

# THE NATIONAL RIGHTS OF JEWS

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## INTRODUCTION

Are Jews a nation? Do they have and should they have national rights, in particular the right to state-level self-determination? Was the establishment of the state of Israel an answer to this question? How should we approach these questions now, at the beginning of the twenty-first century?

These are questions that have many dimensions – theoretical, historical, moral, political, and legal. They have been debated heatedly at least from the beginning of the Zionist movement, both among Jews and non-Jews. Recently the questions have returned to the fore due to the combination and culmination of a number of processes:

In his Bar-Ilan speech on June 14, 2009, Prime Minister Benjamin Netanyahu committed himself to the vision of “two states” but insisted that they should be “two states for two peoples.”<sup>1</sup> He therefore demanded that Palestinians should recognize not just the independent and sovereign state of Israel, but also that Israel is the nation-state of Jews; Palestinians and other Arab leaders objected to this demand; they were also asked to do so by the representatives of the Arab citizens of Israel.<sup>2</sup> Palestinians explained that such a recognition may undermine the “right” of Palestinian refugees and their descendants to return to their homes in Israel if they so choose. The Arab citizens of Israel argued that such recognition would undermine their equal status within Israel, since – they claim – the Jewishness of Israel is incompatible with democracy, and Israel should be a democracy and therefore give up on its Jewish distinctness. Israel should be Israeli rather than Jewish, and this would affirm its commitment to the civic equality of all its citizens, irrespective of religion or ethnic origin.<sup>3</sup>

Thus questions relating to the national rights of Jews affect the prospects of the distinct but related questions of a resolution of the Israeli-Palestinian conflict as well as internal issues concerning Israel's own identity and function.

Against the background of principled challenges to the legitimacy of the idea of a Jewish nation-state, I wish to argue that the denial of national rights to Jews as Jews is neither required nor justified by any accepted norm of international law or morality. The claim that Jews have no national rights is not well founded.

The skeleton of my argument is that **Israel was established as the (ethnic) nation-state of Jews, and that it is justified that it continues to be the nation-state of Jews. As such, Israel is allowed to act in ways that promote the conditions for its ability to function as the nation-state of Jews and to maintain its Jewish distinctness so long as this does not violate the rights – personal as well as collective – of its population. Thus, the nation-state of Jews must not discriminate against its non-Jewish citizens. In addition, it cannot impose a specific conception of the Jewishness of the state on its population, Jewish or Arab. Finally, Jews in other parts of the world may have group rights as well as individual rights, but they may not claim rights to political self-determination as national minorities.**

Let me sketch some of the main theses of this argument:

- ▶ **Jews are a nation**, with cultural and ethnic characteristics, and not only a religion; this was true before Israel was established and it is true today. This is consistent with the claim that Jews are also members of the nations within which they live.
- ▶ Being a nation, **Jews are entitled to national rights**, not only to religious and cultural rights. **The strongest national right is the right to state-level self-determination.**
- ▶ Being dispersed among other nations, and living always as a minority, has throughout history proven itself harmful to Jews and has made them and continues to render them vulnerable both to persecution and to assimilation, threatening their ability to maintain their cultural identity.
- ▶ It is thus justified for Jews to have sought revival of political independence in their ancient homeland – Zion. Thus Zionism is **not** a colonial or an imperialist operation in the sense analyzed and condemned by modern political philosophy. This is true despite the fact that at the beginning of the twentieth century Jews were not a critical mass in that country. The presence of Arab population in Israel was not a conclusive reason against this move because that community never had enjoyed political independence, and Jews were at liberty to seek political revival in the only place in the world that had been their homeland.
- ▶ Israel was established to respond to the Jews' need for effective self-determination. The 1947 UN partition resolution protected the rights of Arab population of Palestine by the decision to establish an Arab state in a part of historic Palestine, and requiring both states to protect the rights – personal and cultural – of members of the other nation residing in them.

