

# From “Jewish State and Arab State” to “Israel and Palestine”? International Norms, Ethnocracy, and the Two-State Solution

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At this writing, the international community is confronting both political and moral conundrums regarding the conflict in Israel/Palestine. The political conundrum is glaring and urgent. Although the United Nations has formally endorsed a two-state solution by affirming that the states of “Israel and Palestine” should exist side by side, empirical and political realities seem to indicate that the two-state solution is, at best, a diplomatic fiction. The present course of Israeli policy is instead generating for Palestinians an unviable Bantustan-like system of enclaves likely only to foster more Palestinian desperation and violence. Yet neither the Israeli government nor the Palestinian Authority has formally declared the two-state plan moribund, and the U.S. administration will brook no open diplomatic intervention by foreign governments. Formal diplomatic space for considering alternatives, therefore, remains closed.

Unfortunately, independent researchers — whose analyses describing the demise of the two-state solution should normally open new cognitive and diplomatic space for considering alternatives—have so far failed to fill this function. The reason is clear: The only alternative that appears to offer hope for a stable peace in Israel/Palestine is the so-called binational or one-state solution—secular democracy in a unified state, akin to the solution in South Africa.<sup>1</sup> And yet, most writers have ventured no more than brief mention of this alternative, because of sensitivities regarding these rival ethnic nationalisms. The entire international community has thus

remained stalled in its commitment to a moribund “peace process” while the “facts on the ground” continue to decline toward greater instability, implying growing risk.

This reticence by specialists on so pressing a question requires a closer look. Partly, it reflects reasonable caution about adopting an entirely new and still untried legal and political framework. Partly, we must acknowledge, it reflects simple timidity: political timidity by individuals to broach a proposal that may alienate them from factions or communities with which they are affiliated, and intellectual timidity to air a proposal that might damage them professionally by casting them as naive or ill-informed. Yet the resulting reticence forms a crippling feedback loop: The one-state solution is not discussed because it is not deemed feasible, yet it cannot be imagined by most people to be feasible (and thus dignified as a professional project) unless and until it is discussed.

But public debate is also blocked by more principled concerns, for a one-state solution engages sensitivities on each side stemming from its respective ethno-national imaginary. Both sides have long understood titular ethnic statehood as the essential condition allowing redemption from the humiliations and dangers of exile and statelessness. Hence both sides see a one-state solution as threatening not only subordination or outright persecution by a still-hostile ethnic other but evaporation of the political condition (statehood, or its promise) understood as essential to their vigorous ethno-national life, safety, and dignity. Adding affect to this

concern, both sides assert that their indigeneity in Palestine shapes their collective ethnic world view, anchors their spiritual and social values to the landscape, and conveys an inalienable right to a national life there (the Jewish claim to indigeneity drawing on the biblical narrative). At least token courtesy regarding such nationalist imaginaries has seemed incumbent on outsiders.

But courtesy has translated here into endorsement of Jewish and (apparently) Palestinian ethnic statehood—a strange outcome, sharply at odds with international norms regarding civil nationalism that have taken hold since the mid-20th century. This exceptional treatment, therefore, also requires a closer look.

Uniquely, the very disparity of power shapes moral perceptions here. As the vastly weaker party, Palestinians are positioned as the much-abused victims of settler colonialism, a discourse based on concepts of indigeneity. But the construction “Palestinian people” has also assumed an ethnic flavour by incorporating the moral authority of a more recent indigenous peoples discourse—a potent moral and political combination.<sup>2</sup> The quest for a “Palestinian state,” long cherished as the Golden Fleece of the Palestinian national struggle, is indeed dignified through an iconography that is deliberately ethnic: celebration of characteristic “Palestinian” dress, dance, food, village landscapes, folklore, and festivals. A “Palestinian state” is understood to be vital to preserving this rich ethnic life. The idea that the Palestinian population may need to abandon the dream of a “Palestinian state” in exchange for uncertain ethnic standing in a still-undefined multi-ethnic democracy—sharing a polity likely to be dominated by a very well developed Jewish nationalism—can therefore seem implicitly ethnocidal. Certainly it is not an easy suggestion to offer to a vulnerable and displaced people whose national dignity has been discursively bonded to a discourse of ethnic nationalism throughout the past century. Such a proposal would be received as

belittling, insulting, or even the covert tool of western (pro-Israeli) imperialism.

