



November 2008 • Cheshvan 5769

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on

***Lords of the Land:
The War over Israel's Settlements in the
Occupied Territories, 1967-2007***

by Idith Zertal and Akiva Eldar, NY: Nation Books, 2007, 531 pp., \$30

Disagreements about the legitimacy and efficacy of Israeli settlements, their effect on Israeli politics, and if they are “obstacles to peace” are hotly-debated issues, especially in Israel where the topic sometimes seems obsessive. A fair-minded, honest and accurate discussion of the issues, therefore, would be welcome. Zertal and Eldar, however, despite seemingly impressive documentation, offer a thoroughly one-sided perspective.

The authors have done little original research, instead employing selected left-oriented newspaper articles, secondary sources, and tendentious reports written by severe critics of Israel and the settlement movement – which, of course, the authors call “objective” – based on information provided by NGOs like Peace Now. That a book written on the premises of such material ends up blaming Israel for almost everything is predictable.

In their view, settlements are the primary cause of the conflict between Israelis and Palestinians, have undermined the rule of law, and have subverted the democratic decision-making process in Israel. The root of all evil, settlements, “have brought Israeli democracy to the brink of an abyss”.

Zertal, a historian at University of Basel, and Eldar, a columnist at *Ha'aretz*, seek to answer difficult questions: How did Israel's settlement movement attract such overwhelming support across ideological and party lines, and what has been its impact on Israeli society?

They present three major arguments: First, that settlers tricked and compromised every Israeli government for 40 years into acceding to their demands, including obtaining official recognition and allocation of vast sums of money and assistance; second, that settlers “stole Palestinian land” in the West Bank and Gaza; and that third, Israel's “occupation” of these territories is illegal and has caused Palestinian suffering and oppression.

The first charge is based on conspiracy theory; the second and third, on distortion and misinformation. Methodologically contradictory and often historically inaccurate, ironically, their arguments undermine themselves.

“The settlements,” they contend, “flourished not only with the authorities’ seal of approval but also with official encouragement and at the government’s initiative.” No secret, corrupt deals were made; budgets were approved, allocated, and accounted properly. Money was spent to help citizens, banks lent mortgages, residents paid taxes, and municipal services were provided. This means there was no “deceit” and “trickery”, as charged.

All Israeli governments have supported settlements – which were permitted by the Oslo Accords, the only negotiated agreement – because they have been a national, bipartisan effort reflecting Israeli consensus and, at least initially, backed by UN and US resolutions.¹

Although Zertal and Eldar insist that “a majority of the country” is against settlements, a poll conducted between March 31 and April 1, 2008 by the Tami Steinmetz Center for Peace Research at Tel Aviv University showed that most Israeli Jews back settlements (63%), consider the West Bank “liberated” (55%), and oppose a Palestinian state (73%). Only 20% would abandon settlements and return to the Green Line (the 1949 border), the “two-state solution.” Since public opinion polls only provide a small sample of what people believe at a given moment, only a Knesset vote or referendum would provide confirmation. But it is certainly clear that the authors’ confidence in the Israeli public’s rejection of settlements is unwarranted.

The Myth of Palestinian Lands

More problematic is the authors’ charge that Jews “stole Palestinian lands”, referring to all the territory captured by Israel in 1967. Arabs, of course, insist that Jews “stole Palestinian land and property” *before*, in 1948 – what they call *Al-Nakba* (the catastrophe), when the state of Israel was established. This includes vast areas of “State Land”, unclaimed and designated as such under Ottoman/Turkish, British, and Jordanian rule. “Palestine” was never a sovereign, independent entity; the concept of a “Palestinian people” did not exist until quite recently. Nor is there any agreement, even among “Palestinians” about what constitutes their state.

Although Israel transferred large areas to the Palestinian Authority/Hamas, and established a “Palestinian Authority”, Palestinians themselves rejected a (two-state) solution and security considerations preclude any possibility of this happening.

Using incomplete sources and unverified Arab claims, Zertal and Eldar charge that most Israeli settlements were built on “private Palestinian land.” Objective analysis has proven this false. A typical example of such inaccuracy was Peace Now’s claim that 85% of Maale Adumim, a settlement a few kilometers east of Jerusalem, was built on private Palestinian land. Reported as fact by all major media at the time, the official figure turned out to be less than 1%. The initial propaganda effect, however, was successful. Few reported the correction, and even those that did, buried it in other stories.

If, as the authors claim, “privately owned Palestinian land” was taken without proper authorization, why don’t the owners sue in court for its return? In fact, most Arab claims cannot be substantiated or verified. Forged documents are often submitted and some are accepted by unwitting or unethical clerks, including Arab claims based on supposed allocations of land to

tribes or villages – without any proof or validation, such as registration documents and tax payments.

The Outposts; Are They Legal?

The authors charge that hilltop outposts are illegal because they did not receive full government authorization.² Yet, nearly all of the hundred or so sites in question are well within the legal boundaries established by the government for communities.

In many cases, however, building and zoning plans were submitted – sometimes decades ago – and have not been officially approved. Built on either state land or land that was purchased or unclaimed, the “outposts” are usually connected to large established communities. In total, their residents comprise fewer than a few thousand people, mostly young, religious families.

