



The Jewish Federations®
OF NORTH AMERICA

ISRAEL
ACTION
NETWORK

Project in
partnership with JCPA

Israel: Jewish and Democratic

Professor Gil Troy and Martin J. Raffel

Introduction

The moral and legal right of the Jewish people to national self-determination in its historic homeland has been challenged by rejectionists in the Arab world and anti-Zionists in the West since the beginning of the Zionist movement. A concerted assault on Israel's legitimacy, the effort to paint Israel as the new apartheid South Africa, was launched by a global network of Arab and Western NGOs at the UN's World Conference against Racism, Racial Intolerance and Xenophobia in Durban in 2001.

In recent years, the idea that there is something inherently contradictory between Israel's identity as both Jewish and democratic has begun to penetrate into mainstream academic and journalistic circles. While democracies often have to balance different ideals, such as liberty and equality, Israel's critics are using whatever tensions they see between "Jewish" and "democratic" ideals to question Israel's very right to exist in its current form. There is a wealth of existing material that persuasively refutes this specious allegation, including books and monographs (see list at the end). Nevertheless, we concluded that a shorter document, more accessible to those directly facing the assault on Israel's legitimacy in communities and on campuses, was needed. What follows is an attempt to provide answers to commonly asked questions that will enable both community and campus activists to confront this issue with confidence and integrity.

We will explain that:

- ▶ Being Jewish is not merely a religious category like Christianity or Islam; it also means belonging to a people with a culture, language, shared history and national identity, and in that respect is more akin to Italian, Irish or Polish identity.
- ▶ The deep connection between the Jewish people and the Land of Israel remained unbroken through the millennia, and found natural expression through the modern Zionist movement, providing a moral underpinning for the establishment of the State of Israel.
- ▶ The moral right of the Jewish people to national self-determination in Israel has received widespread international legitimacy, not only through the British Mandate for Palestine, but also at the United Nations and in formal recognition by the overwhelming majority of the world's nations.
- ▶ Israel's Law of Return, which permits Jews to acquire automatic Israeli citizenship, is consistent with many other states' immigration laws that offer preference to certain ethnic groups and with the requirements of the International Convention on the Elimination of all Forms of Racial Discrimination.
- ▶ The existence of a sizable minority of mostly Arab non-Jews in Israel creates certain tensions and ambiguities. But, as in other Western states with majority and minority ethnic groups, Israel is striving to be both the nation state of the Jewish people and a state that treats all its citizens based on the principle of nondiscrimination.

I. Are Jews a Religious or National Group?

The answer to the question: “Are Jews a religious or national group” is yes. One of the great identity anomalies for modern North American Jews today is that while so many define Judaism as their religion, surveys show that most modern Jews do not follow the Jewish religion scrupulously. However, these “non-religious” Jews -- in traditional terms -- are deeply Jewish, precisely because Jewish identity is about belonging to a people, nationally, ethnically, culturally, historically, and spiritually.

In a modern world characterized by warm relations with Christians, frequent discussion of the “Judeo-Christian ethic” treats Judaism as a parallel religion to Christianity. And while Judaism and Christianity do have many Biblical values in common, the Jewish peoplehood dimension has no parallel in Christianity.

Wherever you start the story of Judaism, that peoplehood dimension exists. In *B'reisheit*, Genesis Chapter 12, when God makes Abram (Abraham), God's covenant is based on Abraham leaving his “father's house” and going to the Promised Land where, “I will make of you a great *nation*,” is not just a religion. The exodus from Egyptian slavery that Jews celebrate on Passover every year also constitutes a great moment of national liberation and spiritual redemption. In fact, the Jews became a people on leaving Egypt and only learned the basic tenets of the Jewish religion, meaning Judaism, weeks later when receiving the Ten Commandments at Mount Sinai. And when Ruth the Moabite joins up with her mother-in-law Naomi, she says in 1:16, “your people will be my people,” (*amech ami*) even before she says, “your God, will be my God.” Similarly, the Western Wall is both a sacred remnant linking us to the Holy Temple, and a national shrine, representing the Jewish people's devastating defeat after the Temple's destruction, followed 1,900 years later by Israel's restoration.