By contrast, it is the very strength and vigour of Jewish ethno-national life in Israel that dampens international enthusiasm for suggesting that Jewish ethnocracy be abandoned for secular democracy.<sup>3</sup> In mainstream Zionist discourse, Jewish ethnic dominion in Israel—with its ennobling Sabra mythos of the strong, armed Jew—is the historic remediation for millennia of Jewish powerlessness, humiliation, and suffering in a hostile, dangerous, and sometimes genocidal world.<sup>iv</sup> Any suggestion that Jews abandon this newfound state power for the unknowns of a secular democracy shared with a feared and detested Palestinian majority would seem to be callously denying Jews the long-denied and much-deserved security that they obtained through enormous collective struggle. Indeed, the political liquidation of Jewish statehood (via a one-state solution) here signifies the liquidation of Jewish national life in Israel, or even the physical liquidation of Jewish people themselves through persecution or mass attack. Deep-historical Jewish narratives of exile and diaspora, in antiquity and in the Shoah, feed emotional Jewish rejection of this prospect. Sympathetic to (and abashed by) the Jewish-Zionist narrative, international observers therefore find criticism of the foundational problem shaping the conflict—Jewish statehood, and its harshly exclusivist ethnic logics—particularly difficult to undertake.

Hence, both Zionism and Palestinian nationalism have successfully deployed for international consumption the claim that each has a right to self-determination in titular states in Palestine. In accepting these claims, however, the international community has implicitly endorsed ethnic statehood, a notion explicitly rejected as legitimate elsewhere. This inconsistency might be accepted as politically necessary, and may even be justified by earlier positions endorsing Jewish statehood. But Israel’s determination to sustain a domestic Jewish majority has

sabotaged the two-state solution. The rest of this essay will briefly explore the moral conundrum mentioned above: that the international community must now either clearly endorse Jewish ethnocracy—and openly position the conflict as entirely exceptional in international affairs—or shift to a one-state diplomatic agenda.

### **Ethnic Nationalism and the International System: Changing Norms**

The question of international endorsement of Jewish statehood brings immediate focus on early consensus expressed in United Nations resolutions, especially General Assembly Resolution 181 of 1947 (often called the “Partition Resolution”). This resolution is often invoked by Zionists to support the claim that Jews have a legitimate claim to a “Jewish and democratic state”: that is, a democratic state that secures Jewish ethnic dominion over the state’s governing institutions by sustaining (by force if necessary) a Jewish majority. International diplomatic recognition of Israel does imply that its public posture as the Jewish state is recognized and considered legitimate by the international community. But this recognition is more ambiguous than it might seem.

The first major UN resolution on the conflict, Resolution 181 did famously call for a “Jewish state and an Arab state in economic union.” The resolution also indicated its understanding that titular states require titular majorities by including a dramatically gerrymandered map that carved out Jewish and Arab majorities for each. Subsequent UN resolutions fell silent about these proposed states, however, because their political geography was rendered permanently obsolete by the 1948 war. The political geography of Resolution 181 had provided for a gerrymandered Jewish state with a narrow 55 % Jewish majority. But the larger territory controlled by Israel at the end of the war—72 % of Mandatory Palestine—included areas designated for the Arab state and so, as a

whole, had held an Arab majority prior to the war. Return of the Palestinian refugees to their homes was obviously a human right. But such return would eliminate Jewish statehood in the sense of a Jewish majority. The political geography of the Jewish state had evaporated with this demographic problem, and with it “Jewish statehood” in the sense intended by Resolution 181.

Hence GA Resolution 194 (passed after the formal end of hostilities, in December 1948) made no mention of either Jewish or Arab statehood in holding that “the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date.” Implicitly, it was declaring partition no longer workable. Similarly, later UN resolutions all refer to “Israel” but none mention the “Jewish state.” To do so would endorse Israel’s claim to have inherited the “Jewish state” formula endorsed by Resolution 181. Among other problems, such endorsement could be interpreted to undermine the right of Palestinian return.

