



ARE ISRAELI SETTLEMENTS THE BARRIER TO PEACE?

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Is Israel's policy of building civilian communities in the area known as the West Bank the reason there is no permanent peace between Israel and the Palestinians?

The answer to that question, despite all the sound and fury regarding the so-called settlement issue, is no.

The Israeli settlements in the West Bank are not the major barrier to a peace agreement.

A little historical context will make this clear.

For two decades before June of 1967, the West Bank, including much of Jerusalem, was controlled by Jordan. During that time -- a time when Israel did not have a single settlement -- there were numerous Palestinian terror attacks against the nation state of the Jewish people. In other words, Palestinians committed terror attacks against Israel when there were no settlements and they committed terror attacks against Israel when there were settlements.

If Israel were to pull out of every single settlement in the West Bank tomorrow, it's unlikely that anything much would change. In fact, if history is any indicator, Israel could be worse off.

In 2005, Israel abandoned every single community, every house, every farm, every structure it had built in the Gaza Strip. How did the Palestinians of Gaza react? They launched thousands of rockets and numerous other terror attacks against the nation state of the Jewish people. The attacks continue to this very day. And every year the range of these rockets get longer and their payloads more lethal. Only a very sophisticated Israeli anti-missile defense keeps the country secure. Can you blame Israel for not wanting to risk a two-front rocket war?

But Israel has no right to be in the West Bank at all, many say. So, permit me, a law professor at Harvard, to say that on the basis of international law this position is incorrect.

Military occupations are clearly permitted under international law following an aggressive attack by a neighboring state. Jordan, Israel's neighbor to the East, attacked Israel in 1967, despite Israel's repeated efforts to keep Jordan out of the Six Day War.

In defending itself against Jordan, Israel captured the West Bank and the eastern part of Jerusalem. Under international law, until a meaningful peace is achieved and all terrorism against it ceases, Israel has every right to retain military control over this area. Since no peace treaty has been reached and the terrorism continues with new attacks threatened almost daily, Israel is under no legal obligation to leave. Given the danger that Israel would be putting

itself in if it did leave the West Bank – exposing its major cities and international airport to rocket attacks – it would be irresponsible to do so, which is why Israel is still there.

Nevertheless I fully acknowledge that a military occupation is significantly different, both as a matter of law and politics, from building civilian settlements even in a territory that is legitimately subject to a military occupation. That's why I have long opposed the building of settlements in the West Bank. I believe it has caused resentment and has given enemies of Israel an excuse to attack the legitimacy of the occupation in general.

It is also why I have always supported Israel's efforts to exchange land for peace as it has done on multiple occasions over the last few decades. So, while the settlements may have contributed to the difficulty of making peace, it has not been the major barrier that Israel's enemies claim it to be. It is not the reason there has been no peace agreement between Israel and the Palestinians.

The reason has always been and remains the unwillingness of Palestinian leaders – and, according to Palestinian polls, much of the Palestinian population – to recognize Israel's right to exist as the nation state of the Jewish people. Until and unless the Palestinian leadership and the Palestinian people acknowledge that the State of Israel has the right to be free from military assault, from terrorism from rocket attacks, and from diplomatic warfare, there will be no resolution to the Middle East dispute.

If these conditions, which must be the basis of any two-state solution, meaning a nation State for the Jewish people and a Palestinian State, are met, the occupation will end, the settlement issue will be resolved, and the blessings of a mutual peace will finally be achieved.

I'm Alan Dershowitz, Professor of Law at Harvard University for Prager University.