- ▶ Two wars (1947-1949 and 1967) started by the Arabs resulted in a reality under which only a Jewish state existed between the sea and the Jordan River. The “two states, two peoples” solution is designed to change that situation.
- ▶ Israel may and should maintain itself as a democratic nation-state of Jews, and should act to promote the implementation of effective self-determination for both Jews and Arabs in historic Palestine/the Land of Israel.

Advisedly, this argument does not discuss the details of present or desirable contours of the resolution of the Israeli-Palestinian conflict or the status of the Arab minority within Israel. Rather, it deals with the general constraints in these arrangements, from the starting point of examining the validity and scope of the national rights of Jews and their implications.<sup>4</sup>

In the body of the chapter I elaborate on some of these premises and claims.

## JEWIS ARE A NATION

The claim that Jews are not a nation in the context of our concerns comes from the fact that international law recognizes the right of **peoples** to self-determination, while only recognizing cultural and religious rights for other cultural groups, with a special sensitivity to the claims of national minorities.<sup>5</sup> If Jews are only a religion, basic elements of their claim to a right to self-determination in Zion may be undermined.<sup>6</sup>

We should also recall that these debates about the nature of Judaism arose before Zionism, and were made more heated by growing secularization, enlightenment, and the rise of nation-states and political emancipation in Europe.

I will argue that Jews are indeed a nation in the relevant sense, and that they have been recognized as such by the international community. Yet we should distinguish between, on the one hand, the question in terms of international law and the right to self-determination, where the answer is relatively clear and simple; and, on the other, the complex identity questions of membership in the Jewish collective and its history.<sup>7</sup>

It is true that for many hundreds of years Jews lived in dispersed communities all over the world, and did not share a spoken language.<sup>8</sup> Usually they did not enjoy political control over their fate.<sup>9</sup> Moreover, Jewish identity over the years was maintained and transmitted via membership in communities of faith and worship. Jews who did not observe did not remain Jews. Often Jews who integrated into host societies and agreed to the privatization of their distinct Jewish identity as a religion were not effective in transmitting it to later generations. Yet it is also quite clear that the ties among Jewish communities were not exhausted by religion even before secularization. Jews felt a community of fate and shared a history and a culture across the countries in which they lived and the languages that they used. The strength of this sense of shared fate is a central component of the amazing fact that Jews remained a distinct ethnic group despite centuries of dispersion.<sup>10</sup>

Nationhood and membership in nations are recognized to be based on a combination of objective and subjective characteristics. Those who remained Jews chose to do so. And they chose to do so because they felt this was an important part of their identity. The fact that this identity was not only religious became clear when many who stopped observing, some of whom defined themselves as having no religion, wanted to remain and transmit their Jewish identity to their children.

The cultural revival leading to Zionism was in fact triggered by this wish. Thus it is not surprising that Herzl, an assimilated Jew himself, affirmed clearly that “We are a People; one people.” True, there are modern scholars of nationalism who doubt that Jews are a nation. But there are many others scholars, Jews and non-Jews alike, who use Zionism as a paradigm of a national liberation movement.<sup>11</sup>

It must be conceded that the existence of Jews before the establishment of the state could indeed raise doubts concerning their status as a nation. The doubts are raised not only by the characteristics of Jews and Judaism, but by the fact that different states treated Judaism and Jewish identity in different ways. France never saw Jews as a national group, and sought to privatize even their religious affiliation. Poland at some points was quite happy to treat Jews as a national minority. Nonetheless in World War 1 Jews fought in national armies on all sides of the battle.<sup>12</sup>

Be this as it may, the question of whether Jews had national rights was clearly resolved in international law by the 1922 Mandate for Palestine, in which Britain accepted the Mandate to facilitate the establishment of a “national home” for Jews in Palestine, explicitly recognizing the historical roots of Jews in the country.<sup>13</sup>

So while historical and sociological questions of the essence of Judaism and the Jewish collective are never settled by legal documents, the fact that Jews are seen as a nation entitled to self-determination seems to be well recognized by the international community.