This change of language signalled UN recognition that the two-state model, with its “Jewish” and “Arab” geographic imaginaries, was destined for the trash heap of history. Israel, indeed, is clearly not the “Jewish state” in the sense offered by Resolution 181—securing full civil rights for its Arab majority, on terms and in territory that provided for the well-being of indigenous Arab society and culture. Nevertheless, Israel itself adopted the UN mantle of legitimacy offered in Resolution 181 by positioning itself as the “Jewish state” that resolution proposed (and not the inheritor of Palestine itself, whose right to self-determination was established under the British Mandate).

Recognizing this transformation, later UN resolutions made no mention of any “Jewish state” or “Arab state”; the terminology of Resolution 181—two titular ethnic states in economic union—never appeared again. The provisions of Security Council Resolution 242 of 1967 (which established

the “land for peace” formula by calling for “withdrawal of Israeli armed forces from territories occupied in the recent conflict”) would later be reinterpreted in the Oslo era as supporting Palestinian statehood, but its actual text does not mention Palestinians at all, let alone any Arab (or “Palestinian”) state. Nor does Resolution 338, which launched the peace process. Only in 2002 did the Security Council support the Bush administration’s “Road Map” by “affirming a vision of a region where two States, Israel and Palestine, live side by side within secure and recognized borders” (S/RES/1397, 12 March 2002).

The shift in language is notable, however, for Resolution 1397 refers to “Israel and Palestine” rather than to a “Jewish state and Arab state.” The change indicates that UN opinion had not come full circle. Indeed, it reflects a larger transformation in international norms regarding ethnic pluralism.

Racial and ethnic nationalism was the celebrated basis for nationalism from the late 19th through mid-20th centuries. Both Zionism and Arab nationalism took root in this heady era, in which discourses fusing landscape, race (or “blood”), zeitgeist, and nationhood were invented to authorize state-building projects. But racial nationalism was permanently discredited by the ghastly logics deployed by Nazi and Japanese imperialism in World War II. Subsequently, international normative criteria for state legitimacy shifted from racial and ethnic nationalist concepts to a civil-territorial principle, emphasizing equal rights for all citizens irrespective of race, ethnicity, or religion (see, e.g., Barkin and Cronin 1994). A host of UN covenants elaborated this shift, spelling out the rights of all people to equal treatment in respect of economic, cultural, and social rights.<sup>5</sup> By the end of the century, ethnocracy had fallen into hopeless disrepute: for example, “white Australia” had been dismantled and the Anglo-centric national narrative in the United States was yielding to multicultural alternatives. Multi-ethnic nationalist discourses in the western democracies had

become universally *de rigueur*, while ethnic pluralism was accorded at least lip service everywhere as a new international “standard of civilization,” creating political space for reams of local movements by long-suppressed ethnic minorities.<sup>6</sup>

The switch to civic nationalism has, of course, been far from total: racial and ethnic notions certainly persist, in lingering prejudices as well as in nationalist narratives and symbols. But older ideas that nations are defined by “blood” are deemed backward and dangerous both to domestic minorities and to international security. Hence the language of “Jewish state” has come to ring more negatively in international discourse, even aside from any criticism of Israel’s policies regarding the Palestinians, for the term implies that Jews can legitimately sustain ethnic dominion over non-Jewish minorities even within Israel’s domestic laws.

This normative shift regarding state legitimacy has not only failed to take hold in Israel, it has actually contributed to Israel’s nervous concern to preclude the “threat” of a binational state. From 1948 to 1990, Israel had flatly rejected any two-state solution, on the grounds that a Palestinian state would threaten Israeli security. In the 1990s, however, state and Zionist rhetoric abruptly reversed to insist on two states (re-invoking long-rejected Resolution 181 as a legitimizing pillar). The reason was the growing “demographic threat.” By the late 1980s and, especially, the early 1990s, ever-expanding Jewish settlement in the West Bank was juxtaposing Jewish towns and cities so closely among Arab ones that labour and other social forces seemed likely greatly to increase ethnic miscegenation. Miscegenation would threaten Jewish statehood in two ways. First, through mere inter-ethnic fraternizing, it would tend to reduce (biologically dilute) the Jewish majority—a question of concern for an identity so heavily shaped by concepts of descent and intergenerational ties. Second, it would introduce into Israel’s economy a large and disenfranchised

population certain eventually to insist on civil rights in Israel's democracy. Under the old 19th-century terms, politically excluding non-Jews (or consigning them to second-class citizenship) would have been considered morally permissible for a Jewish state. But in the new normative international climate, Israel cannot exclude a portion of its territory's population on the basis of ethnicity or confession without manifesting as an ugly, apartheid-like, racist system. The only way for Israel to preclude both democratizing pressures and the moral dilemma of open racial discrimination is to exclude Palestinians physically.