For millennia, living in *Eretz Yisrael*, the land of Israel, or dwelling among other nations as a “people apart” in exile, Jews viewed themselves as believing in a particular religion and belonging to a particular people. But the welcome Jews started enjoying in Europe, and particularly in America in the modern world, confused many Jews -- and non-Jews -- about Jews' status. In order to fit into Europe as enlightenment and nationalism grew in the 1800s, some Jews started calling Judaism a “religion,” a concept that would have been too limiting and alien to their ancestors.

“Jews were, and are, a people bound by a common history, traced back three thousand years with a common culture and sense of destiny, a common land in Israel, and an overall sense of interconnectedness.”

Central to the *Judenfrage* or “the Jewish Question” of the late 1800s and early 1900s -- what to do with the Jews as a stateless people in a Europe of growing nation-states -- was the question. As one German anthropologist put it in 1903: *Was sind Juden*: “What are the Jews...Are they a religion, tribe, nation, people, race?” But even in liberal, democratic America, Jews were not just a community of faith like Christians, united only by a common theology. Jews were, and are, a people bound by a common history, traced back three thousand years with a common culture and sense of destiny, a common land in Israel, and an overall sense of interconnectedness. Even as they were born in other lands, learned other languages, and embraced other cultures outside of Israel, that sense of commonality remained -- and continued to define them.

Many Jewish thinkers began to appreciate Judaism's unique “combination of religion with nationality.” This made Jewish nationalism less about “race and soil” at a time when many Western nationalists preferred that kind of rhetoric, and more about what one Zionist called, “a group professing a separate faith and bound in a mutual covenant to observe that faith.” Rabbi Mordechai Kaplan, in his monumental 1934 book *Judaism as a Civilization*, emphasized culture and peoplehood over race or nationhood. This idea took off in the United States, as Americans began to appreciate cultural pluralism, moving beyond the melting pot to multiculturalism.

Zionists usually conceived of the Jews as a people or a nation, as did many American Jews. "Peoplehood," which meant emphasizing a distinct ethno-cultural experience that could still be patriotic, allowed American Jews to find their own special place in the American pageant. Especially after the "Black Power" movement of the 1960s, which inspired many other American groups to assert their ethnic pride, Jews felt comfortable asserting themselves collectively as a people, amid the other celebrations of Polish-American Power and Irish-American Power and Italian-American Power.

This sense of peoplehood helps explain much about Jewish identity, including that intense family feeling and broad sense of solidarity connected to Jews, not just Judaism. Jewish history, Jewish culture, Jewish food, Jewish civilization, Jewish politics, all emphasize this sense of belonging to a tribe -- while trying to make the tribalism transcendent by tapping into a deep, ongoing spiritual, cultural, national, and ethical tradition.

II. What is Zionism and the Jewish Connection to the Land of Israel?

Zionism, quite simply, is Jewish nationalism, or, more elaborately, the Jewish movement of national liberation, first to build and now perfect a Jewish democratic state in the Jewish people's ancestral homeland. This movement believes that *Am Yisrael*, the Jewish people, can find ultimate individual and collective fulfillment with a thriving, democratic, *Medinat Yisrael*, a State of Israel, in *Eretz Yisrael*, the Land of Israel.

Israel's centrality to Judaism and the Jewish people begins with the Bible, which developed a Jewish religion, a sense of solidarity, and a Jewish narrative rooted in the Land of Israel, the Promised Land. Great collective Jewish enterprises such as the Holy Temple and the great kingdoms, along with inspiring Jewish heroes like King David, King Solomon, the Prophetess Deborah and the Maccabees, illustrate the ongoing, Biblical and post-Biblical Israel connection. The fact that even when the majority of Jews did not live in Israel -- and there was always a Jewish presence there, especially in the four "holy cities" of Jerusalem, Safed, Tiberias, and Hebron -- they prayed toward Jerusalem, and called themselves in "exile," reflects the centrality of the land to the people. Today, so many Jewish holidays, values and laws remain tied to the land, emphasizing the deep connection between Judaism, the Jewish people and the Jewish homeland, Israel. Despite the destruction of the Second Temple in 70 CE and the subsequent dispersion, the Jewish people always sought to maintain its ties to the Land of Israel.

