

The Right to National Self-Determination and Israel/Palestine

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Introduction

In this essay I discuss the right to national self-determination with a focus on its application in the context of Israel/Palestine. I outline historical moves that shaped the ways in which the nation-state emerged in the 20th century as a universal norm, based on self-determination as its principle of legitimacy. After addressing two important documents, written a century ago, that have served to entrench this principle, I attempt to draw the implications for developments in Israel/Palestine from the time the documents were written to the present.

Historical Background

In the course of the World War I (1914-18), the Russian, Austro-Hungarian, German, and Ottoman Empires collapsed due to combinations of defeats in the battlefield and internal rebellions. Of particular relevance here was the Arab Revolt of 1916-18, which played a role in the demise of the Ottoman Empire. It was entangled with one of three sets of promises made by the British during the war: the Hussein-McMahon correspondence of 1915, which promised Arab independence in the region; the Sykes-Picot agreement of 1916, which planned the division of the region into British and French spheres of influence; and the Balfour Declaration of 1917, which asserted British support for a “national home for the Jewish people” in Palestine.

The subsequent history of the Middle East involved a combination of all three promises: from the Ottoman Empire several Arab countries were carved out and eventually gained independence in the following decades. Palestine was an exception, but it too became a distinct entity destined for a separate existence.

The conceptual basis for the post-war developments was provided by two documents. The first, written by Vladimir Lenin, asserted the right of nations to self-determination and statehood: “the tendency of every national movement is towards formation of national states.” Therefore, “we must inevitably reach the conclusion that the self-determination of nations means the political separation of these nations” (Lenin 1914, chapter 1).

Referring to multi-national empires, Lenin called for “complete equality of rights for all nations; the right of nations to self-determination” (Lenin 1914, chapter 10). Specifically, this applied to groups occupying a distinct territory within a larger political framework that was imposed on them, such as Ukrainians and Poles in the Russian and Austro-Hungarian Empires, and to nations dominated by the British and French colonial Empires. In 1916 he formulated that point as a call on workers to “demand freedom of political separation for the colonies and nations oppressed by ‘their own’ nation” (Lenin 1916),

Towards the end of the war, in 1918, US President Woodrow Wilson outlined 14 principles to guide a peace plan, including “A free, open-minded, and absolutely impartial adjustment of

all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined” (Wilson 1918).

In the following year, Article 22 of the Covenant of the League of Nations, in whose establishment Wilson played a key role, asserted that “certain communities formerly belonging to the Turkish Empire” should be granted “existence as independent nations”, though they required “administrative advice and assistance by a Mandatory” until they became fully ready for that. It added: “the wishes of these communities must be a principal consideration in the selection of the Mandatory” (League of Nations 1924).

The result of all of these decisions was a proliferation of independent nation-states in Europe and the Middle East, though many of these states contained large ethnic and religious minorities. In the Middle East, the formation of new states, and moves towards territorially-based identities and movements, clashed with the rise of an Arab nationalist movement that promoted pan-Arab political identity and institutions.

A second stage in the development of the nation-state as a universal political form came with the collapse of colonial empires in the wake of the World War II. Decolonization gave rise to dozens of new states in Africa and Asia. Following the establishment of the United Nations in 1945 this led to a 1960 UN *Declaration on the Granting of Independence to Colonial Countries and People*. The Declaration opposes “the subjection of peoples to alien subjugation, domination and exploitation”, and asserts that “all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development” (United Nations 1960).

The Case of Palestine/Israel

As part of the Ottoman Empire until 1917, and a British-ruled territory until 1948, Palestine met the definition of a territory whose population was entitled to self-determination, as did all its neighbors. But which nation was the subject of that right? The answer seemed simple: at the end of the war the vast majority of the population (90-plus percent) were Arabic-speaking Muslims and Christians who had started to refer to themselves collectively as Palestinian Arabs in the beginning of the 20th century. Jewish residents were a small minority, with no concentrated demographic presence in any part of the country, and therefore with no valid claim to political independence in the country on their own.

But the 1917 Balfour Declaration, followed by the British Mandate, changed the picture. Instead of addressing the concerns of local Jewish communities, the declaration promoted “a national home for the Jewish people” to be located in that geographical area. That term was not defined precisely but was commonly interpreted to mean the entire array of Jewish communities throughout the world, irrespective of their specific conditions. The “Jewish people” (in the singular) was seen as a coherent group entitled to collective rights, rather than a multitude of diverse communities with a wide range of political preferences in their many different countries of residence (Jewish people in the plural). Despite its geographical dispersion, that group was granted a claim to a specific territory from which most of its members were absent and to which local residents (most of whom did not belong to the group) formulated their own claims, based on overwhelming physical presence and long-term family, community, and historical links.