That excluding people on the basis of race or ethnicity is itself racist is the pitfall in this strategy. For example, one Israeli government response to this "threat" is the 640-km Wall of Separation (or "security barrier," in Israeli government parlance), intended literally to concretize ethno-racial separation in gerrymandered territory. So graphic is the racial quality of this structure that it has drawn universal opprobrium. A corollary measure is to allow Palestinians within the resulting ethnic ghettos some form of truncated political authority that would mitigate the onus on Israel to enfranchise them. Hence a "Palestinian state" is justified as necessary to defend the "Jewish character" of Israel—that is, the Jewish state. But as a truly viable Palestinian state might develop sufficient vigour to negotiate open trade and cooperation relations with Israel, it would threaten again to reintroduce Palestine's indigenous people into Israel's society and, again, raise the "threat" of eventual demographic and political merger. Containing the new Palestinian state within enclaves that secure its lasting weakness and even its eventual national dissolution is therefore part of the model.

Zionist apologists insist that Israel is justified in these policies because ethno-national statehood is a privilege enjoyed by other nations in the world, such as France. Since French nationalism bears no

resemblance to Israel's ethnocracy ("French" being today a civil identity rather than an ethnic one), this comparison is empirically false. (Indeed, Israel's ethno-nationalism today bears a stronger resemblance to Slobodan Milosevic's Serbia.) Still, the claim to nationhood remains a moral challenge, for it is far from solely a Zionist imaginary. The British government endorsed Jewish national interests in the Balfour Declaration when it authorized the establishment of a "Jewish national home" in Palestine. The League of Nations endorsed the Balfour Declaration and, therefore, Jewish standing as a nation. Resolution 181 further endorsed Jewish nationhood by dividing the territory of Mandatory Palestine into a "Jewish state" and an "Arab state." Although the term "Jewish state" has vanished from UN discourse, as noted earlier, titular ethnic states were freshly validated after 1989 in the breaking up of Yugoslavia and Czechoslovakia.

None of these international legal instruments or policies endorsed ethnocracy, however, for all stressed equal rights for all citizens within the territory. Still, the historical discursive shift from "Jewish state" to "Israel" leaves unclear how the old ethnic premise of Resolution 181 persists today in a two-state model recognizing "Israel and Palestine." Does recognition of Palestine—apparently the "non-Jewish" state—signify that Israel is now being endorsed openly as a Jewish state? If so, this is a unique step for the international community that requires explanation: On what grounds is Jewish ethnocracy endorsed in Palestine when no other state ethnocracy is considered admissible? But if Jewish ethnocracy is not being endorsed, what is the juridical and moral basis for endorsing partition now?

Indeed, calling for a "Palestinian state" has highlighted these questions, partly because the ethnic character of such a state is murky. Early Palestinian nationalism was framed under the rubric "Arab," an identity that for a century has oscillated uncomfortably between state-nationalist and regional

concepts (e.g., “Arab world” and “Greater Syrian” discourses). But was “Arab” itself ever an ethnic identity? “Arab” has always connoted some cultural commonality, but a specific ethnic iconography was elusive and contested because of the great ethnic diversity among Arabic-speaking populations within its geographic imaginary. Certainly “Arab” was not reliably fused with “Muslim”: Arab nationalism in Palestine was especially multi-confessional, embracing the sizeable Christian sector as well as Druze, Zoroastrian, and other communities. Still, the Jewish community in Palestine was not clearly part of this “Arab” identity in Palestine because it was composed partly of European Jewish scholars who came to study Torah and maintain yeshivas. Ethnic coexistence between Jew and Arab was often cordial, but the precise standing even of Arabic-speaking Jews as “Arab” was unclear.

