of diplomats, and tables of organization of the Foreign Office at critical times.

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From Coexistence to Conquest: International Law and the Origins of the Arab-Israeli Conflict, 1891–1949. By Victor Kattan. London, New York: Pluto Press, 2009. Pp. xxxi, 416. Index. $54.95.

Victor Kattan has written an engaging legal history of the origins of the Palestinian-Israeli conflict. Kattan, an international law tutor at the University of London's School of Oriental and African Studies, argues the Palestinian side of the historical case in a lawyerly style. Indeed, as the subtitle indicates, the focus here is squarely on public international law.

The timeline for Kattan's book begins in 1891 because "this was when the first protest against Jewish immigration into Palestine was recorded" (p. xviii). Sensibly, he does not devote much space to ancient claims of title to Palestine. As he says, "[I]nternational lawyers are interested in finding out who has sovereignty over the territory at the critical date, which is usually based on effective occupation and longevity of control over it" (p. 2). Both sides claim that their ancestors have inhabited the region from the beginning of time, but neither side can claim that it has enjoyed unbroken "longevity of control" since then. For example, Jewish kingdoms existed in ancient Palestine, but they vanished millennia ago.

The first chapter of the book argues that three major factors contributed to the creation of the Jewish state: anti-Semitism, colonialism, and Zionism (p. 8). Kattan traces the history of anti-Semitism over the past millennium, from the expulsion of Jews from England in the thirteenth century through the Nazi regime and the Holocaust (pp. 9–15). He then develops an argument that anti-Semitism and Zionism were "intricately linked" (p. 21) in that "Zionism's 'dark side' is that it was the twin of anti-Semitism" (p. 10). For example, Kattan emphasizes Nazi Germany's efforts to induce Jewish emigration from Germany to Palestine in the mid-1930s (pp. 11–14). He writes:

> Indeed, today, it is all too often overlooked that Hitler . . . supported the policy of encouraging the Jews to immigrate to Palestine for almost a decade prior to the Final Solution. Indeed, once in power, he probably did more than anyone else to encourage Zionism and the largest influx of Jewish immigrants into Palestine (1932–36) occurred when he was the Fuehrer of the Third Reich . . . ." (P. 11)

It seems like an overstatement to suggest that Hitler's emigration policy is "all too often overlooked," especially in light of recent scholarship exploring in detail the Third Reich's evolving posture on Jewish emigration in the mid-1930s.[1] More to the point, Hitler was hardly a supporter of Zionism. In *Mein Kampf*, for example, he wrote:

> It doesn't even enter their heads to build up a Jewish state in Palestine for the purpose of living there; all they want is a central organization for their international world swindle, endowed with its sovereign right and removed from the intervention of other states: a haven for convicted scoundrels and a university for budding crooks.[2]

Of course, the Nazi regime induced Jewish immigration to Palestine, but that fact hardly undercuts the morality, legitimacy, or desirability of Zionism. Quite the opposite.

Kattan places great emphasis on the anti-Semitism of various British proponents of Zionism, such as Mark Sykes and Arthur Balfour, and on the anti-Zionism of prominent British Jews, such as Edwin Montagu. According to Kattan, Western-educated Jews like Montagu thought that "the anti-Semites were always very sympathetic to Zionism" (p. 15). "Always" seems like hyperbole:

[1] *See, e.g.*, FRANCIS R. NICOSIA, ZIONISM AND ANTI-SEMITISM IN NAZI GERMANY (2008); Pierre Birnbaum, *The French Radical Right: From Anti-Semitic Zionism to Anti-Semitic Anti-Zionism*, *in* ANTI-SEMITISM AND ANTI-ZIONISM IN HISTORICAL PERSPECTIVE: CONVERGENCE AND DIVERGENCE 145 (Jeffrey Herf ed., 2007).