Finally, there are those who claim that Zionism was a movement that sought to make Jews a “normal” people, with a territory and language. Indeed, the establishment of the state was a major achievement of Zionism. However, once the state was established, it by definition constitutes the nation of all its citizens. According to this attitude, Zionists wanted Jews to become Israelis. Once they succeeded, the collective that is now the subject of rights to self-determination is those living in the country. Israel should be an Israeli state, and the relevant collective is that of Israelis.<sup>14</sup> A majority of Israelis under this account are Jews by their culture. But their nationality is Israeli. Jews living in other countries are, respectively, Jews in their religion (often privatized) and English, French, or American by their nationality.

This argument ignores the distinction between ethnic national identity and civic national identity. True, all citizens of a state, irrespective of ethnic or religious identity, belong to the same “civic nation” or *demos*. But in many contexts, nationalism is not about civic identity but about the wish to gain political independence for a cultural or ethnic (national) group. If this had not been the case it would have been unintelligible to talk about “national minorities” since, by definition, no such minorities could exist in any state. True, Jews who are citizens of other countries are also affected



*Theodor Herzl, 1900 (Israel National Photo Collection)*

by their countries' cultural and political identity. Their ties to the country in which they live and whose citizens they are, are not exhausted by legal citizenship. It does not at all follow from this that their understanding of their Jewish identity is not deeply ethnic, historic, and cultural. By claiming that Jews are a nation I am invoking a distinction between citizenship and national-cultural identity. All Israelis, Jews and Arabs alike, share a citizenship and some cultural characteristics (such as Hebrew). Yet Arabs and Jews in Israel both want to be also recognized as members of their respective national (Jews vs. Arabs) as well as religious groups (Jews, Muslims, Druze, and Christians). Moreover, there are important cultural differences within these national and religious groups. All of these identities may have practical implications. Jews who are citizens of other countries do not seek recognition of their national rights in those countries. They may choose to immigrate and settle into the one country in the world which is the (ethnic) nation-state of Jews. This will be an exercise of their national rights. They may also choose to remain nationals of their countries of citizenship, while acknowledging their cultural ties to the nation-state of Jews.

The complexity of the relationships between citizenship, culture, religion, and ethnic heritage is highlighted in the modern world because of the scope of immigration, creating large groups of people who are citizens of one state and members of national and cultural groups whose center of life is elsewhere. Modern states now tend to recognize this complexity not only through policies of multiculturalism but also by allowing and even encouraging double citizenship.

The challenge to the fact that Jews are a nation thus fails.<sup>15</sup>

## **NOT ENJOYING EFFECTIVE SELF-DETERMINATION ANYWHERE IS BAD FOR BOTH JEWS AND JUDAISM**

Some argue that even if Jews are a nation, they do not and should not have national rights because their long existence under conditions of dispersion shows that they can survive without effective political self-determination. This claim is then strengthened by invocation of the rights of Arabs in Palestine.<sup>16</sup>

Zionists argued that the lessons of living in dispersion showed many events of persecution, pressures to convert, expulsions, and even genocide. Moreover, they claimed that not being responsible for the whole range of matters of state created Jewish communities that were less than wholesome and a culture that was not complete. They conceded that Jews also knew periods of great affluence and creativity while in dispersion. Yet a defining mark of life in dispersion was the vulnerability of Jews, and their total dependence on the goodwill and effective defense of the rulers and elites of the countries in which they dwelt.

Finally, they argued that with secularization and emancipation, Jews would face pressures to assimilate that might threaten their power to remain Jews and transmit Jewish identity. Such pressures to assimilate might be the price for a fuller integration of Jews within their host societies. Some Zionists felt that Jews could not in fact integrate because they were considered aliens in their

host communities. Others reasoned that even if assimilation might be beneficial for individual Jews, it would threaten the possibility of maintaining and transmitting Jewish identity and culture over time. Such revival of Judaism as a cultural tradition and identity required active investment in cultural creativity among Jews, which would reflect the full range of ways of being Jewish, especially ways seeking to integrate a stable Jewish identity with modernity and the achievements of science and general culture.

