

High Stakes for Palestinians: Israel as 'the State of the Jewish People'?

Written by Farid Abdel-Nour

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FARID ABDEL-NOUR, OCT 24 2017

On September 9, 1993, Yasser Arafat addressed a letter to Yitzhak Rabin recognizing the “right of the state of Israel to exist in peace and security.” The wording of that letter was carefully tailored to match the repeated requests of successive Israeli governments for a recognition by the Palestine Liberation Organization of the state of Israel’s “right to exist.” At the time, that recognition was widely heralded as a decisive step in the peace process that was supposed to lead to a resolution of the Israeli-Palestinian conflict. However, starting in 2002, with the peace process in shambles, Israeli government representatives began to demand that Palestinians recognize Israel as “the nation-state of the Jewish people.” In 2009, Benjamin Netanyahu insisted that the first principle of any future peace agreement is that: “Palestinians must truly recognize Israel as the state of the Jewish people.” In 2014, this demand contributed to the failure of the last attempt made by John Kerry at resuming peace negotiations. In tandem with Israel’s foreign policy demands, some Israeli lawmakers have since 2011 sought to amend the state’s Basic Laws, which perform the function of a constitution, in an attempt to enshrine within them a direct and unambiguous reference to the state’s Jewish identity.

There is much to be said about the broader long-term historical factors that explain why this issue arose in the early 2000s. (Zreik 2011) Furthermore, the ideological goals and short-term tactical political calculations of recent Israeli governments help to explain more specifically the timing of the moves to assert the Jewish identity of the state. (Benn 2016,) My focus in this article, however, is on clarifying the main stakes of these moves and pointing to their potential impact on Palestinians.

Two Meanings of “Jewish State”

At first sight it might appear that little, if anything, is at stake for Palestinians. What would be so new about the Palestinian political leadership recognizing Israel as the state of the Jewish people? In fact, the 1988 Palestinian Declaration of Independence refers directly to the 1947 United Nations General Assembly Resolution 181 (UNGAR 181) which calls for the partition of Palestine into Arab and Jewish states. And, what would be the difference if Israel were to encode its Jewish identity in its Basic Laws? After all, from its establishment the state has openly declared itself to be a Jewish state. As every student of politics and history knows, however, context is everything. The meaning of the term ‘Jewish state’ as it was referred to in UNGAR 181 and as it has often been used, is quite different from the meaning implied in the recent moves to assert the Jewish identity of the state of Israel. As I argue below, the stakes of that difference in meaning are quite high.

UNGAR 181 was primarily concerned with drawing boundaries to produce certain demographic results. Regardless of what the references to a Jewish state might have meant to believers in the Zionist cause at the time, the phrase in that context referred primarily to a state with a Jewish majority, with later evocations of that resolution by the Palestinian political leadership implying that reference as well. At the time of the resolution, two thirds of the population of the country to be partitioned were Palestinian Arabs, and were widely distributed geographically. It took contortions in boundary-drawing to produce two proposed states one of which would include almost the entirety of the country’s Jewish population and would have a very slim Jewish majority. Reference to Arab and Jewish states in that context, was primarily about the demographic make-up of the proposed states. These states’ ethnic, national, or

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religious *identity*, i.e. whether one would be an Arab ethno-nationalist state oriented towards Arab unity, Arab primacy, and the marginalization of non-Arabs; and whether the other would be a Jewish ethno-nationalist state oriented towards Jewish unity, Jewish primacy, and the marginalization of non-Jews, was not the issue under consideration. In that context and in many later references to it, the idea of a Jewish state evoked a state with a Jewish majority. In contrast, the recent moves towards asserting the Jewish identity of Israel are about establishing the primacy of one ethno-national identity in the state, regardless of demography.

The question of whether Israel's "Jewishness" was to be chiefly a matter of demography or of the primacy of Jewish ethno-national identity, was present from the time of the state's establishment. But, the demographic reality that emerged soon after the state's establishment pushed this question into the background. The passing of the UNGAR 181 on November 29 1947, far from resolving the conflict over Palestine, triggered a civil war that was followed in May 1948 by an international war. By the time of the cease fires of 1949, only one state was established on the land that had been Mandatory Palestine, and this state had an overwhelming Jewish majority on a significantly larger territory than had been envisaged in the UN resolution. This new demographic reality came about because pre-state Zionist forces, and later the Israeli military, caused the flight (and in many cases actively expelled) over 700,000 Palestinian Arabs from the country, and made a conscious political decision in the summer of 1948 to bar their return. (Morris 2004, 323) This, together with the large influx of Jewish immigrants from Europe and the Middle East into the newly established state, helped ensure that Israel would have an overwhelming Jewish majority that holds until today and that is expected to hold into the foreseeable future.