[2] ADOLF HITLER, MEIN KAMPF 324–25 (Ralph Manheim trans., 1943), *quoted in* Kenneth L. Marcus, *Jurisprudence of the New Anti-Semitism*, 44 WAKE FOREST L. REV. 371, 398 n.197 (2009).

some anti-Semites were surely also anti-Zionists. Kattan points to exaggerated British government views about the power of international Jewry to shape events in revolutionary Russia, and he suggests that these fantasies helped build support for Zionism as a means of advancing British foreign policy aims. Kattan also asserts that the Balfour Declaration was partly motivated by an anti-Semitic impulse to encourage Jewish emigration from Britain. Theodor Herzl himself touted Zionism to the British government as a form of immigration control (pp. 28–29), but Herzl certainly had a broader vision of Zionism than that. And, as Kattan acknowledges, Balfour and others claimed noble "humanitarian" motives for their support for Zionism (pp. 18–19).

Kattan also believes that eventual British support for Zionism was inconsistent with international law. He points to the Hussein-McMahon correspondence—the exchange of letters between Hussein bin Ali, the sharif of Mecca, and Sir Henry McMahon, the British high commissioner in Cairo—between July 1915 and March 1916. The British had entered into negotiations with the sharif to secure Arab support for the Allied war effort against Turkey in exchange for promises of Arab independence in certain parts of the Middle East after the war. In the most-often-cited letter, dated October 24, 1915, McMahon pledged: "As for those regions lying within those frontiers wherein Great Britain is free to act without detriment to the interest of her ally, France," Britain was "prepared to recognise and support the independence of the Arabs in all the regions within the limits demanded by the Sherif of Mecca" (pp. 99–100). The regions demanded included all of Palestine. But McMahon added: "The two districts of Mersina and Alexandretta and portions of Syria lying to the west of the districts of Damascus, Homs, Hama and Aleppo cannot be said to be purely Arab, and should be excluded from the limits demanded" (p. 99).

The sharif interpreted this exclusion to cover only areas "west" of the stated "districts," meaning areas in what today is Lebanon. Kattan concurs. He says this exclusion makes sense in context, as McMahon presumably believed that Lebanon, with its substantial Christian population, was not "purely Arab" (pp. 107–08). Eventually, however, the British government and McMahon maintained that the proviso was also intended to exclude Palestine, which was not "purely Arab" and where Britain was not "free to act without detriment" to the interests of France (p. 99). Kattan is unpersuaded by McMahon's post-pledge protestations. He argues convincingly that what matters is what McMahon said, not what he later argued he meant (p. 108).

Kattan rejects other arguments, of varying plausibility, that McMahon did not legally bind Britain to grant Arabs independence in Palestine. Kattan is unmoved by arguments that the "district" of Damascus referred to the entire *vilayet* of Damascus, extending down to Aqaba, and thus that the area "west" of it included Palestine; that the Arabs failed to perform their side of the bargain with McMahon, as some Arabs in Palestine fought alongside the Turks against the British; that Hussein lacked the capacity to form international agreements; that the correspondence lacked the formality of a treaty; and that "independence" meant simply separation from the Ottoman Empire, not necessarily complete disassociation from some other colonial power (pp. 98–107).[3] Kattan likewise dismisses the most persuasive argument of all—that McMahon's pledges were so qualified and vague as not to amount to any legally binding promise at all.[4]

Kattan also says it is "arguable" that the infamous Sykes-Picot agreement of 1916, which envisioned an "international administration" of Palestine, was "not incompatible" with the Hussein-McMahon correspondence (p. 41). Kattan notes that the Sykes-Picot agreement called for consultation with the sharif of Mecca; to Kattan, this provision implies that Palestine was not excluded by McMahon's pledge. But the requirement of consultation, which extended to Russia and the Allies,

[3] *See* ISAIAH FRIEDMAN, PALESTINE, A TWICE-PROMISED LAND?: VOL. 1, THE BRITISH, THE ARABS & ZIONISM, at xxi–xxiii (2000). "The term 'independence' was merely a euphemism for supersession of Turkish rule by British and French in their respective spheres of influence." *Id.* at xxiii.

[4] *See, e.g.*, TIMOTHY J. PARIS, BRITAIN, THE HASHEMITES AND ARAB RULE 1920–1925: THE SHERIFIAN SOLUTION 32 (2003).

would have been sensible even if McMahon's pledge excluded Palestine, since the sharif—just like Russia and the Allies—had interests in the future of the region. And the most natural reading of the requirement of "international administration" is that Britain did not believe itself bound to grant full "independence" to Palestine, either because Palestine was excluded from McMahon's pledge or because "independence" was understood to mean a gradual transition to independence under an international trusteeship that accounted for the interests of various parties.