The PLO Charter (as revised in 1968) tried to amend this confusion by anchoring the term “Palestinian” in territorial indigeneity. Hence, while asserting that Palestine is an “Arab” country, Article 6 affirms that “Jews who were normally resident in the Palestine prior to the Zionist invasion will be considered Palestinian.” However, Israel embraced all these Jews as nationals of the “Jewish state,” so they all inherited Israel’s privileges and were embraced within “Jewish” in its newly politicized form. Hence the Zionist movement, the Partition Resolution, and Israeli policy have carved “Jewish” out of “Arab” with a force that configures the “Palestinian state” as ethnic, if only in the sense of non-Jewish.

Still, Palestinian political rhetoric continues to embrace as “Palestinians” Jews and anyone else ready to accept citizenship in the Palestinian state. Hence “Palestinian” remains non-ethnic in this respect. International endorsement of a Palestinian state does not, therefore, explicitly endorse ethnic statehood, even though Palestine will inevitably inherit the ethnic iconography of the present Palestinian national movement. Indeed, the

“Road Map” approach assumes and insists that the Palestinian state be a non-ethnic democracy, although it makes no mention of governance within Israel. Ironically, the international community appears to assume that Palestinians have both the capacity and an obligation to establish a multi-ethnic secular democracy, while Jews in Israel do not.

Hence the international community’s moral conundrum: To be consistent, the international community must reject Jewish ethnocracy in Israel, just as it has rejected ethnocracy for Serbs, Rwandan Hutus, and other groups. Simple silence on the subject tacitly accepts Jewish ethnocracy. Yet insisting on equal rights and secular multi-ethnic democracy in the territory under Israel’s control would now signify a one-state solution, just as it did in 1948. Is a one-state solution to be blocked by timidity and reticence on outmoded ethno-nationalist claims that the Jewish people uniquely deserve to maintain an ethnocracy in Israel? If so, efforts to resolve the political conundrum will also remain crippled.

## Notes

- <sup>1</sup> Comparisons with South Africa find important differences as well as similarities, but a fuller discussion is beyond the scope of this article.
- <sup>2</sup> On codified international norms regarding the rights of indigenous peoples, see the International Labor Organization’s Covenant 169; for an analysis of the transnational indigenous peoples’ movement, see especially Brysk (2000); also Tilley (2005, chap. 10).
- <sup>3</sup> I use “ethnocracy” in the sense offered by Oren Yiftachel (1999) and in his contribution to this forum.
- <sup>4</sup> For a critical analysis of this logic, see Biale (1986).
- <sup>5</sup> For instance, the Covenant on Economic, Social, and Cultural Rights (16 December 1966) and the Convention on the Elimination of Racial Discrimination (21 December 1965).

- <sup>6</sup> On such “standards,” see especially Gerrit Gong’s classic *The Standard of Civilization in International Relations*.

### References

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The two-state solution – the creation of two separate countries divided by a border roughly along the 1949 armistice lines (with some territorial adjustments) – has long been regarded by diplomats and experts, and for the last two decades by a majority of Israelis and Palestinians, as the best way to resolve the conflict. But it now appears to be in serious jeopardy. Most Israelis and Palestinians want their own state, to fulfil their collective desires for national self-determination. A single state is likely to generate a relentless competition for power and control, which could easily turn deadly. Dov Waxman is a professor of political science, international affairs and Israel studies at Northeastern University, Boston, and co-director of its Middle East Centre. The Arab claim to Palestine is a hoax. The hoax and the Arab’s sinister appropriation of the name ‘Palestinians’ are thoroughly discussed in the monumental work of Howard Grief, *The Legal Foundations and Borders of Israel under International Law* (Jerusalem; Mazo Publishers, 2008), Section Four. Chs. 16-18. It follows that the ‘two-state solution’ to the Israel-Palestinian conflict endorsed by Prime Minister Benjamin Netanyahu on June 14, 2009 at Bar-Ilan University clearly violates the San Remo Resolution and should be deemed null and void. Two-State Solution. This plan would create two states for two peoples, Israel and Palestine. Hypothetically, the Israel state would retain a Jewish majority, thus remaining a Jewish state, and the Palestinian state would have a Muslim Arab majority. According to this Haaretz poll from 2019, just about a... of Israelis support a two-state solution (19% support one-state, 9% a confederation (which we’ll get to), and the rest fall under ‘don’t know’ or ‘other’). The majority of world powers support the two-state solution as well, as did, until only very recently, the United States and the Israeli go