and meet face to face with Vespasian. As they met, word came from Rome that Nero had died and that Vespasian would become Emperor. Remarkably, Vespasian took a liking to Ben Zakkai. The Roman told the Jew that while it was awfully late for negotiations, he would grant Ben Zakkai whatever the Jewish leader requested, within reason.

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Despite an almost blank check, Ben Zakkai asked for precious little. Basically, he requested only that following the Roman conquest, Ben Zakkai be allowed to continue to teach Jewish laws, traditions, and practice, and that Ben Zakkai be permitted to establish a center for continued Jewish learning. Vespasian agreed.

The aftermath of the Great Revolt was appalling. Much of the land of Judea was laid to waste. Jews were captured and disbursed as slaves around the Roman Empire. The Holy Temple was destroyed. Ben Zakkai, however, spearheaded the reshaping of the Jewish religion from one centered on the Holy Temple in Jerusalem to one centered on the individual Jewish home, wherever it is.

Two generations after the Great Revolt, the remnants of the Judean Jewish community again rose up against the Romans. This time they were led by a charismatic figure named Simon Bar Kochba. He convinced much of the country that he in fact was the Messiah who would lead the Jews and throw out the Romans.

At this time, sixty years after the Great Revolt, it was Akiba who was considered the religious head of much of the Jewish community. According to the Midrash, Akiba respected Ben Zakkai for his knowledge but was contemptuous of what Akiba considered to be Ben Zakkai's timidity, especially when given the opportunity to influence Vespasian. Akiba could not understand why Ben Zakkai had asked for so little.

Unlike the cautious Ben Zakkai, Akiba did not try to moderate the Jewish factions. Instead, despite overwhelming Roman military superiority, Akiba threw his enormous prestige behind the rebellion. The "Bar Kochba Revolt" began in 132 AD. If anything, this war was even more horrific than its predecessor. At one point, over half of Rome's military strength was deployed in Judea.

Stunningly, Bar Kochba initially succeeded. He restored Jewish hegemony over much of Judea and proclaimed himself a "Nasi", or prince. That success was fleeting. Roman Emperor Hadrian assembled a military force of six full Legions and six partial Legions and sent them to Judea. The Romans crushed the rebellion. It is estimated that over 500,000 Jews died from 132-136 AD.

Enraged by the magnitude of the Bar Kochba Revolt, Hadrian determined to wipe Judea off the map. He renamed the area "Syria Palestine" and he barred Jews entirely from Jerusalem. Hadrian banned Jewish Torah law and the use of the Hebrew calendar. He disbursed much of the remaining Jewish population, burned the sacred scrolls and brutally suppressed Jewish religious identity and practice. Many Jewish historians consider the aftermath of the Bar Kochba Revolt to be the beginning of the Jewish exile from the land of Israel. As for Akiba, together with many great Jewish sages he was captured by the Romans, wrapped in the sacred Torah scrolls and burned alive.

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2,000 years later, Akiba's insights into Torah and other aspects of Jewish life continue to be studied and marveled at. Every year during the afternoon of Yom Kippur, Jews the world over recite a service known as the "Martyrology," in which we remember those throughout history who have given their lives in sanctification of God's holy name. It is, unfortunately, a very long list.

Akiba's story is featured prominently in the Martyrology. While little discussed, the question that must be asked is if the Midrash is true, for how much of this suffering can Akiba be held responsible? Despite his towering intellect, Akiba would have used his commanding presence to back a reckless military revolt that produced utter devastation.

Ben Zakkai's story is not read during the Martyrology. His legacy is different. By acting practically and reorienting Jewish practice in the home, he helped sustain the Jewish people.

In 2020, the United States faces similar issues of pragmatism versus extremism. Within the energy context, some pushing President Biden leftward claim that unless nearly all fossil fuel use ends within twelve years, the Earth's climate will be damaged irreparably. Despite limited scientific support, this school of thought has succeeded in delaying or killing much oil and gas pipeline infrastructure construction, halting oil and gas development on Federal land, and getting building codes passed in cities like San Francisco and Seattle forbidding the use of natural gas in new structures.

We all desire a cleaner, more sustainable world. It is widely accepted now that developing "greener" sources of energy and using energy more efficiently is vital for our planet and ourselves. The question is how do we do this, and according to what calendar? Ironically, despite the obvious divisions in our nation, there is overwhelming support for the same goal, but according to very different demands, expectations, and time frames.