The Holocaust was a tragic proof that Jews could indeed become extremely vulnerable to physical danger even in host countries that were cultured and in which Jews were fully emancipated and integrated. Yet many say today that this *sui generis* event cannot support a continuing claim for political self-determination. They add that today Jews are less threatened in most parts of the world than they are in Israel. And that, in fact, Israeli policies are an important element of what endangers Jews in the world.

There are at least four responses to these claims. First, even if it is true that Jews in Israel are not safe, Jews in Israel do not depend for their safety and security on the goodwill of rulers and the societies hosting them. This is a critical element of what the Zionist revolution was all about. Second, the safety of Jews around the world may be related to the existence of Israel in complex ways. While debates and opposition to the policies of Israel may contribute to anti-Semitism, clearly anti-Semitism existed before Israel, and having a place of refuge and a state that may use diplomatic and other measures to defend Jews may be significant. Third, Zionism was also concerned with the quality of Jewish life permitted by life in the Diaspora. Israel is the only country in the world that gives Jews an opportunity to apply Judaism to the totality of their existence, including the political level. Finally, Israel is the only place in the world where a Jew can live in a public culture that is Jewish. Israel is the only place in the world where pressures to assimilate work toward Judaism rather than against it. For those who care about the continuation of Jewish identity and transmitting it, Israel provides the only place in which Jewish identity can flourish in the ways made possible by a Jewish public sphere.

Thus, the reasons which justified the thrust of Jewish nationalism before the establishment of the state are still valid and pressing today. They are even more valid now. At the beginning of the twentieth century a Jewish state was a dream. Today Israel is the home of the strongest Jewish community in the world.

Even those who think it was a terrible mistake to establish Israel as a Jewish state (the writer not included) must concede that denying Israeli Jews their national home is a very different proposition. Taking from Jews and Judaism the political base of their independence cannot be justified.

Palestinian self-determination cannot be permitted to undermine Jewish self-determination. No claim of self-determination in this context can thus be exclusive and pertain to the whole of the territory. Not surprisingly, “two states for two peoples” is the political arrangement now most popular within Israel and the international community.

## LOCATION OF NATIONAL ASPIRATIONS OF JEWS: A NATIONAL HOME IN ZION

We have argued that Jews are a nation and that like all nations they are entitled to seek and exercise self-determination, which is justified by the wish to effectively gain physical and cultural security. However, for most nations or peoples, there is no special question of the **location** of this attempted exercise of independence. Usually, these peoples form the majority or at least a critical mass of the population of a territory in which they have always lived, so that territory is part of the characteristics constituting them as a people. Indeed, when there is no clear territory in which the national or ethnic group is a majority, conflicts may arise and the attempt to gain state-level self-determination may fail because of the competing interests and rights of other groups. Jews, as noted, did not constitute the majority in any territory. The only country in which they had ever exercised political sovereignty was Zion. While a small number of Jews always lived in the Land of Israel, and some Jews immigrated to it, and while Zion and Jerusalem were very central in Jewish yearnings and prayers, Jews were a very small minority in the country, which was populated – even if not very densely – by mostly Arab residents.<sup>17</sup>

The project of creating a national home for Jews in the Land of Israel was thus problematic not only in the sense that it was not clear that it was practicable to move large number of Jews to Zion. Palestine had not been “a country without a people waiting for a people without a country.” An attempt to implement such a plan would clearly impact the local population. At a minimum, it might turn the present majority population in the country into a minority in their own country. This raised both moral and practical difficulties. One Palestinian challenge to the morality of Israel is precisely that Zionism was designed, and had to be designed, as a movement to dispossess and uproot the native population.