We have to realize the implications of the Balfour Declaration in introducing a radical political and conceptual change: (1) it re-defined the Jewish people as a unified political subject instead of a heterogeneous set of ethnic-religious communities with disparate concerns in relation to each one's specific circumstances, as they had been until then; (2) it re-defined Palestine as a site for the realization of the political aspirations of the "Jewish people," bypassing and marginalizing the concerns of the majority of the land's residents, including Jewish communities there and elsewhere. In both respects the Balfour Declaration reflected the recently-formulated ideas of the Zionist movement, which was at the time a minority tendency among Jews globally as well as in Palestine itself. The Declaration's commitment not to "prejudice the civil and religious rights of existing non-Jewish communities" did not amount to recognition of the political rights of the group comprising the overwhelming majority of the population, Palestinian Arabs.

The definition of Jews as a nation with a political claim to Palestine was a novel idea. Jews regarded the Land of Israel as the *symbolic* anchor of their identity, but the land was first targeted *politically* for purposes of immigration and settlement in the late 19th century. For political Zionists, Jews needed a state of their own to guarantee their safety, and Palestine was the obvious location for it, given the centuries-old connection to this land.

But were Jews indeed a "nation," did their safety require an independent state, and was Palestine a legitimate place for it?

Most political Zionists answered all three questions in the affirmative. But other responses were more common among Jews, at least until 1948. In the beginning of the 20th century, most European Jews saw themselves as members of the Jewish people despite the loose links between their widely-dispersed communities. But, they did not envisage a common future in their own national territory. Rather, they aimed to integrate themselves in their countries of residence and become equal citizens. Immigration to democratic countries with good economic prospects was viewed by many as the best solution. Nationalism and statehood in Palestine had limited appeal compared to the promise of religious freedom and individual prosperity in Western Europe, the Americas, and South Africa.

Palestine already was an inhabited country. Exercising Jewish self-determination in a territory in which they were a small minority, and of recent origin at that, was bound to clash with the rights of existing residents who naturally saw their own claims – derived from their continued historical presence in the land – as superior.

The question of political rights was a constant theme during the Mandate period (1920-48). Addressing Britain's contradictory commitments – preparing the country for independence, and building the "Jewish National Home" – the Royal Commission of Enquiry of 1937 concluded that these two issues "have proved irreconcilable; and, as far ahead as we can see, they must continue to conflict. To put it in one sentence, we cannot – in Palestine as it now is – both concede the Arab claim to self-government and secure the establishment of the Jewish National Home."ⁱ

A decade later, in 1947, a similar conclusion was reached by the UN Special Committee on Palestine (UNSCOP), which asserted that "the claims to Palestine of the Arabs and Jews, both possessing validity, are irreconcilable." Hence, partition of the country was "the only means available by which political and economic responsibility can be placed squarely on both Arabs and Jews" (UN 1947). This became the foundation for the notion of two states for

two distinct nations.

The Two-State Solution

The discourse of symmetry – two nations, two peoples, two states, two sets of historical rights, two valid claims to self-determination based in the same territory – remains powerful. Yet it must be subjected to a critical examination.

The first question has to do with indigeneity: do immigrant settlers have the same right to self-determination as indigenous people? Palestinian Arabs can demonstrate a continuous presence in the country stretching over many centuries. Most Israeli Jews trace their origins in the land to the 20th century, with a few who go back earlier. This difference in possessing deep physical roots calls for some distinctions, but what should they be?

Of greater concern are the boundaries of the “nation” with the right to self-determination. The case of Palestinians seems straightforward: they are Arabic-speaking residents of the country, Muslims and Christians whose ancestors had lived in the country long before World War I. Other Muslims and Christians and Arabic-speakers do not qualify for such right without a concrete link to the country. The case of Israeli Jews seems different: Jews who have lived in the country for any length of time qualify as part of the Israeli-Jewish Hebrew-speaking people, but what about other Jews who do not live there and never have?

Zionist ideology regards them as potential citizens who have not yet enacted their right to return to their homeland. But, such Jews are not residents of the territory at present, nor do they share characteristics that normally serve to define a nation: common language, territory, or economic life, despite their sense of belonging to the same group of people. Should self-determination be reserved for Israeli-Jews – a territorially-identified group of people – or to all Jews, whatever their actual links to the country?

A related issue: the notion of “return” is central to claims to self-determination. For Palestinians it is the Right of Return for the those in their community who became refugees as a result of the 1948 ethnic cleansing, as well as their descendants, now comprising more than 50 percent of their total population; for Jews it is the Law of Return that grants every Jew in the world the right to move to Israel and become a citizen. This surface similarity disguises a profound difference: for Palestinians return means going back to the same building, plot of land, village, or town, in which they or their immediate ancestors used to live; for Jews it means moving to a new country in which neither they nor any of their known ancestors had ever lived, although they share a sense of having their historical roots there. It means going to a “homeland” in an abstract ideological sense, not to a concrete location or physical site to which they have any familial relationship.