The context in which this debate should take place, but usually doesn't, is that despite claims to the contrary, there currently is no scientifically-proven way to generate sufficient "renewable" energy to power our world, store that energy, and transport it to where it needs to go when it needs to get there. Despite this, like Akiba of the Midrash, many today demand we plunge forward into the maelstrom of energy extremism without a clear understanding of the real world ramifications.

Fortunately, we have a test case. In 2010, Germany embarked on an ambitious project called "Energiewende" (roughly "energy transformation"). The basic concept was to cease approving any new energy project in Germany that was not from renewable sources and to otherwise incentivize "Green" energy development.

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A decade after it began, it would be hard to call the German program a success. Germany's carbon emissions have decreased in recent years (although much is due to the Coronavirus slowdown and in some cases over the last decade Germany's carbon emissions actually increased). However, the program actually made Germany more reliant on natural gas than before. In so doing it has made Germany more dependent on Russian natural gas, so much so that the two countries are building a controversial pipeline called "Nord Stream 2" in the Baltic Sea. Aside from the environmental questions about building another gas pipeline in this international waterway, Nord Stream 2 ties Germany more to Russia both economically and politically. It also increases German demand for Russian natural gas.

Not surprisingly, Russia drills for natural gas in the environmentally-sensitive Arctic region. Russian gas drilling uses few if any environmental safeguards, thereby further contributing to world environmental damage. In truth, it can be argued that Germany's well-intentioned "Energiewende" has produced the opposite of what it intended.

None of this is to say that we shouldn't make cleaner energy a priority. We should. The United States should ramp up renewable energy programs, improve our energy conveyance and storage infrastructure to help make cleaner energy more efficient and better able to get from the point of generation to the point of consumption, continue research into cleaner types of energy, and retain if not strengthen incentive programs for solar, wind, and other renewable forms of energy (full disclosure, much of my energy law practice centers around solar and wind energy). We also should search for and encourage other ways to clean our environment. However, we must clearly evaluate and intelligently plan the steps we take. We must be mindful that, like "Energiewende", those actions can have the opposite effect if we are not careful.

Let's use the Paris Climate Accords as an example and focus on China. China is the world's largest producer of greenhouse gasses. Its emissions exceed those of the United States and the European Union combined. According to China's national commitment to the Paris Climate Accords, until 2030 China can continue to increase its CO2 emissions at its current rate.. Thus, not only will the Paris Climate Accords not produce drastic climate improvement within the next twelve years, they will not even prevent the world's largest emitter of CO2 from increasing its emissions.

During the recent Presidential campaign, then candidate Biden often said that former President Trump's "America First" approach was isolating the United States. President Biden's termination of the permits needed to finish construction of the Keystone XL pipeline also isolates us. The Keystone XL Pipeline is owned partially by the government of the Canadian Province of Alberta. Coming soon after the State of Michigan rejected permits for Enbridge's Line 5 Pipeline, our relations with our largest trading partner are frayed.

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This attack on infrastructure construction also portends dire consequences. During the polar vortex in 2018, New York and New England were forced to import natural gas from Russia. This was the case despite the fact that an immense supply of natural gas was (and still is) available four hours away in Northeastern Pennsylvania. Due to the fight against natural gas pipelines, gas produced in Pennsylvania has been left with no way to reach New York City. Astoundingly, New York called on Vladimir Putin's allies for help importing the very same fossil fuel that it snubbed from neighboring Pennsylvania.

That American natural gas could not be moved only a few hundred miles from Pennsylvania to New York shows we are sacrificing our economic, political and, yes, environmental interests in order to chase an environmental ideal. This is thoroughly foolish, irrational, and downright dangerous. It amounts almost to unilateral surrender of our own environmental, political and military security. But even that may not be the worst of it.

Nearly a full year after this country first felt the scourge of the Coronavirus, we are nowhere near its end. Almost all of the Personal Protective Equipment used by our front line responders, and much of the equipment in Intensive Care Units, is made with fossil fuels. Were we to ban the use of fossil fuels, we would forfeit our front line personnel's safety and security and make it nearly impossible to fight the virus, all in the name of environmental idealism.

None of this makes sense. Much is based on wishful thinking. The buck stops with President Biden. Perhaps like the Akiba of the Midrash, he may choose to be remembered for his environmental purity and idealism. Were he to do so, however, it likely will be within the context of a future "Martyrology" lamenting the unilateral and unnecessary weakening of American resolve and security in the face of assertive foreign entities and a frightening pandemic. Wiser would be the path of Ben Zakkai, who was disparaged by fellow sages, but who preserved what was available to him and strengthened its foundation to the point – like we hope with the United States – where it would survive and flourish for two millennia.

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#### **ATTORNEYS MENTIONED**

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