To overcome the claim that the country was populated and that the creation of a Jewish national home in it would infringe on the rights of the local population, Zionist leaders argued that the local residents did not enjoy political independence and were not a distinct people; that they would not be dispossessed; that they would enjoy the fruits of the progress and growth the Jewish settlement would bring; and that their civil and political rights would be secured.<sup>18</sup> Some among the leaders understood and expected the vehement objection of the local Arab population, but they reasoned that the combination of the Jews’ urgent need and their historic ties to the land justified the movement, and that the combination of this moral force with an “iron wall” of determination might lead the Arabs to accept life as equal citizens in the Jewish state, or to a willingness to exercise their own self-determination in other territories of the region.<sup>19</sup>

This combination of ideas indeed contributed (together with imperialistic interests) to the Balfour Declaration of 1917 and to the British Mandate over Palestine, which was designed to facilitate the creation of a Jewish national home in Palestine while securing the rights, personal and cultural, of non-Jewish communities.<sup>20</sup>

Zionism was indeed unique in that it sought self-determination for Jews in a country where only a very small number of Jews lived. The logic and justification for the principle of self-determination

was that of liberating people sitting on their land from the yoke of foreign rule. If all Jews had had in 1947 were the biblical promise and the historical-cultural ties, Israel would not have been founded despite the Holocaust. Zionism was successful because it created a critical mass of Jews in Palestine, who exhibited incredible powers of political, social, economic, and cultural energy and development. This achievement was based on the vigor, determination, and dedication of the Zionists, which were in fact built on their strong belief in the justice of their cause and the deep connection between Jews and the Land of Israel. The fact that the local Arab population was not well organized and did not have political control over their country was a great help.

In 1937 the Peel Commission concluded that the animosity between the two national movements was too large. They conceded that the promises Britain had made to Jews and Arabs were inconsistent. They thus recommended the partition of Mandatory Palestine into a small Jewish state and an Arab state joined with Transjordan. Jerusalem and a corridor to Jaffa were supposed to remain under international/British jurisdiction.<sup>21</sup>

The Jews rejected the particulars of the Peel proposals, but authorized the Jewish Agency to negotiate. They thus accepted the principle of partition. The Arabs rejected partition out of hand.

As we saw, at the beginning of the twentieth century, Jews did not have the **right** to make the local Arab population a minority in their country just because they had deep historical ties to the land and just because this was the only place in the world where they had exercised political independence. But they did have the **liberty** to try and return to their homeland. Once their wish to do this was recognized by the international community, they had a **right** to pursue their goal, without infringing on the rights of the local population. At a certain point, once the reality of the Jewish settlement had been created, Jews had national rights to effective self-determination within Palestine/the Land of Israel.<sup>22</sup> The need to grant Jews political independence and statehood stemmed from the fact that Jews and Arabs could not be expected to resolve peacefully their differences over immigration, security, and the identity of the state.<sup>23</sup>

A few points should be stressed here.

- ▶ Both the Balfour Declaration and the Mandate for Palestine recognized the national rights of Jews as such; not only of the Jews living at the time in the country. The Mandate explicitly addresses the need to allow for easy immigration of Jews to Palestine and their quick naturalization. Yet both documents stressed that this should not affect the existing rights of Jews in the countries in which they live; and that the promise of a national home for Jews should not be allowed to infringe the rights of non-Jews.<sup>24</sup>
- ▶ The Anglo-American Committee in its recommendations stressed the need to allow one hundred thousand Jews from the camps in Europe to immigrate to Palestine. Thus they clearly addressed the interests of Jews outside Palestine. At the same time, they also stated that Palestine should not be seen as providing a solution to the “Jewish problem.” That committee, however, refrained from recommending a solution. Rather, it sought the continuation of an international trusteeship hoping that a peaceful agreement between Jews and Arabs could be reached.