In so many ways, on so many levels, liberal democracy and Zionism spring from common sources. Both are modern movements, shaped by the Enlightenment and other intellectual currents of the eighteenth and nineteenth centuries, with central tenets rooted in the Bible. Just as it is hard to tell the story of Zionism without going back to "*lech lecha*," Abraham's charge in Genesis to "go forth" to a new land, meaning the land of Israel, it is hard to tell the story of how Western notions of equality and social justice developed without going back to the ethical precepts of the Torah, let alone to the crusading passion of the Prophets.

The contemporary stories of both Zionism and liberal democracy are intertwined with that great, defining, sometimes ennobling, and yes, sometimes cruel, but absolutely defining modern movement -- nationalism.

In the founder of the modern Zionist movement, Theodor Herzl, these three intellectual currents harmonized. This enlightened Viennese progressive is best remembered for jumpstarting Zionism in reaction to the anti-Semitism of the Dreyfus trial. Yet in his visionary 1896 book "The Jewish State," Herzl dreamed of the Jewish state as a liberal model for the world. "We shall live at last as free people on our own soil, and in our own homes peacefully die," Herzl wrote. "The world will be liberated by our freedom, enriched by our wealth, magnified by our greatness. And whatever we attempt there for our own benefit will redound mightily and beneficially to the good of all humanity."

In this passage, Herzl articulated the essential Zionist message that still holds true, and that echoes in the liberal nationalism of most Western nation states -- that only through self-determination can utopian ideals be achieved, that a community first must unite and protect itself before it can become a force for good.

Nationalism posits that the community is the best structure through which to implement high ideals -- sometimes out of broad conviction, sometimes out of sad necessity. There is, of course, a rich, ongoing debate about how to balance universalism and particularism. But it is very odd that often the same anti-Zionist forces that go out of their way to celebrate Palestinian nationalism insist on negating Zionism. Mutual respect for each people's collective sense of self is a better approach. Sidestepping the entire debate about the historic origins of Jewish or Palestinian nationalism, many modern scholars accept Benedict Anderson's notion of nationalism as an "imagined community," meaning that nationalism reflects a people's sense of its past, which often is a mix of history and legend, laced with romance and folklore. Whether you accept that definition -- or embrace Professor Irwin Cotler's notion of the Jews as the original aboriginal peoples, still developing the same culture, still tied to the same land, still cherishing the same language, Hebrew, after thousands of years, the legitimacy of Jewish nationalism is clear. Moreover, when we look around the world today, and see that the United Nations reflects the fact that nationalism is the way countries and peoples are defined, it is unjust to single out Jewish nationalism, meaning Zionism, as the only illegitimate form of nationalism.

Just as Betty Friedan was not the only feminist in the 1960s, Herzl was not the only Zionist in the nineteenth century. Zionism was a many-splendored thing, a broad, rollicking conversation attempting to create the perfect ideological mix of Judaism, nationalism, liberalism, idealism, rationalism, socialism, and capitalism. Zionism was a bold experiment to realize these ideals, and often entailed a rejection of the status quo. These were visionary, sometimes doctrinaire, intellectual pioneers, trying to fix all the evils of the world while making the desert bloom.

Israel's proclamation of independence from 1948 also illustrates the dream of building a happy marriage between Zionism and liberal democracy in the land of Israel, offering a model of how nationalism can be a force for good in the world. In reading these words, David Ben-Gurion ping-ponged from universalism to particularism, demonstrating just how intertwined the two concepts were, and how expansive, ambitious and progressive the Zionist dream could be. "*Eretz-Israel*" [(Hebrew) -- the Land of Israel, Palestine] was the birthplace of the Jewish people," he began. "Here their spiritual, religious and political identity was shaped. Here they first attained

“Zionism was a many-splendored thing, a broad, rollicking conversation attempting to create the perfect ideological mix of Judaism, nationalism, liberalism, idealism, rationalism, socialism, and capitalism.”

to statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books.” Attempting to build a broad, appealing, ideological infrastructure based on what experts now call “civic nationalism” on its admittedly “ethnic” base, Ben Gurion declared: “The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all

its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.”

