

From Coexistence to Conquest. International Law and the Origins of the Arab-Israeli Conflict, 1891-1949. By VICTOR KATTAN, London, Pluto Press, 2009. 416 & xxxi pp. £90.00 (Hardback), £29.95 (Paperback).

There is a vast literature dealing with the Arab-Israeli conflict. The many questions of international law relevant to the conflict have been analysed and critiqued in numerous books and articles. One might wonder whether it is possible to say anything new about these issues, particularly when focusing not on the conflict as it currently stands but, rather, on the origins of the conflict between 1891 and 1949. However, in this book, Victor Kattan manages not only to cast new light on 'accepted truths' but also to do so in a way that is both informative and, ultimately, very challenging.

It should be stated from the outset that Kattan is the son of a Palestinian father and British mother. The main title of the book '*From Coexistence to Conquest*' suggests that the book is intended to be a reappraisal of the 'article of faith amongst some international lawyers that Israel's conduct during the 1948 conflict was defensive' (174). However, while the stance of the author is undoubtedly pro-Palestinian, the narrative is essentially balanced and the material is presented in a way that allows the reader to make his or her own assessment of the evidence. Furthermore, the work is as much about the role and function of international law in the context of the conflict as it is about the conflict itself. To that extent, Kattan's work seeks in part to answer the question about the extent to which international law can be considered as 'an illegitimate and immoral tool that is intimately associated with Western power, culture and imperialism' or as a civilising process focussed on humanitarian ideals and sacred trust, and which is essentially let down by its lack of enforcement (4). In support of the latter position, Kattan argues that 'from a strictly positivist perspective... it is apparent that in nurturing the development of a Jewish national home in Palestine the colonial powers departed from the very rules they freely consented to and helped to develop' (4). These rules include those on self-determination (Chapter 5), the norm of territorial integrity and the acquisition of title to territory (Chapters 6 & 9), *jus ad bellum* and *jus in bello* (Chapter 7) and questions of the treatment of refugees as well as human rights more generally (Chapter 8), all of which are considered and addressed in the book in a clear and comprehensive manner. In assessing and analysing these principles of international law as they existed in 1948, Kattan asserts that 'the creation of a Jewish state in Palestine in 1948-49 was arguably as much of an anachronism then, as it would be if it were created today.' (5) Ultimately, for Kattan, the origins of the conflict can be put down in part to the limits of international law in the face of the domestic politics of the Great Powers and the failure of states, not least, Great Britain, to act both in accordance with international law and in the interests of all of the inhabitants of Palestine.

Beginning with the first Zionist Conference in Basel in 1897 and looking principally at British attitudes to Jews, as well as to the problem of immigration, in his first substantive chapter, Kattan develops an analysis of the links between Ant-Semitism, Colonialism and Zionism asserting that 'the anti-Semites were always very sympathetic to Zionism' (15) This analysis is convincingly developed through reference to a wide range of political and contemporary sources. However, in this first chapter reference to international law is rather limited, making the conclusion that 'international law was integral to the Zionist movement, which was inherently linked to European colonialism, British imperialism and Western capitalism as well as European notions of nationalism, self-determination and anti-Semitism' (36) rather unsubstantiated at this stage in the work. However as the

book progresses, the focus on international law becomes more apparent, while still inter-mixed with discussion of the socio-political context of that law.

Chapter 2 of the book focuses on key legal documents including Article 22 of the League of Nations Covenant (dealing with the establishment of Mandates), the Balfour Declaration and the Mandate for Palestine itself. In this part of his analysis Kattan highlights what are essentially the two cornerstones of his study. First, in none of these documents, particularly the Balfour Declaration, was the idea of the creation of a Jewish state in Palestine apparent. Kattan repeatedly makes the point that 'a Jewish national home' as promised in the Balfour Declaration, meant something less than the establishment of a Jewish state. It is difficult on the basis of the material presented to disagree with this assertion. The other key element of Kattan's analysis concerns the treatment of the indigenous and largely non-Jewish population of Palestine. Thus, the Mandate of Palestine, which was to put into effect the Balfour Declaration, and which provided for 'the establishment in Palestine of a national home for the Jewish people', clearly stated that 'nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine' (42). A further 'legal' framework is discussed in the form of the Hussein-McMahon Correspondence from 1915 (Chapter 4) which purported to pledge Palestine as Arab and independent. In a rather laboured analysis, Kattan seeks to assert the legal validity of this correspondence as a form of secret treaty that was subsequently ignored by the British government. Whether or not this was in fact the case, Kattan concludes that these 'conflicting pledges' identify what is at the heart of the problem in the post-First World War settlement, that is 'the question of self-determination and how the national aspirations of the Palestinian Arabs and the Zionists could be accommodated in a single Palestinian state' (116).

As is highlighted above, the remaining chapters of the book seek to analyse these and other questions of international law. The work is coherent, detailed and well-documented. The most compelling and, at times, disturbing part of this analysis comes in Chapter 7 on the 'Arab-Israeli Conflict' which focuses on 'the armed conflict between Palestine's Jewish-settler community, its indigenous Arab population and the wider Arab world that confronted the United Nations in the late 1940s' (169). Kattan's assertion that 'international lawyers have tended to overlook this conflict', which was also 'glossed over' by the International Court of Justice 'in its historical description in its *Wall* advisory opinion', (169) is persuasive and leads on to a detailed analysis of that conflict and, in particular, a number of massacres of Arabs at *inter alia* Deir Yassin, Lydda, Safsaf and Dawaymeh, that were carried out by the militant Irgun and Lehi groups and apparently endorsed by the Haganah, a 'Jewish paramilitary organisation that later became the Israeli Army (the Israeli Defence Force)' (397). Kattan's analysis of these massacres and the application of the laws of war thereto is thoughtful and comprehensive. These attacks, and the general attitude of the Zionist leadership, it is asserted by Kattan, led to the exodus of Arabs from Palestine. The question of the treatment of these refugees and their right of return to Palestine is considered at length in Chapter 8 of the book.

What comes through from Kattan's analysis is the duplicity, deliberate or otherwise, of the Great Powers, most especially of Great Britain, and the failure of international law to avoid or at least mitigate the conflict, either through deliberate misapplication of the law or through the subjugation of international law to the realities of domestic politics. The book successfully throws new light onto the origins of the conflict and presents a new lens through which to consider the conflict. From the perspective of this reviewer, the book is also very current. Questions of self-determination, the conduct of hostilities, human rights and the protection of refugees and displaced persons have not gone away and

loom large in current debates concerning, *inter alia*, Libya, Syria and the so-called Arab Spring. This well-written and eminently readable book presents an authoritative and compelling account of both the potential for, and the limits of, international law in dealing with such conflicts.

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