The ideological nature of the concept of “return to the homeland” means that Jewish self-determination in Israel/Palestine does not refer to independence from colonial rule or secession from a foreign regime as in other cases. Rather, it is the formation of a new state through the gathering of disparate people who share religious and ethnic sentiments but no direct living experiences. This is not to deny the sense of nationalism unifying Jews in Israel *today*, but to question whether what is involved is self-determination of an already-existing national group.

The core issue here is not theoretical definitions but practical politics. Recognizing Jews in

general as a national group should raise no particular concern for anyone outside of the group. But when the site selected for the exercise of self-determination and statehood is an inhabited country, and the process of building the “National Home” leads to the dismantling of the national home of another group already residing there, political conflict is inevitable.

This need not be the case if the nation is open to members of all groups, in the same way that all residents of France can join the French nation regardless of religious or ethnic origins, and all immigrants to the US or Canada can become part of the American or Canadian nation, sharing equal citizenship, regardless of their diverse backgrounds. But, the nation-state of the Jewish people, as Israel is officially defined, is open only to people with a Jewish ethno-religious background. It does not recognize a nationality of a civic nature, open to all citizens alike. It gives preference to Jewish immigrants over and at the expense of the rights of indigenous non-Jewish people.

This is a situation with few if any equivalents at present. Many states incorporate some ethnic or religious symbols into their notions of citizenship, and may practice some informal preference for members of some groups. But, the degree to which a regime of systematic ethnic domination is institutionalized in Israel (Adalah 2018), combined with the forcible eviction of much of the indigenous population and its displacement and replacement by recently-arrived settlers, are unique outside of the context of the colonial era, which was coming to an end after the Second World War. Over the years, most states that had emerged out of a colonial encounter normalized their situation by granting the descendants of settlers and indigenous people equal rights and incorporating them fully into the body politic. Israel, in contrast, continues to entrench Jewish domination throughout its sphere of control and is doing that in an intensified manner, albeit differentially in relation to various segments of the Palestinian population.

Sasley’s argument (in this volume) that this is common practice is wrong. To be sure, cases of ethnic or national oppression (Tibetans in China, Kurds in Turkey, Basques in Spain) exist, but the denial of self-determination to these groups is normally accompanied by the offer – indeed the imposition – of common citizenship in order to facilitate their cultural assimilation into the dominant group. Palestinians under Israeli control are offered neither assimilation and equal citizenship nor independence, but rather permanent marginalization. A recent spate of legislative proposals and acts denies non-Jewish citizens a place in the state’s definition as the nation-state of the Jewish people exclusively, demotes the official status of the Arabic language, entrenches the existing practice of maintaining and creating Jewish-only communities, and reinforces the specific Jewish character of state symbols. Even if the 1967 occupation is brought to an end and an independent Palestinian state is established (and this seems less likely now than ever), it would do nothing to change the discrimination practiced against Palestinian citizens or the exclusion of the 1948 refugees and their descendants.

Having said that, we must recognize that over the years an Israeli-Jewish national identity has developed alongside a Palestinian-Arab national identity, and each can serve as a foundation for the right to self-determination on an equal basis, as a starting point towards solving the issue on all its aspects. Yet, when full membership in the political community is open to all Jews (even if they and their ancestors never set foot in the territory and have no relationship to anyone living there), and closed off to all non-citizen Palestinians (even if they and their ancestors were born there and have relatives living there), serious challenges follow.

Without addressing this fundamental imbalance – what Abu El-Haj refers to as “deficit of

rights” and “citizenship gaps” elsewhere in this volume – the notion of Two States for Two Peoples remains inadequate as a political solution for the country. It is not a matter of a border dispute that can be resolved by shifting lines on a map. It has to do with the ways in which definitions of citizenship, national identity, and political rights are handled by the state.

Sasley’s notion that Israel and the 1967 Occupied Territories are two separate issues, and that the rights of Palestinian citizens of Israel is an internal matter, do not stand up to scrutiny, as Abu El-Haj asserts. The entire range of relations between the State of Israel and different segments of the Palestinian-Arab people (1948 refugees, 1948 citizens, 1967 occupied subjects in Gaza, the West Bank and East Jerusalem) has been shaped by the same historical process. We cannot look at any one component without considering the others, which is not to say that all aspects of the situation can be resolved in one political big bang.

Conclusion

What does this mean for the prospects of equality and dignity for national groups, advocated by Lenin and Wilson a century ago? The following principles may serve as a guide:

- There are two national groups in the historical territory of Israel/Palestine, Israeli Jews and Palestinian Arabs. Self-determination should be restricted to residents, current and former, and their family members.
- Members of each group should be entitled to political equality as individuals as well as recognition of their collective rights to practice their religions, speak and be educated in their languages, and develop their cultures.
- Each should have the right to form political institutions and shape the nature of the state or states in which they live, as long as they adhere to universal democratic norms and civil and human rights for all. Principles of redress for past injustices may be applied in this context.
- As a transitional arrangement, extended over time if people so wish, separate states may be maintained in agreed boundaries. Each state should maintain equality for all its citizens regardless of ethnic, religious and national origins.

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