Of course, no nation is perfect -- or able to fulfill all its ideals all the time. Israelis acknowledge that they are still trying to get it right and are still pushing for the State to fulfill its highest ideals. The Zionist project -- like all

great nationalist projects -- remains a work in progress. Still, Zionism's legitimacy should be respected and its accomplishments hailed -- as Israelis and others celebrate the nation's many liberal, democratic strengths while working to address the remaining challenges.

III. Does The Jewish State Have International Legitimacy?

As shown above, Jews constitute a people, not just a religious group, and have maintained a deep and continuous attachment to their historic homeland, Israel, for millennia. While a moral or just claim to national sovereignty does not automatically confer international legitimacy, the fact is that Jewish national self-determination in the modern State of Israel has been recognized by scores of countries and numerous international forums. Such recognition provides the state of Israel with clear and unequivocal international legitimacy.

By understanding that the Jews are a people, not just a religion, we can begin to understand that a Jewish state is not necessarily a theocracy, but can be -- and in this case is -- a democracy. Moreover, many modern democracies have majority populations that express their particular cultural and religious heritage in the public square, as part of their fulfillment of their natural rights of self-determination.

The general right of self-determination for all peoples is enshrined in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. Numerous international documents specifically have recognized and legitimized the Jewish peoples' right to national self-determination in Israel.

Zionism, the movement of Jewish nationalism, began in its modern form in the 19th century, as the very idea of nationalism began to spread throughout Europe. In the 20th century, international proclamations and commissions validated this movement. The Balfour Declaration of 1917, which called for "establishment in Palestine of a national home for the Jewish people," was endorsed by the U.S. Congress in 1922 and formally adopted by the Council of the League of Nations in July 1922 that established the British Mandate for Palestine. The Mandate's preamble recognized the "historical connection of the Jewish people with Palestine" and the "grounds for reconstituting their national home in that country."

Any ideas of creating a bi-national, Jewish-Arab state in Palestine were quickly discarded as the local Palestinian community reacted violently to the Mandate. A massacre of Jews took place in Hebron in 1929, and this community was exiled from a city where there had been a continuous Jewish presence since the time of the Bible. Great Britain convened the Peel Commission in 1936 following a particularly severe outbreak of Arab violence. The Commission issued a report the following year, which argued that the best arrangement in Mandatory Palestine would be partition leading to creation of a "Jewish State."

“The UN General Assembly in 1947, by a vote of 33-13 (10 abstentions), adopted the Partition Resolution 181 that called for the creation of a Jewish and an Arab state in Mandatory Palestine. Thus, the UN extended its formal imprimatur to the notion of a Jewish state, something it has not done with other states.”

The concept of one democratic, bi-national state for Jews and Palestinians continues to hold appeal in some

quarters. But Jews and Palestinians represent such fundamentally different national groupings, with distinctive languages, cultures, religious traditions and historical narratives that trying to meld them into a cohesive state unit would be a prescription for endless strife. The leadership of both peoples recognize -- as the international community understood even during the days of the British Mandate -- separation is by far the preferred course of action. Indeed, the United Nations Special Committee on Palestine (UNSCOP), whose report formed the basis of the later UN partition resolution, explained that, "Only by means of partition can these conflicting national aspirations find substantial expression and qualify both peoples to take their places as independent nations in the international community and in the United Nations."

As a result, the UN General Assembly in 1947, by a vote of 33-13 (10 abstentions), adopted Resolution 181 that called for the creation of a Jewish and an Arab state in Mandatory Palestine. Thus, the UN extended its formal imprimatur to the notion of a Jewish state, something it has not done with other states. Israel's formal application for membership in the UN, as submitted to the Security Council, referred to "the natural and historic right of the Jewish people to independence in its own sovereign state."