Ambiguity and Demand for Clarity

This demographic reality pushed into the background the need to specify what it meant for Israel to be Jewish. The question is implicitly raised but not answered in the May 14, 1948 "Declaration of the Establishment of the State of Israel," which declares "the establishment of a Jewish state," without specifying precisely what that means. On the one hand, it makes direct references to the full-blown national narrative of the Zionist movement and seems to call into being a state that has a Jewish ethno-national identity. On the other hand, the same declaration says that the state "will ensure complete equality of social and political rights to all its inhabitants," and promises its "Arab inhabitants," (who are the small number of Palestinians who remained within the borders of the new state) "full and equal citizenship." But these two ideas are difficult to reconcile. Complete social and political equality for the Palestinian Arab minority in Israel is only possible, even purely as an idea, if the notion of a Jewish state is understood simply as a state with a Jewish majority. A Jewish state that is understood as establishing the primacy of Jewish ethno-national identity, is incompatible with complete social and political equality for all. The long-standing 4:1 demographic preponderance of Jews over Palestinian Arabs in Israel, allowed the contradiction between these two images of the state to be obscured for many decades. Indeed, the slogan so often applied to Israel as being both Jewish and democratic has had its own role to play in clouding matters.

The recent moves to assert the Jewish identity of the state are demands for clarity on this question. They are moves to establish once and for all the primacy of Jewish ethno-national (and increasingly religious) identity in the state. (Lis 2017) If these moves succeed, all right-claims made in the state would have to be interpreted in terms of their potential for preserving or fostering this identity. Furthermore, understood in the above manner, Israel as a Jewish state would, in a significant shift of meaning, no longer need to be understood as needing a Jewish majority. Its Jewishness would no longer be contingent on demography.

If the association of the notion of a Jewish state with demography is loosened, and its association with ethno-national-religious identity is tightened, it becomes possible for it to be the state of the Jewish people, no matter who lives in it. There already exists a certain disconnection between the inhabitants of the state of Israel and the people to whom the state ostensibly belongs. The 1950 Law of Return almost guarantees residency and Israeli citizenship upon request to Jews from all over world. Furthermore, the repeated demands by the Palestinian Arab minority for Israel to be a state of all its citizens, have been repeatedly rebuffed and ignored. Thus Israel is already some way down the path that disconnects the people who inhabit it from those whose state it claims to be. If the recent moves to encode Israel's Jewish identity in the Basic Laws and to gain international recognition on those terms are successful, the gap between the state's inhabitants and those whose state it claims to be has the potential to widen significantly.

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Conceptually, this would open up the possibility of a scenario whereby an expanded Israel would still be able to consider itself a Jewish state, even if it were to no longer have a Jewish majority. In 1967, Israel occupied the remaining parts of Mandatory Palestine and continues to maintain control over them in a variety of ways. The future of those territories remains uncertain, but with about 600,000 Israeli Jewish settlers living in those territories, it seems unlikely that Israel will relinquish control over them in the foreseeable future. If one includes the territories under Israeli occupation and considers the demographic balance from the Mediterranean Sea to the Jordanian border, there is something close to demographic parity between the Jewish and Palestinian Arab populations, who together number around 13 million. With this picture in mind, the idea of a Jewish state without a Jewish majority becomes a real possibility. What that would mean for those Palestinians who would find themselves in such a situation is difficult to foresee. At a minimum, any hope they might still have for independence in any part of pre-1948 Palestine would be finally crushed. Simultaneously, new avenues might open up for them to pursue their struggle of realizing their civil, social and political rights. It would be premature to speculate any further along those lines, as the specifics of any future alteration Israel might make to the legal status of the occupied territories and the Palestinian people who live in them would largely shape the available options. I raise this prospect only to emphasize one of the scenarios that the recent moves to assert the Jewish identity of the state of Israel reasonably evokes for Palestinians. (Al-Halabi 2017)

The establishment of the state of Israel was inextricably intertwined with the *Nakba* or Catastrophe of the Palestinian people. About half of them were dispossessed and dislocated as a result. Hundreds of their towns and villages were destroyed. One of the outcomes of their *Nakba* (which was further exacerbated by the occupation of 1967) was their fragmentation into different groupings with distinct political and legal status, experiences, and vulnerabilities. Aside from the concerns that are raised by the scenario of a Jewish state with Palestinian Arab demographic parity or majority I alluded to above, two groups of Palestinians would experience more immediate and direct effects if the recent moves to assert Israel's Jewish identity succeed. These are the Palestinian citizens of Israel and a subset of Palestinian refugees.