- ▶ Partition was based on the understanding that limiting the territory of the Jewish state might give Jews the control they needed over immigration and security – while putting to rest the fears of the Arabs that Jewish immigration would create the basis for making Jews the majority in the whole of Palestine. The international community thus was willing to let Jews control immigration of Jews (and non-Jews) into the Jewish state.
- ▶ The national rights of Jews recognized by the international community were thus rights to have their own nation-state, which would be a democracy guaranteeing the individual and collective cultural rights of the non-Jewish minorities within it. The expectation was that Israel would privilege Jews in immigrating to Israel; and that individual Jews would have the liberty to choose whether to settle in Israel. Jews also had the liberty to choose to remain citizens of their own countries. It was understood that the establishment of Israel was the response to the claim of Jews that they were entitled to be like all peoples – living freely in their own homeland.

## ISRAEL SHOULD REMAIN THE DEMOCRATIC NATION-STATE OF JEWS

Let us assume from now on that UN Resolution 181 of November 1947, together with other conditions and premises, established the right of Jews to a Jewish state in a part of Palestine/the Land of Israel.

In other words, Resolution 181 envisaged two ethnic nation-states, each of which would provide state-level self-determination to Jews and Arabs (now Palestinians), respectively. Specifically, it trusted that each of these countries would take the necessary steps to guarantee the majority of its own group within it. Naturally, each of these states was expected to act in ways that would guarantee its continued existence as the nation-state of its people. The United Nations demanded that this be done within the constraints of protecting the rights of members of national, religious, and linguistic minorities.

The United Nations did not envisage each of these states as a neutral state, privatizing the noncivic characteristics of its inhabitants. Most clearly, it did not envisage either of these states as a binational state, because it concluded that the two peoples could not live together within the same political unit.

Against this background it is puzzling that many now claim that Israel should abandon its definition as the nation-state of the Jewish people. The key to this challenge seems to be that the UN resolution assumed that the Jewish state would be both Jewish and democratic. But now, the challenge goes, it is quite clear that Israel cannot be both Jewish and democratic. It must therefore give up its special affiliation with Jewish self-determination.<sup>25</sup>



*On November 29, 1947, the UN General Assembly adopted Resolution 181, also known as the Partition Plan, which called for the establishment of a Jewish state alongside an Arab state in Palestine. The resolution was accepted by the Jewish Agency. However it was rejected by the Arab Higher Committee and the Arab League. (UN Photo Library)*

It should be clear that this demand also means that Israel is not permitted to act so as to secure a Jewish majority in it. Similarly, it is not allowed to promote conditions that will facilitate the continuing self-determination of Jews in it. I believe these conclusions are not warranted. Israel may promote Jewish state-level self-determination in it. In this sense, it is permitted to maintain a stance that is not neutral toward the national and cultural affiliations of its population. At the same time, the arguments supporting Jewish self-determination also support the recognition of similar rights to Palestinians in a part of their homeland. While Jews are not strangers to this country, Palestinians are longtime natives in it. They live here by right, and have not immigrated to the country. They are entitled to exercise self-determination in their homeland even if they are required to share it with Jews – the second people for which it is a homeland.

## **PROSPECTS**

For too long, the conflict between Jews and Arabs and between Israel and Palestinians was based on rejection of the national aspirations of the other side. There are two asymmetries here. First, as I have mentioned, for historical reasons it is still the case today that only Jews enjoy state-level self-

determination. This is an unstable situation both morally and politically. On the other hand, most of the Jews concede that the Arabs of Palestine have individual as well as collective and national rights in Palestine. They may differ on how this fact should be reflected in political borders. Most Arabs, however, are reluctant to concede that Jews have a right to national self-determination in any part of Palestine/the Land of Israel. At best they are willing to respect the individual rights of Jews who had lived in the country at some given time (like 1917 or 1922). Or they may concede that *de facto* an Israeli collective has been created which has a right to self-determination but not to maintaining a Jewish majority or a Jewish or Hebrew public space in Israel, nor to have the Law of Return or affective special relationships with Jewish communities abroad.