U.S. administrations and Congresses down through the years consistently supported the concept of Jewish statehood. In his landmark speech in Jerusalem in March, 2013, President Obama declared, "for the Jewish people, the journey to the promise of the state of Israel wound through countless generations. It involves centuries of suffering and exile, prejudice and pogroms and even genocide. Through it all, the Jewish people sustained their unique identity and traditions, as well as a longing to return home. And while Jews achieved extraordinary success in many parts of the world, the dream of true freedom finally found its full expression in the Zionist idea -- to be a free people in your homeland... Meanwhile, Palestinians must recognize that Israel will be a Jewish state and that Israelis have the right to insist upon their security."

Peace agreements have been reached between Israel and two of its Arab neighbors -- Egypt and Jordan -- and the Oslo Accords of 1993 provide a framework for resolving the Israeli-Palestinian conflict. The wider Arab world has expressed an interest in normalizing relations with Israel contingent on an Israeli-Palestinian peace agreement. Yet many extremist elements remain, refusing to recognize the legitimacy of Jewish national self-determination in the state of Israel, arguing erroneously that Jews are foreign interlopers undertaking a classic European colonial strategy and displacing the native population.

Indeed, it is this reluctance to accept Israel's legitimacy that led the Arab states, following Yasser Arafat's lead, to orchestrate the 1975 UN General Assembly Resolution 3379 equating Zionism with racism, singling out one form of nationalism, Jewish nationalism, in the forum of nationalisms, as somehow illegitimate. [That obscene resolution was rescinded overwhelmingly in 1991]. The extremists' refusal, which makes the task of achieving peace much more difficult, is ironic in light of the Arab world's insistence on recognition for Palestinian national rights. Again, mutual respect and recognition should be our standard. Moreover, it is simply not true that recognizing Jewish national self-determination in Israel is an endorsement of discrimination against the country's Palestinian Arab citizens, [as will be explained in the next section].

Despite the historical enmity toward the Jewish state by anti-Zionists, Israel since the 1990s formally has recognized the legitimate right of the Palestinian people to national self-determination in the West Bank and Gaza, what today is called "the two-state solution." Essentially, this builds on the territorial compromise solution proposed by the UN in 1947, which was accepted at that time by the Jews and rejected by Arab rejectionists who chose to fight Israel rather than compromise.

According to the 1993 Oslo Accords, the specific "permanent status" issues of borders, refugees, settlements, security, water and Jerusalem are to be determined through direct negotiations. However, even if the parties reach a formal agreement on these issues, a lasting peace based on genuine reconciliation is not likely to be achieved without mutual recognition of both peoples' legitimate right of national self-determination.

IV. Is Israel's Law of Return Consistent With International Law?

International law imposes numerous requirements on the behavior of states. However, in one area, every state, based on the principle of sovereignty, retains virtually unfettered authority to decide who will be considered its national or citizen. In order to fulfill its mission of serving as the nation state of the Jewish people, Israel has the right, indeed the obligation, to define the boundaries of its membership or citizenship. However, there is one caveat to this principle of sovereignty and citizenship. In recent decades, the idea of requiring a 'genuine link' or 'bond of attachment' between an individual and the state of his citizenship has begun to emerge as a generally accepted criterion in international law.

Israel's nationality law provides for multiple ways of acquiring citizenship, including through naturalization and birth to an Israeli citizen. These provisions apply equally to Jews and non-Jews. In addition, just as other countries express preferences through various fast-tracks for returning nationals, Israel has a Law of Return that enables any Jew to acquire automatic citizenship unless his presence in the state poses a threat to public health or security. It is this aspect of Israel's nationality law that has come under intensive criticism as discriminatory, racist and/or a breach of the requirements of a democracy. But does this preferential nationality provision, directed specifically to Jews, justify such criticism?