Kattan regards the Balfour Declaration of 1917 as inconsistent with the McMahon pledge and with the Sykes-Picot agreement, neither of which guaranteed a Jewish "national home" in Palestine (p. 42). He raises fair questions about whether the Balfour Declaration, standing alone, created any legally binding obligation. It is contained in a letter, not an agreement between international actors. Kattan acknowledges that unilateral promises can be binding in international law, but he asserts that such promises usually contain clearer evidence of intent to be bound (p. 58). But the Balfour Declaration did say that the British government "will use their best endeavours to facilitate the achievement" of a "national home," words that promise efforts, if not particular results (p. 42). A promise to use best efforts can have legal effect both in international law[5] and in municipal law.[6]

[5] The phrase "best endeavours" is occasionally found in international agreements. *See, e.g.*, Annex VI to the Protocol on Environmental Protection to the Antarctic Treaty, Art. 5(4), June 17, 2005, 45 ILM 5 (2006). However, the term "best efforts" appears to be more common. *See, e.g.*, Interim Agreement on the West Bank and the Gaza Strip, Art. 23(4)(b)(1), Sept. 28, 1995, Isr.-PLO, 36 ILM 551 (1997) (obliging each side to use "best efforts" to adopt legislation comporting with GATT-TRIPS). Either phrase can carry a legal obligation. *See, e.g.*, Marian Nash (Leich), Contemporary Practice of the United States, 88 AJIL 719, 739 (1994) (describing an arbitral award finding that "the United Kingdom had not fulfilled its 'best efforts' obligation" to ensure that airline user charges were reasonable). *Cf.* Carlos Manuel Vázquez, *The Four Doctrines of Self-Executing Treaties*, 89 AJIL 695, 713 (1995) ("Complying with an obligation to 'use our best efforts' . . . requires the consideration and balancing of numerous disparate demands on our resources to determine what the 'best' we can do under the circumstances is.").

The author goes on to critique the Balfour Declaration as an instrument of colonialism. He disputes the Zionists' claim to territorial sovereignty based on occupation (pp. 50–52). He sees inclusion of the Balfour Declaration in the Palestine Mandate as inconsistent with Article 22 of the Covenant of League of Nations, which envisioned trusteeships on behalf of "certain communities" that might be ready to form "independent nations" (p. 138). In Kattan's view, "communities" meant only those who actually lived in Palestine, not those who lacked a "legal nexus" to the territory (p. 125) or might later immigrate to it (p. 55). Indeed, he goes to great lengths to establish that the Balfour Declaration protected Arab as well as Jewish self-determination insofar as the Declaration spoke of the rights of "existing non-Jewish communities" in Palestine (p. 129). As Kattan dryly notes, this phrase "is not the most flattering description for the Palestinian Arabs, especially when they formed over 90 per cent of the population" (*id.*).

Still, as Kattan acknowledges, there was a Jewish community in Palestine, although it was much smaller than the Arab community. Then, as now, international law did not condition self-determination or statehood on the size of a community's population or territory. Nothing in Article 22 precluded a mandate that aimed for self-determination for both Arab and Jewish communities in Palestine.

The organization of the first half of the book, up through the creation of the Palestine Mandate, is occasionally confusing. While the book mostly uses chronological order, as one would expect in a history, some chapters are devoted to particular themes, like "Arab Opposition to Political Zionism" or "The Question of Self-Determination." The consequence is that some topics are discussed in more than one chapter, which results in some jumping around. For example, in chapter 2, the author briefly presents his interpretation of the

[6] Perhaps the most famous example in the Anglo-American common law of contracts is *Wood v. Lucy, Lady Duff-Gordon*, 118 N.E. 214 (N.Y. 1917), argued twelve days after the issuance of the Balfour Declaration and decided a month later. Wood promised "to use reasonable efforts to bring profits and revenues into existence." *Id.* at 215.

