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## REVIEWS AND NOTES

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### LAW AND THE ARAB-ISRAELI CONFLICT IN GLOBAL PERSPECTIVE

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**Review of Zipperstein, Steven E. *Law and the Arab–Israeli Conflict: The Trials of Palestine*. London: Routledge, 2020. 396 pages – 37 B/W Illustrations. ISBN 9780367435080**

The Arab–Israeli conflict has been the focus of many research works in the past. However, the book under review differs from other publications since it handles the conflict from a legal perspective. The book does not make attempts to take somebody's side or to demonstrate who is right and who is wrong; and it tries to analyse the legal bases which both parties used with the British authorities to prove their claims. The book is written by Steve Zipperstein who has 35 years' experience of work in a legal field in the US, including performance of the role of public prosecutor.

The book relies on primary sources to insure objectivity. It presents abundant references and documents that the author employs in his analysis given the intricacy of the subject. The author makes extra efforts to preserve objectivity. One might wonder what is the value of such an addition to the literature other than filling a gap in research. The book can help us make out how the conflict started and how it evolved. Besides, it is also important to define similarities between then and now. In earlier days, the Arabs were the majority in historic Palestine and had the upper hand. The Jews then resorted to law to make their case. Today, it is the other way around since the Palestinians are in a weaker position and use law to make their case with the international community. In 2016, the UN Security Council adopted resolution 2334 declaring the settlement activity as a flagrant violation of international law. In 2015, the International criminal court charged Israel with military and civil violation in West Bank and Gaza. Petitioning between the Arabs and the Jews around sacred places started long before the partition and long before the British mandate. It started with the Ottomans and revolved around the Wailing Wall and the rights and concerns pertaining to the land purchased by Jewish immigrants. Going back in time helps scholars who are focused on the conflict to observe how the argument developed over time.

After taking the mandate over Palestine, the British wanted to preserve the status quo that had existed during the Ottoman period. The British, like any superpower, tried

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to juggle the claims of its different allies and keep the balance without really solving a problem. The book documents well the confusion created by the British, who purposely gave vague promises in order to keep its different partner pleased. On the one hand, it wanted to please the Arabs whose help was needed to defeat the Ottomans, and on the other hand, they wanted to please the Zionists in Europe and England who were important financial donors and who fought with the British, especially the American and Russian Jews. Two communications were going almost concurrently. The first one was between Sharif Hussein Bin Ali of Mecca and Lieutenant Colonel Si Henry McMahon, the British High commissioner of Egypt; the second one was held between Arthur Balfour and Lord Lionel Walter Rothchild. The communications that were conducted from July 1915 to March 1916 promised an independent Arab state to the Arabs if they rebelled against the Ottomans. Sharif Hussein wanted an independent state for the Arab 'race.' The author of the reviewed book describes McMahon's definition of the borders, given in correspondence, as 'ambiguous.' The author skillfully describes how the British dodged Sharif Hussain's questions and demands on the boundaries of the promised Arab state. The British needed the Arabs while the latter were also courted by Germany. Hence, the British did their best to humor Sharif Hussain without locking themselves in a firm commitment. One of the loopholes introduced by the British, for example, is the clause written in the 24 October correspondence saying that 'Great Britain would recognize the principal of the Arab independence in a purely Arab territory.' There is no 'purely Arab territory' except for the Arab peninsula. Mesopotamia, Palestine and Syria that Sharif Hussein had claimed as a part of the Arab state had minorities. Another clause concerned France. The correspondence said that 'Britain was not free to act without the detriment of her ally France.' In addition, a lot of the substance was lost in translation. Another factor that helped the British to mislead Sharif was the terminology used. Palestine was divided between two Wilayats which means Turkish district or province. The Ottoman Empire was divided into Sunjuks and Wilayats. This did not match with the terminology used by the British. After the war the British also contested the communication saying that the letters were not a treaty as Sharif Hussein was not the head of a state whereas the Arabs considered them as a treaty. The Sykes Picot treaty was considered by the Arabs as a breach of 'trust.' At the same time the 67 words' Balfour declaration was vague and did not really devise a *modus operandi* for the relation between the Arabs and the Jews. It promoted a 'buffer Jewish state' and established the 'Jewish national homeland' in Palestine. The promise mentioned vaguely the rights of existing people without mentioning the Arabs. Was the Balfour promise insinuating at treating them as a minority? Shortly after the Balfour declaration and the Hussein–McMahon exchanges came Wilson's principle of 'self-determination.' All those contradicting claims created confusion on both the Arab and the Jewish side while Britain was trying to juggle the Arab, Jewish, and French interests and claims. The reviewed book skillfully goes into details of the terminology and events that led to the confusion. And then the book goes to describe three trials: The Lofgren commission, The Shaw commission and the Peel commission. The trials conducted during the British mandate focused around the claims to the Wailing Wall and the legality of the Balfour declaration as well as the Arabs' rights to Palestine. They ended up in the formulation of the idea of

the two-state division of historic Palestine. In addition to meticulous description of the trials, Zipperstein thoroughly explains the background and the aspirations of the two people, as well as the circumstances and confusion surrounding the situation.

The most important part of the book is its unwritten message. It is the contemplation that it instigates in the reader when looking at how the conflict started after the WWI and how it developed. The conflict resulted in millions of Palestinian refugees who even today have not any legal status. It is about a struggle for the statehood. It is about people, who despite being acknowledged by the United Nations have always had a country in their neighborhood who called for their annihilation. Though it has mostly been propaganda and no country has taken a serious effort to do so, those calls have affected the Israeli perception and approach to the conflict.