It is not my purpose here to pronounce on the question of whether the demand for recognition of Israel as a Jewish nation-state is necessary to the peace process or an obstacle to it. However, if the two parties are not both willing to accept that there are two groups here with authentic and powerful claims for national status and self-determination, it is very hard to see how a stable *modus vivendi* can be reached between Jews and Arabs in Palestine/the Land of Israel.

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## NOTES

- 1 [http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2009/Address\\_PM\\_Netanyahu\\_Bar-Ilan\\_University\\_14-Jun-2009.htm](http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2009/Address_PM_Netanyahu_Bar-Ilan_University_14-Jun-2009.htm). That Israel be recognized explicitly as the nation-state of Jews has been an Israeli demand at least from the time of Israel's response to the roadmap in 2003.
- 2 For a comprehensive analysis of the positions of Palestinian negotiators and the views of representatives of the Israeli Arab citizens, see, e.g., Becker (2011).
- 3 See, e.g., Becker (2011), next to note 102. See also the Democratic Constitution proposed by Adala.
- 4 This paper concerns the national rights of Jews and not how they should be protected in view of the fact that the situation in Palestine/the Land of Israel is one of competing claims to self-determination, and that under some accounts these claims are inconsistent in principle, or cannot be accommodated in any practical way. These are serious arguments which may have political implications. My argument is limited to the claims that Jews do have national rights to state-level self-determination in at least a part of Zion.
- 5 In fact, the post-World War II international regime provided limited protection to group rights under section 27 of the *International Covenant on Civil and Political Rights*, and explicitly excluded national minorities from that protection. This resulted from the fact that many believed national and ethnic conflicts were major contributors to the onset of World War II. With time, however, this attitude changed somewhat. For a comprehensive analysis, see Kymlicka (2009).
- 6 I will not discuss the claim that Jews are not a nation because the amended Law of Return defines "a Jew" in terms of Jewish religious law. For details of the definition of the Law of Return, see Gavison (2010).
- 7 Indeed, in a classical article on self-determination Margalit and Raz suggest that the right to self-determination should be analyzed and justified without aspiring to give a definite answer to the question of what groups are "peoples" or "nations." Rather, they talk of "all-encompassing groups" who have characteristics which justify claims for self-determination.
- 8 There is a fascinating debate about the relationships between modern Hebrew and the language of Jewish texts. Yet it seems clear that Hebrew, maintained in the teaching and culture of all Jewish communities, was a central element of the affinity among Jews everywhere.
- 9 There were places and times in which Jews enjoyed effective cultural and religious autonomy, while being allowed to integrate into the host society. Yet even in those times and places Jews as such did not exercise political independence. In this sense, the Jewish element was "privatized" in their lives.
- 10 While at certain times one talked about "people" and "race" as interchangeable, today we distinguish between race in the narrow sense in terms of genetic connections and race in a more general sense of identifying a distinct group. Jews were at times persecuted as a race, but they were also persecuted as a community of faith and a distinct nation.
- 11 For detailed discussions of these issues, see Shimoni (1995); and the writings of Hedva Ben-Israel, e.g., Ben-Israel (2003), where the positions of Anderson, Smith, Gellner, and Hobsbawm are discussed concerning the question of whether Zionism is the national liberation movement of Jews.
- 12 This situation persists today. While Jews are not recognized as a national minority anywhere, Jews do enjoy collective rights in some countries. E.g., Sweden recognized Yiddish (as well as Roma) as an official minority language. In some countries Jewish schools are recognized as denominational public schools by the state.
- 13 Since I concentrate here on the national rights of Jews, I will not discuss the question of the national rights of Palestinians, which is quite intricate for different reasons. Yet I should mention that the Arabs of Palestine resisted the fact that in the early