Hussein-McMahon correspondence, then goes on to discuss the Sykes-Picot agreement, the Balfour Declaration, and the Mandate. But later he returns to the subject of the Hussein-McMahon correspondence, devoting all of chapter 4 to the subject, requiring the reader to rewind back to 1915. Fortunately, as Kattan moves into the 1930s and 1940s, he proceeds chronologically, and the presentation is easier to follow.

The author devotes a chapter to Arab opposition to Zionism under the Mandate. Kattan details the rise of Jewish emigration from Nazi Germany, and he notes that Britain, the United States, and other democracies "refused to relax their immigration restrictions, effectively shutting their doors to these [Jewish] people desperately seeking safety and security" (pp. 91–92). Many Arabs viewed the influx of Jewish refugees with "alarm," but most "Palestinian Arabs did not fully appreciate the hideous nature of the Nazi regime or anticipate the catastrophe that was to come" (p. 92). Arab resistance eventually took the form of riots and revolt, in response to which Britain convened the Peel Commission of Inquiry, which in 1937 recommended termination of the Mandate and partition of Palestine. The Arabs rejected these proposals, as did a divided twentieth Zionist Congress (p. 94 & n.160). Britain then backed away from partition in its White Paper of 1939, which envisioned a unitary state with Arabs and Jews sharing power (pp. 143, 165–66).

Kattan finds fault with the legal process leading to the 1947 UN partition plan for Palestine.[7] He is "doubtful" about the conclusion by the UN Special Committee on Palestine (UNSCOP) that the principle of self-determination was "not applied to Palestine" when the Mandate was created (p. 147). Kattan criticizes UNSCOP for acknowledging that Arabs constituted the "numerically preponderant population in Palestine" but nonetheless rejecting a unitary Palestine as an "extreme solution" (p. 148). Likewise, he questions the fairness of the UN's Ad Hoc Committee on the Palestinian Question, whose composition was balanced in favor of states favoring partition over a unitary Palestine (pp. 149–50). One of the Committee's two subcommittees proposed that the General Assembly request an advisory opinion from the International Court of Justice on whether the United Nations could enforce or recommend a partition plan that "is contrary to the wishes, or adopted without the consent of, the inhabitants of Palestine" (p. 150). But, as Kattan notes, this proposal was voted down in the Committee.

The author is also critical of the partition resolution itself. Interestingly, he does not subscribe to the view of some that the resolution was *ultra vires*,[8] in part because he does not think it was legally binding (pp. 153–55). As he notes, Article 10 of the UN Charter treats General Assembly resolutions as only recommendations (p. 155). Kattan is not persuaded by the suggestion that the resolution was binding on the theory that the General Assembly was acting as a successor to the Council of the League of Nations. He plays up complaints by the Arab League and others that U.S. lobbying for the resolution was "political blackmail" (p. 156). He also sees the partition resolution as "arguably" conflicting with Article 5 of the Palestine Mandate, which remained in force until 1948 and which obliged Britain to see 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" (p. 162). As Kattan concedes, however, that provision bound only the Mandatory power, and, in any case, the Mandate expired at midnight on May 14–15, 1948.

But his main contention is that the partition recommended in the resolution was a violation of Arab rights of self-determination in Palestine. Kattan finds it fundamentally unfair that a majority of Palestine, including most of the agricultural land, was allocated to the Zionists when Arabs constituted a majority of the population there (p. 152). He believes it was unjust that the Jewish state would receive most of the land "even though the inhabitants of the putative Arab state owned most of it" (p. 156). He perceives a demographic

[7] Resolution Concerning the Future Government of Palestine, GA Res. 181 (II) (Nov. 29, 1947).

[8] *See, e.g.*, IAN BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 163–64 (6th ed. 2003) (noting that "the resolution of 1947 containing a partition plan for Palestine was probably *ultra vires* . . .") (quoted by Kattan at 321 n.72).

"anomaly," namely that "a majority of the inhabitants in the Jewish state would have . . . been Arab" (p. 157). And he sees the borders of the new states as economically and politically "impracticable" (pp. 165–66). Supporters of Israel traditionally point out that the Zionists grudgingly accepted the resolution while Arab states rejected it, but, to Kattan, rejection was the more principled stance.