The Arab–Israeli conflict or Israeli–Palestinian conflict was one of the most complicated if not the most complicated issue of the twentieth century. Though one cannot go back in time and rectify the mistakes of the past. The problems around the Wailing Wall and the two peoples' claims to the land unresolved over a hundred years kept on aggravating. The conflict morphed into a regional problem. The issue of Palestine has been the basis for several ideologies that were adopted by countries in the region.

In addition to its academic value, through revisiting claims of the past the book can help create reconciliation between the Israeli Jews and the Palestinians. The claims of the two peoples have changed as the author of the book notes. Bringing the issue back to its origin which was smaller in scope and much less complicated will not solve the issue today. The issue evolved beyond its initial problematic. Now it involves refugees, the states' security and unrealized statehood. Nevertheless, finding a solution to the original claims can create a kind of common ground for the two parties to start a fruitful dialogue. The reviewed book can create a base for some rapprochement between Palestinians and Israelis. The 1928 white paper by the British said that the Wailing Wall issue developed from a religious issue into political and racial one. Actually, later on it developed to the prime regional issue that defined the Arab nationalism and pan-Islamism. Nasser's nationalism was based on liberating Palestine. Khomeini's Islamic Revolution took a pan-Islamic aspect by vowing to liberate Palestine. The most important branch of the revolutionary guard is called the Quds Brigade (Quds means Jerusalem in Arabic).

Another conflict, which similar to the Palestinian–Arab conflict exceeded its original dimensions, is the Syrian conflict. The struggle that started as a popular demand for justice, democracy and freedom became a gruesome proxy war. It became a playing field for superpowers to flex their muscle and mark their territory in the world affairs. Russia that lost its leverage in global politics with the collapse of Soviet Union found in Syria an opportunity to define itself as an important player in the global affairs. Its presence and role in Syria showed countries in the region that it is the power to reckon with. Iran found in Syria an opportunity for expanding its influence in the Levant. The dynamics of the uprising changed. The demands that were about dignity got infiltrated by extremist groups. The discontent and grievances created a fertile soil for the ISIS to start its project for a caliphate. The snowballing of the Syria problem somehow has similarities with the snowballing of Palestine problem. We can also draw on the similarities

between the British and the Americans. The British at the time wanted to please different factions: they wanted to please the Zionist Jew in England who were important financial contributors and at the same time wanted to please the local population mostly composed of the Palestinians Arabs. They tried to manage the problem and not to solve it in order not to take a bold decision that can put them at odds with any party. That is why all their promises correspondence had ambiguity. The ambiguity was intended to give the British the flexibility to maneuver and a potential exit from any problem they might face. This is very similar to the attitude of Obama who facing the Arab spring had a hand off approach. That is an attitude of being above everything and responsible for nothing. When the Syrian protest erupted, he called for Assad to leave but made no effort to impose on him a departure. The ambiguity in the position led to more people defecting without any help. The void was filled by extremist and things went downhill from there. Similarly, when the British gave the Zionist the Balfour promise it had the very vague premise of preserving the rights of the peoples. However, the British did not clarify what does that mean and what is the limit of how can the Jews settle, create a national homeland without infringing on the rights of the peoples inhabiting the region. The position taken by the British where they pitted Arab Nationalism against Zionism and took a step back while they were the party in charge and could have enforced a solution, is very similar to the US current position when they step in only if their interest are threatened while trying to keep the balance between the two parties instead of finding a solution to a problem.

The Arab–Israeli problem and its handling by the British shows the importance of multilateral organization like the UN in solving problem not only by issuing a resolution but by enforcing them. If different states delegate problems to the UN it will be easier to find solutions than if countries have a unilateral approach towards them. The more countries adhere to multilateralism, the less conflicts we will have in the world and the more likely conflicts will be solved swiftly. Given the global implications of conflicts all nations have interest in solving it using diplomacy based on recognized principles of international law including precedents from other disputes around the world.

Despite the fact that the Arab–Israeli conflict is regional in nature, it implicates the global legal, political and security issues. The conflict has had an implication in the US standing in the Arab and Muslim world as it is considered as supporting Israel in subjugating the Palestinians. In many instances including the latest annexation episode the US has been at odds with its European allies regarding Palestine. The grievances of the Palestinians have given impetus to global terrorism. Bin Laden following the 9/11 events mentioned Palestine as a reason for revenging the USA. Legally, the repercussions have been global. The instances are numerous and among others include the Palestinian authority efforts to get the recognition of different UN organization, like, for example, the UNESCO. In 2004, the international Court of Justice applied international human rights and human law in its landmark 2004 ruling, declaring that the separation wall is illegal.

The drawback of the reviewed book is that it is too academic. It will be difficult for a general reader to stay focused on it. However, for the sake of objectivity the author had to follow a thorough scientific method and to bring in details and documents. This

might come across as boring for the general reader; however, it gives the book objectivity and credibility. Therefore, writing another version would be good but would be a difficult and tricky endeavor: keeping the objectivity of the book and the thoroughness of the research involved while presenting the reader with easy to read material.

The book should be read by scholars interested in the Middle Eastern affairs, by students, most importantly it should be read by both Palestinians and Israeli activists as well as by state people and politicians. It will help them reflect and define why they got here and what do they really have against each other. This is why it is recommended – though it is a difficult task – that the author publishes another version which would be simplified and shortened for the general reader and not targeted to academic community.