The basic legal instrument advancing the principle of nondiscrimination is the 1965 International Convention on the Elimination of all Forms of Racial Discrimination. Racial discrimination is defined as any distinction... or preference based on race, color, descent, or national or ethnic origin." Essentially, this is an admonition to states

“David Ben-Gurion declared, ‘the State does not grant the right of return to the Jews of the Diaspora. This right preceded the State; this right built the State; its source is to be found in the historic and never-broken connection between the Jewish people and the homeland.’”

that they are not permitted to enact legislation that discriminates among their citizens on the basis of these defined categories. While religion is not included, it is likely that international law would proscribe discrimination on that basis as well. At the same time, the Convention departs from the general principle by providing that state laws dealing with “nationality, citizenship, or naturalization” are not to be affected as long as they do not discriminate against any particular nationality. By giving preferred status to Jews alone, there is no discrimination against Palestinians or anyone else because no particular group is being singled out for exclusion. In short, preferential treatment -- or affirmative action -- does not equal discrimination.

In the U.S. context -- a relatively young country made up of immigrants seeking to forge new identities -- the idea of extending citizenship preference to former Americans

seems out of place, although American immigration law does favor certain political refugees as well as some categories of wealthy immigrants. But the U.S. is not the only model. Israel is hardly alone among democracies in Europe and elsewhere in offering preferential treatment in this arena. The German constitution offers automatic citizenship to refugees and displaced persons of German ethnic origin from the Former Soviet Union and Eastern Europe -- individuals who for many generations had no geographic or civic relationship with the state. Greece's citizenship law confers special advantages on ethnic Greeks, including dispensing with the residency requirement for naturalization purposes. Finland repatriates ethnic Finns from the former Soviet Union. In Poland, anyone whose Polish origin is confirmed in accordance with its constitution may settle permanently in that country. The Irish nationality law empowers the Ministry of Justice to grant an exemption from naturalization prerequisites when the applicant is of 'Irish descent or Irish associations.' The Armenian Constitution enables

those with Armenian descent to obtain citizenship through a shortened procedure.

In addition, since Jews are a people that anyone can join through conversion -- irrespective of their race, previous religion or nationality -- it cannot be argued reasonably that the Law of Return is racist. The charge that Israel is an apartheid state similar to South Africa in the 1970s and 80s, which, unfortunately, can be heard too often in the public square these days, ignores the skin color-based discrimination that occurred in South Africa and rings completely hollow to anyone who has ever visited Israel and seen its racially heterogeneous society firsthand. Injecting race talk into the national clash between Israelis and Palestinians, when there are dark-skinned Israelis and light-skinned Palestinians, is simply inflammatory and an obstacle to peace and mutual respect.

Explaining the Law's background to the Knesset, and reflecting the moral right of the Jewish people to establish a state in the Land of Israel, David Ben-Gurion declared "the State does not grant the right of return to the Jews of the Diaspora. This right preceded the State; this right built the State; its source is to be found in the historic and never-broken connection between the Jewish people and the homeland." In other words, the 'genuine link' between the Jewish people and their historic homeland and the modern State of Israel, as described in detail elsewhere in this primer, is the very essence of the Zionist enterprise. More recently, the acclaimed Israeli writer AB Yehoshua -- noting that the international community recognized the need for a Jewish state to serve as a refuge -- emphasized that the Law of Return essentially is linked to Israel's founding, its mission and its core identity.

In other words, the link, or its potential, exists within every Jew, and becomes expressed in the form of Israeli citizenship when exercised under the Law of Return. This in no way diminishes the connection between Jews who have not chosen to become Israeli nationals and the countries of their citizenship. Indeed, many Jews who have taken Israeli citizenship choose also to retain citizenship in their countries of origin if such an arrangement is permitted.