The chapter on the first Arab-Israeli war draws extensively, and rather uncritically, on the work of Israel's "new historians," such as Benny Morris, Avi Shlaim, and Ilan Pappé, together with Palestinian scholars like Walid Khalidi.[9] One major theme of this body of scholarship is that Israel bears more responsibility for the flight of Arabs from Palestine than it has traditionally been willing to admit. Thus Kattan states with certainty that the "Arabs did not flee Palestine of their own volition or on the orders of their leaders. Instead, the Arab claim that in 1948 the Zionists seized on the opportunity to displace and dispossess the Arab inhabitants of the country is closer to the truth" (p. 171). But he says little about historical scholarship that might suggest otherwise. He downplays the vituperative debate between the "new historians" and other, more "traditional" Israeli historians, like Efraim Karsh.[10] Indeed, none of Karsh's work is even listed in the bibliography. In most sections of his book, Kattan is very conscientious about dealing with opposing points of view, but in this chapter his evenhandedness falters.

In any case, Kattan does not accept Israel's narrative that the 1948 war consisted of an aggressive "armed attack" on Israel by neighboring Arab states, triggering Israel's right of self-defense under Article 51 of the UN Charter (p. 181). Instead, he sees the war as one of premeditated conquest by the Zionists, beginning in December 1947 and culminating in the execution of Plan Dalet in early 1948. He suggests that the intervention of Arab states might have been justified as either collective or individual self-defense, although he seems to stop short of squarely endorsing that view himself, saying only that these arguments are "entirely plausible" (p. 182). But he does not equivocate in condemning what he sees as gross violations of the *jus in bello* by Israel. For example, he devotes a fair bit of space to the massacre at Deir Yassin (pp. 191–93) and to what he describes as expulsions of Palestinians from Lydda, Ramle, and other towns and villages (pp. 194–202). Unlike some Palestinian writers, Kattan does not see these events as constituting genocide (p. 214), but he does describe them as serious breaches of the law of war (pp. 203–08).

Kattan also takes the position that the Palestinian refugees have a "right of return" (p. 218). With characteristic thoroughness, he considers whether the doctrine of intertemporal law[11] permits application of modern human rights norms to the 1948 war (pp. 212–17). His thesis is that the plight of the refugees constitutes a "continuing" violation of law and thus justifies application of modern law, such as the International Covenant on Civil and Political Rights (p. 213). Still, he places more emphasis on contemporary instruments like the Universal Declaration of Human Rights (which in Article 13(2) safeguards one's right "to return to his country") and General Assembly Resolution 194 (III) of 1948 (which calls for repatriation of Palestinian refugees).

But whereas Kattan rightly stressed that the partition resolution was a nonbinding recommendation, he seems quite willing to attribute legal effect to these two other General Assembly resolutions. In the case of the Universal Declaration, he mentions the traditional view that it has crystallized or codified customary international law (p. 217). Yet one might fairly ask whether sufficient state practice would support a right of return so widespread that it would overwhelm the receiving state. In the present-day context, even Palestinian President Mahmoud Abbas acknowledges that return of five million Palestinian descendants of the original

[9] *See, e.g.*, BENNY MORRIS, 1948: THE FIRST ARAB-ISRAELI WAR (2008); BENNY MORRIS, THE BIRTH OF THE PALESTINIAN REFUGEE PROBLEM REVISITED (2004); ALL THAT REMAINS: THE PALESTINIAN VILLAGES OCCUPIED AND DEPOPULATED BY ISRAEL IN 1948 (Walid Khalidi ed., 1992).

[10] *See, e.g.*, EFRAIM KARSH, PALESTINE BETRAYED (2010); EFRAIM KARSH, THE ARAB-ISRAELI CONFLICT: THE PALESTINE WAR 1948 (2002).

[11] *See* Island of Palmas (Neth./U.S.), 2 R.I.A.A. 829 (Perm. Ct. Arb. 1928) (Huber, sole arb.).

refugees would "destroy Israel."[12] No instance of state practice has ever had such a consequence.