In order to receive authorization, settlements must be approved by a ministerial committee, have a valid zoning plan, be on land owned by the state, and have a municipal boundary set by the regional army commander. Those criteria seem clear enough. The problem is that settlements were built not only by individuals, but also by agencies of the state with approval from the highest levels of government. That would seem to make them legal – although in light of what happened to twenty-five legal communities in the Gaza Strip and northern Shomron, legal status appears to be irrelevant.

In fact, the government as a whole has **not** made any decisions. Appropriate ministerial committees have only recently convened; Knesset has passed no law or recommendations, and the courts have not even heard requests for their opinion. What is more, it appears that authorization and approval were implicit when government ministries and public institutions, including the IDF were involved.

Moreover, Yesha is a unique area in the world; it is not governed by an internationally recognized sovereign power. Land ownership, therefore is complicated, relying on a combination of Ottoman, British and Jordanian laws and Israeli procedures that are unclear and open to interpretation and implementation.³

That the authors’ condemn settlements as violations of international law – based on the Fourth Geneva Convention – is a sharply contested issue; the Israeli government and many legal experts have rejected these arguments.

According to Israeli law, at least, sovereignty in Yehuda and Shomron resides with the military commander – who takes orders from the defense and prime ministers. Since the Israeli military allowed Jews to build and provides them with security, settlements would seem to be legal, at least until declared otherwise.

If, as the authors contend, outposts are illegal, it is strange that no criminal charges have been filed, nor punishment meted out; nor has compensation been granted to complainants. Given the hostility of Israel’s Supreme Court and judicial system to settlements, a plethora of well-funded, Israeli, pro-Palestinian nongovernmental organizations and generous legal assistance, why has nothing been done?

The problem as becomes clear is that ultimately this is not a legal issue. The fate of all Jewish communities in the West Bank goes beyond strict legal definitions; it bears on the continued existence of the state.

Where do Jews have the right to live and what or who gives them that right? Will giving up outposts and settlements ensure that those who remain will be secure – even the three largest settlement blocs and areas of Jerusalem settled after 1967?

The “Occupation”

Israel’s repossession of its ancient homeland, Judea, Samaria, and Gaza is unique in history. It did not acquire territory belonging to another country and, therefore, has not violated international law. Arabs were not dispossessed in 1967; Jews were allowed to build communities, significantly, in areas that had once been Jewish (e.g., Gush Etzion, Jerusalem, Hebron) and in areas many of which had biblical significance (e.g. Shilo, Bet El, Shechem/Nablus). The integrity of the state of Israel and the right of Jewish settlement, included in UN resolution 242, has been amply defended. The settlement issue, moreover, was never included in any negotiated agreement between Israel and the Palestinians.

The authors and those who support a “two-state solution” refuse to answer a simple question: What will happen if all the Jews are removed from the West Bank? Military and security experts believe that the vacuum created by such an Israeli departure would not be filled by a Palestinian state, but by Palestinian terrorism. And no one can guarantee that the Arabs would honor any agreement. Nor would Israeli withdrawal from territory conquered in 1967 solve any of the basic controversies – such as Palestinian claims to the “right of return.” Since the ascendancy of Hezbollah and Hamas in Lebanon and Gaza, the lessons are clear: Any Israel withdrawal will be repaid with terrorism.

Lords of the Land feeds the neurosis of Palestinian victimhood, a mindset that fuels terrorism and prevents any positive alternatives. Promoting the notion that Jews “illegally occupy” and “steal Palestinian land” supports a libel that legitimizes terrorism and provides an excuse for genocide. Why, then, such hostility to Israeli settlements?

The hope, one must suppose, is that if Arabs can be persuaded to accept a two-state solution based on the Armistice lines of 1949, including Jerusalem, they will forgo their claims to land and property lost in 1948 and accept Israel’s right to exist as a Jewish state. This, of course, is pure delusion, as Arabs don’t accept it.

Blaming Israel for Palestinian terrorism and the failed “peace process” is a form of irrationality. Giving Palestinian terrorism political, economic and social dimensions attempts to make sense out of the absurd, to explain what is so profoundly anti-human. Unable to accept terrorism, Zertal/Eldar transform the ideological and theological onslaught against Jews and a nominally Jewish state into a simple-minded dispute over land: “land-for-peace”; the “two-state-solution”.

As historian Benny Morris observes:

It has become clear to me that from its start, the struggle against the Zionist enterprise wasn’t merely a national conflict between two peoples over a piece of territory, but also a religious crusade against an infidel usurper.⁴

Endnotes

- ¹ UN Resolution 242 (1967) demands that Israel “withdraw from territories” it conquered – deliberately omitting “*the*”, to indicate Israel’s right to settle in those territories, and, of course, only in the context of full peace and security.
- ² In March 2005, Talia Sasson, a former Justice Ministry official and critic of settlements, submitted a report on outposts commissioned by then PM Ariel Sharon in which she charged collusion between government and public bodies to enable “illegal” building in outposts and settlements. Working closely with Peace Now, based on faulty maps and information, she determined that most of the outposts were built on land “part or all of which did not belong to the state”; this was subsequently proved false and misleading. Much of Zertal and Eldar’s “evidence” is based on this and similar reports.
- ³ Cf: “Land Tenure in Islamic Theory” in the Islam, Land and Property Research Series <www.unhabitat.org/downloads/doc/3546_86904_1LP>.
- ⁴ *Newsweek*, May 8, 2008.

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