Palestinian advocates and others profess a "right of return" of Palestinian refugees and all their descendants to Israeli towns and villages from which they fled in the 1948 and 1967 conflicts, along with a right to acquire Israeli citizenship. The similar language of the Palestinian "right of return" and Israel's Law of Return sometimes creates confusion. They are totally different. The Palestinians ground their claims to refugee return in UN General Assembly Resolution 194, which was adopted at the end of 1948. According to the Resolution (non-binding because it was passed in the General Assembly, not the UN Security Council), the refugees "should [not shall] be permitted" to return to their homes at the "earliest practicable date" and this applies only to those "wishing to... live at peace with their neighbors."

Clearly then, there is no "right of return" -- only a UN recommendation from 65 years ago for Israel to admit refugees from that period willing to live in peace, certainly not their descendants. No other refugee group has ever had refugee status treated as something that can be inherited, passed on from one generation to the next. Israel is under no obligation to be inundated with millions of Palestinians -- which would de facto and ultimately de jure -- lead to the dissolution of Israel as a Jewish majority state -- i.e., the end of the Zionist enterprise.

We certainly empathize with the suffering of Palestinian refugees who were displaced from their homes during periods of armed conflict in the region. Yet it is clear that a humanitarian resolution of the Palestinian refugee issue must be addressed in the context of the two-state solution, Israel and Palestine. As all permanent status matters such as borders, security, settlements and Jerusalem, this should be done in the context of direct negotiations between the parties.

V. Does the Existence of a Sizable Non-Jewish Minority Contradict Israel's Identity as Jewish and Democratic?

In the world of pluralistic and liberal democracies, Israel, as many other countries, celebrates and cultivates its majority culture while remaining dedicated to preserving full equality for all of its citizens. There is no contradiction in keeping Israel's Jewish and democratic character, even with a sizable non-Jewish minority citizenry comprised mostly of Palestinian Arabs, as distinct from Palestinians in the West Bank, Gaza and parts of Jerusalem who are not citizens. Israel can be -- and is -- both the nation state of the Jewish people and a state of all its citizens.

While addressing the challenge of rebuilding the Jewish State of Israel, the country's Declaration of Independence calls for "complete equality of social and political rights" of all its inhabitants "irrespective of religion, race or sex," and guarantees "freedom of religion, conscience, language, education and culture..."

The term "Jewish State of Israel" sometimes is understood, or misunderstood, to mean that Israel is a theocracy. What this indicates in reality is that, in the public sphere, Israel may reflect its core mission of serving as the nation state of the Jewish people. For example, in the U.S., Sunday is chosen as the official day of rest because of the majority Christian population. In Israel, it is Saturday, the Jewish Sabbath. At the same time, as a liberal democracy, Israel should always strive to assure equal rights for all its citizens. As with many other sets of principles in democracies, this duality of majority rule versus protection of individual rights, especially of minorities, sometimes can create tensions. In the U.S., the Bill of Rights, as interpreted by the Supreme Court, protects minority rights against the majority. Similarly in Israel, when called into question, this non-discrimination principle has been enforced over the years by Israel's independent and highly respected judiciary.

“The term ‘Jewish State of Israel’ sometimes is understood, or misunderstood, to mean that Israel is a theocracy. What this indicates in reality is that, in the public sphere, Israel may reflect its core mission of serving as the nation state of the Jewish people.”

For example, in the Kaadan case (2000), the Supreme Court considered a situation in which an Arab citizen was denied the right to buy State-owned land after it had been transferred to the Jewish Agency and Jewish National Fund. The Court ruled that these Zionist institutions, which are geared toward development of Jewish settlement in Israel, cannot be used to get around the fundamental obligation to treat all citizens equally. "True, a special key to enter the house is given to the members of the Jewish people [Law of Return]. But once somebody is in the house as a citizen under the law, he enjoys equal rights, just like all the other members of the household... Hence there is no contradiction whatsoever between the values of the state of Israel as a Jewish and democratic state, and complete the quality between all of its citizens."

Another Supreme Court ruling, after it found a disparity in allocation of state budget resources for housing projects, determined that the Arab community in Israel must be given its pro rata share of those resources. "The State's resources whether land or money or other resources belong to all citizens; and all citizens are entitled to enjoy them according to the principle of equality..."