international documents on Palestine they were described as “the non-Jewish communities” with a stress on religion and not on national status. There is a debate as to whether Palestinians are a distinct nation or a part of the Arab nation. Politically there are many Arabs who then saw and still see Palestine as a natural part of Greater Syria. It is significant that some claim that Palestinian national identity was only developed as a counterweight to Zionism. Others (Khalidi [1997], Kimmerling and Migdal [1993]) find evidence of Palestinian identity from the end of the nineteenth century. At this stage this debate is not important because clearly the Arab population of Palestine sees itself as forming a distinct nation and they are entitled as such to some collective recognition. But the history is important as it shows that the competing narratives are in some ways very symmetrical. There is a question concerning the identity of the Palestinian collective that is not less complex than that concerning the Jewish one. This fact does influence the status of claims to mutual recognition.

- 14 This view is expressed clearly by Berent (2009). A. B. Yehoshua (2008) advocates a similar notion.
- 15 I want to stress that my conclusion stands even if there is some truth in some of the claims made by, e.g., Sand (2009). Jews are not a nation only by blood ties. They are a nation through long and complex historical, religious, cultural, and social processes. The fact that some aspects of Jewish identity are “invented” or “mobilized” by national liberation movements does not weaken the validity of claims of national self-determination.
- 16 Some add that Israel will inevitably turn into a theocracy and that this too is an argument against its justification. There is a struggle about the meaning of the Jewishness of Israel and at present a majority of Jews, including many Orthodox Jews, insist that Israel should remain a democracy. However, theocracies in the world are not denied their right to exist as states.
- 17 Debates abound about the numbers and the nature of the mid-nineteenth-century population of Palestine, including hypotheses that at least some of the longstanding Arab population are in fact Islamized Jews. It appears that claims that most of the Arab population moved to Palestine after the onset of Zionist settlement are misguided, although it is true that parts of Palestinian population still connect themselves to origins in other Arab countries.
- 18 See, e.g., the collection of essays by Ben-Gurion (1931). He describes the question as a “tragic fateful” one, and stresses that the Zionist project seeks to help the Arab population of Palestine flourish.
- 19 Even if agreements such as the Faisal-Weizmann understandings had been implemented, the local Palestinian population might have objected. Some Zionist thinkers did not expect understanding and agreement, and sought only to justify the fact that Zionism might weaken or undermine political self-determination for the Palestinian Arabs. Among those some thought that the combination of progress and civil rights with self-determination in other Arab countries were enough (like Jabotinsky), while others concluded that in Palestine itself, Jews should seek to become many but not the majority, so that a binational state could be formed (like Brit Shalom). Arabs had rejected all ideas of Jewish political independence in any part of Palestine.
- 20 For short historical accounts of these events, see Morris (2009), ch. 2; Strawson (2010), chs. 1-3.
- 21 Under Resolution 181 of 1947, Palestine itself was partitioned into two states, one Jewish and one Arab, enjoying economic union. The Jewish state was larger than under the Peel proposal, and Jerusalem was designated to be a separate entity under international jurisdiction.
- 22 I develop this argument in Gavison (2003). I follow here the argument made by Gans (2008). Ironically, had the Arabs not objected by force to the growth of the Jewish population, and to their autonomy, it may well be the case that the national rights of Jews in Palestine would be exhausted by rights to cultural and linguistic autonomy. Most of the Jews would have found that solution unacceptable, but the compelling necessity to grant them independence might have been weaker. In this sense, Arab rejectionism strengthened, and it still strengthens, the claim of Jews to state-level self-determination.
- 23 One could see the logic of partition in both the Peel report and in the analysis of the majority of the *United Nations Special Committee on Palestine* (UNSCOP). Both took the arguments of the Arabs seriously, but concluded that the physical and cultural security of Jews could not be guaranteed without the establishment of a state in which there would be a Jewish majority.
- 24 The Arabs were right to object to the fact that while Jews were described as a people, the local communities were described as “non-Jews” in religious terms!
- 25 See, e.g., Ghanem, Rouhana, and Yiftahel (1998).