Those Who Would Be Harmed Most Directly

Today, the Palestinian citizens of Israel enjoy basic civil rights in the state, as well as political rights to vote, run for office, and to organize political parties that are represented in the Israeli Parliament. But they also suffer from systematic, including legally sanctioned, discrimination on a number of fronts especially in terms of state subsidized services and economic development. (Adalah Discriminatory Laws Database) They also suffer social and political marginalization. For example, even though they have had representatives in the Israeli parliament since the state's establishment, never once have any of their parties been invited to participate in the dozens of coalition governments that have been formed since 1948. In this way their political representation is "neutralized" at the level of government formation. In addition, the state utilizes Jewish symbols and Zionist narratives not only on the flag and in the national anthem but in innumerable official state contexts including official school curricula, thus marginalizing them even further. (Ghanem, 2016)

However, as long as the state's Basic Laws do not encode the identity of the state as Jewish, there is no constitutional cover for the practices of legal and other discrimination that the Palestinian citizens of Israel suffer. This means that they still have recourse to the state's highest court to make claims for equal rights. This recourse has mostly disappointed them so far (Supreme Court Decisions in Adalah's Cases), but as long as it continues to exist, there remains a meaningful hope for them to live in a future state of Israel that would potentially treat them as equal citizens, even if it were to continue to have an overwhelming Jewish majority. The legal path for Palestinian citizens of Israel to pursue the struggle for equality is a very narrow and arduous one, but it exists. Should Israel's Basic Laws be amended to encode the state's ethno-national identity, this path would be completely blocked. Their inequality and marginalization would be encoded in the state's constitutional structure in perpetuity and would crush any hopes they might have of achieving equal rights and dignity by legal means. What that would mean for long-term social and political stability is not difficult to predict, as the available means for pursuing the struggle for equality would be severely diminished.

The other segment of the Palestinian people that would be directly affected by the recent moves to assert Israel's Jewish identity, are the Palestinian refugees who fled or were expelled in 1948. Particularly vulnerable is a subset of

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refugees who remain stateless and continue to live extremely precarious lives in Lebanon and Syria—but also in Jordan—and under Israeli occupation and control in the West Bank and Gaza. The continuation of the conflict and the failure of successive attempts at its resolution have left this vulnerable population in a condition of long-term limbo. Whereas the passing of decades without a resolution has significantly harmed the life chances of other segments of the Palestinian people, and has been a serious concern for the Israeli people, for the most vulnerable among Palestinian refugees it has meant the suspension of anything resembling normal life. They have lived for several generations now in the hope of being able to realize their right to return to their homes. As to how they might exercise this right, whether by physically moving to their family lands in Israel, by receiving some form of compensation for their property combined with the right to equal citizenship in a state other than Israel, or by some other means to be determined, is a question that was supposed to be dealt with in the now defunct peace negotiations. (Abdel-Nour 2015) The recent moves to assert the Jewish identity of Israel would be an emphatic attempt at altogether negating the right-claims of Palestinian refugees, exacerbating the vulnerability of the most vulnerable among them and impeding their ability to realize their right in the future. (Khalidi 2011)

The Moves to Assert Israel's Jewish Identity Exacerbate the Conflict

In addition to the above deleterious effects on two segments of the Palestinian people, the recent moves to assert the Jewish identity of the state of Israel, undermine hope for a future resolution of the conflict on the symbolic level as well. By placing the most controversial question about the Israeli-Palestinian conflict in center stage, these moves potentially contribute to that conflict's intractability. The outcome of the events of 1948 was a decisive military victory that did not map onto a moral one. The moral standing of the cause that emerged victorious was at the time, and remains until today, deeply controversial. (Abdel-Nour 2013) While some certainly saw that cause as rightful and worthy, others saw it as unjust and as embodying a colonial ideology. Indeed, one of the reasons for the continued fascination of successive generations across the globe with the Israeli-Palestinian conflict is that it feels like a live moral conflict, one that divides people of conscience from one another including from their friends and family, and not infrequently from their earlier selves. This is undoubtedly a disappointment to supporters of the cause that emerged militarily victorious. To them, the victory would only become sweet if it is crowned with a widely shared moral vindication. I hazard that at a certain level it is this disappointment and the need for moral vindication to which it gives rise, that animates the move to have a Jewish ethno-national identity encoded in the Basic Laws of the state of Israel, and the parallel move to have others, especially Palestinians, recognize it in such terms. But this is a hopeless pursuit. Even if Israel's Basic Laws are amended and the current or a future Palestinian leadership and the leaderships of other states, were to recognize Israel as the state of the Jewish people, these words of recognition would not achieve the purpose of morally vindicating Israel's military victory in 1948, nor of vindicating any of its later victories. Instead, they would merely exacerbate the conflict by deepening the divide between those who see in the establishment of Israel a wrong that cries out for corrective justice, and those who see in it an achievement to be celebrated. (Abdel-Nour 2015, 125)

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