As for Resolution 194 (III), Kattan does not seem to argue that it is binding of its own force, given that Assembly resolutions are normally treated as recommendations under Article 10 of the UN Charter. Instead, he suggests that Israel agreed to honor parts of the resolution before later "reneging" on this promise (p. 220). In particular, Kattan points to Israel's promises to the United States at the Lausanne Conference of 1949 for a repatriation of at least 75,000 Palestinian refugees (p. 226).[13] But Israel agreed to do so if the international community provided financial assistance and, more importantly, "only as part an overall settlement of the refugee problem and the Palestine conflict" (p. 228).[14] By "overall settlement of the refugee problem," Israel had in mind compensation, plus resettlement of refugees "primarily . . . in Arab territories," plus a "measure of resettlement in Israel" (p. 227). As the Lausanne Conference failed to produce any such "overall settlement," Israel's conditions remained unfulfilled. Even assuming that Israel and the United States entered into a legally binding international agreement on repatriation—an assumption that is open to question—that agreement was conditioned on a peace settlement that did not occur.

As Kattan points out, though, whatever Israel's legal obligation on refugees, it had important moral obligations. Not just Arab states took this view; the U.S. delegation at the Lausanne Conference was similarly dissatisfied with Israel's offer on refugees.[15] But the United States saw refugees as a shared responsibility, and U.S. officials expected most refugees to be settled in Arab states.[16] The single point on which all parties agreed at Lausanne was the need for a mixture of repatriation and compensation. Agreement on that principle persists to the present day: the problem is agreeing on a mutually acceptable mixture.

The final chapter of *From Coexistence to Conquest* is about the creation of Israel. This chapter revolves around Kattan's central thesis that "the birth of Israel in 1948 was quite simply one of the twentieth century's last examples of a successful *conquest*" (p. 232). Kattan questions whether the Soviet Union and the United States should have recognized Israel as quickly as they did, although he notes that the Soviet Union extended *de jure* recognition whereas the United States confined itself initially to *de facto* recognition (pp. 233–34). Kattan cites legal advisers at the State Department and British Foreign Office who were concerned that Israel's "frontiers were not clearly defined" and that recognition might constitute an "unwarranted interference in the affairs of the previously existing state (or sovereign)" (pp. 234–35). Kattan also notes that Israel's admission into the United Nations carried with it legal obligations to negotiate on refugees, territory, and Jerusalem. In particular, he thinks admission was "subject to" Ambassador Aubrey Eban's promise that Israel would admit Palestinian refugees (p. 236). Eban's

[12] *See* Bernard Avishai, *A Separate Peace*, N.Y. TIMES, Feb. 13, 2011, §MM (Magazine), at 36 (quoting President Abbas).

[13] *See* Memorandum of Conversation of Israeli Ambassador Elath and Deputy Under Secretary Rusk (July 28, 1949), *reprinted in* [1949] 6 FOREIGN RELATIONS OF THE UNITED STATES 1261, 1262 (1977) (reporting that Ambassador Elath said Israel "had decided to permit the return of 100,000 Arab refugees," but this proposal "was based on the assumption that the Arab states would be willing to conclude peace at Lausanne" and that the Security Council arms embargo would be maintained). As Kattan notes, Israel apparently had in mind repatriation of only 75,000, as it took the position that 25,000 had already "infiltrated" back into Israel (p. 226).

[14] Quoting R. Shiloah to C. de Boisanger (Lausanne), Aug. 31, 1949, *in* Yemima Rosenthal, 4 DOCUMENTS ON THE FOREIGN POLICY OF ISRAEL, MAY–DECEMBER 1949, at 418 (1986); *see also* Telegram, Porter to Acheson (July 28, 1949), *reprinted in* FOREIGN RELATIONS, *supra* note 13, at 1266 (reporting that Shiloah said that "Israel could not be expected to admit large number of refugees if Arab states had no intention of making sincere efforts to reach peaceful settlement").

[15] "Dept considers Israel shld absorb approx 400,000 Arab refugees and residents, of which Israel estimates 150,000 are already there. However, you should avoid US responsibility for any specific figures." Telegram, Acheson to U.S. Delegation at Lausanne (July 28, 1949), *reprinted in* FOREIGN RELATIONS, *supra* note 13, at 1267.

[16] *See id.* ("Balance of refugees outside Israel will be absorbed almost entirely by Syria and Jordan including central Palestine.").

promise, however, was conditioned "on the formal establishment of peace and relations of good neighborliness between Israel and the Arab States" (p. 237)—a condition the parties did not fulfill.

Inevitably, the book will elicit different reactions from different readers, depending on their political orientation and especially on their understanding of the underlying facts of the Palestinian-Arab conflict. For some, Kattan is not radical enough. For example, the book has been criticized for failing to draw on Third World Approaches to International Law (TWAIL).[17] But most readers of this *Journal* will see merit in Kattan's assumption that international law is legitimate—an assumption not shared by some who espouse TWAIL.[18]

For others, Kattan is too pro-Palestinian. It has been said, for example, that Kattan brings "recognised bias" to the subject, that he "fails to provide objectivity," that he cannot distinguish between analysis and polemic, and that the book is "a young man's personal journey to come to terms with the Israeli-Palestinian conflict."[19] This reaction seems too harsh. If a personal interest in the conflict disqualifies an author from writing about it, then many well-regarded authors would be so disqualified. It is true that, when it comes to the facts, Kattan tends to favors the Palestinian narrative over the Israeli one—a tendency that sometimes weakens the persuasive power of the book. But Kattan's approach to the law is both conventional and rigorous: he relies on traditional sources of international law, and he supports his arguments with mountains of research.

Interestingly, Kattan himself describes some of the politicized reaction to his work. In a long endnote, he describes, among other things, "unwarranted political pressure" arising from his scholarship (pp. 330–31 n.6). His anger about this pressure is evident,[20] but it hardly disqualifies him to write about the topic. On the contrary, Kattan's passion for his subject enlivens the book and gives it force.

Indeed, one does not have to agree with Kattan to enjoy his book and to learn from it. Its principal contribution lies in its legal analysis. While it sheds some new light on disputed facts, it is primarily a book about law. For the most part, his treatment of international law puts him squarely in the mainstream. Many readers will disagree with Kattan's description of the facts, especially those relating to the conduct of the 1948 war and the cause of the refugee crisis. But few will dispute Kattan's conclusion that a "lasting peace" should be "based on equity, justice and principles of international law" (p. 261).

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International Law: Modern Feminist Approaches. Edited by Doris Buss and Ambreena Manji. Oxford, Portland OR: Hart Publishing, 2005. Pp. xi, 303. Index. $52, £26.

The opening words in the foreword of *International Law: Modern Feminist Approaches* capture the need for and utility of the essays collected in this work:

> When international law became the subject of sustained feminist scholarly scrutiny and activism over a decade ago, it opened up new

[17] *See* Sujith Xavier, Book Review, 11 GERMAN L. J. 1038, 1044 (2010) (reviewing VICTOR KATTAN, FROM COEXISTENCE TO CONQUEST: INTERNATIONAL LAW AND THE ORIGINS OF THE ARAB-ISRAELI CONFLICT 1891–1949 (2009)).

[18] *See, e.g.*, Makau Mutua, *What is TWAIL?* 94 ASIL PROC. 31, 31 (2000) ("The regime of international law is illegitimate."). For more on TWAIL, see, for example, Obiora Chinedu Okafor, *Newness, Imperialism and International Legal Reform in Our Time: A TWAIL Perspective*, 43 OSGOODE HALL L.J.171 (2005); Antony Anghie & B. S. Chimni, *Third World Approaches to International Law and Individual Responsibility in Internal Conflicts*, 2 CHINESE J. INT'L L. 77 (2003).

[19] Jean Allain, *On Coming to Terms with the Israeli-Palestinian Conflict:* From Coexistence to Conquest: International Law and the Origins of the Arab-Israeli Conflict, 1891–1949*, Victor Kattan*, 12 J. HIST. INT'L L. 155, 155, 158 (2010).

[20] For example, Kattan says that "[t]hree members of the Board of Governors of the British Institute on International and Comparative Law . . . threatened to resign" over the Institute's publication of Kattan's book *The Palestine Question in International Law,* an edited collection of essays. Kattan writes that one Board member "even had the gall to call up one of the Israeli contributors . . . to ask why he had agreed to have his article republished in the edited collection . . ." (p. 330 n.6).