Living as a national or ethnic minority within a majority culture is never easy. The situation of Israel's Palestin-

ian Arab citizens is especially challenging, both ideologically and practically. They do face de facto discrimination in the workplace and in allocation of state resources and Israel's government should be expected to do much more to address this issue.

Nevertheless, Israel's Arab citizens participate without hindrance in local and national elections. They are members of Israel's parliament, the Knesset, where they exercise freedom of speech, either to support or vigorously oppose government policies. They are represented in the judiciary, including on the Supreme Court; serve as Israel's representatives abroad; and, at least in one instance, as a minister in Israel's government [Raleb Majadele, Minister of Science, Culture and Sport in Prime Minister Ehud Olmert's cabinet].

Israel is not unique in possessing this dual identity. The constitution of Slovenia, a new Eastern European democracy and member of the European Union, states --"Slovenia is a state of all its citizens and is founded on the permanent and inalienable right of the Slovenian nation to self-determination..." As in Israel, the distinction is made between the rights of citizenship and the state's national character.

This concept found expression in a resolution adopted in 2006 by the Parliamentary Assembly of the Council of Europe. The Council acknowledged "that in some... member states, the concept of 'nation' is used to indicate citizenship... while in some other member states the same term is used in order to indicate an organic community speaking a certain language and characterized by a set of similar cultural and historic traditions, similar perceptions of its past, similar aspirations for its present and similar visions of its future."

That said, the situation has been difficult and Israel's Arab citizens have not always received the non-discriminatory treatment they deserve. Israel has been forced to engage in wars of self-defense and a struggle against terrorism through its entire 65 years of existence. In recent years, there has been a marked rise in the assault on Israel's legitimacy. While not excusing discrimination, this reality, no doubt, is a factor in causing it. In addition, it is hard to come up with an example of any state with a minority ethnic or religious population virtually free of any discrimination. While the inherent tension of balancing Israel's dual identity as nation-state of the Jewish people and state of all its citizens remains, the struggle to fulfill the promise of full equality made in the Declaration of Independence is ongoing.

Conclusion

No state is perfect, no form of nationalism ideal. All of us who care about Israel, albeit from different parts of the political spectrum, are encouraged to articulate visions that seek to make Israel the best country it can be, expressing its Jewish character while championing its democratic ideals, balancing out conflicting tensions while addressing real world challenges. We hope here to have offered some perspectives, some context, certainly not trying to defend every Israeli policy and action, but repudiating the tendency to take policy disagreements and escalate them into assaults on Israel's very right to exist.

These are all complex questions. The best way to continue the conversation -- and to elevate the discourse around Israel, Zionism, democracy and liberalism -- is to follow the traditional Jewish dictum from the Passover *Haggadah* -- *Tzeh ulmad* -- go and learn and struggle and engage and perfect.

Suggested Reading

- ▶ Israel and the Family of Nations: The Jewish Nation-State and Human Rights (Israeli History, Politics and Society) by Alexander Yacobson and Amnon Rubinstein, Schocken Publishing House Ltd., 2009
- ▶ The Law of Return at Sixty Years: History, Ideology, Justification by Professor Ruth E. Gavison, Hebrew University School of Law --- http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1951784
- ▶ The Claim for Recognition of Israel as a Jewish State: A Reassessment by Tal Becker, Washington Institute for Near East Policy, February 2011
<http://www.washingtoninstitute.org/policy-analysis/view/the-claim-for-recognition-of-israel-as-a-jewish-state-a-reassessment>

*Professor Gil Troy is Professor of History at McGill University and Shalom Hartman Engaging Israel Research Fellow. His most recent book is *Moynihan's Moment: America's Fight against Zionism-as-racism* (Oxford University Press: 2013).*

Martin J. Raffel is Senior Vice President of the Jewish Council for Public Affairs and Director of the JCPA's Task Force on Israel, World Jewry and International Human Rights. He also serves as Project Director for the Israel Action Network.

The Israel Action Network is a strategic initiative of The Jewish Federations of North America (JFNA), in partnership with the Jewish Council for Public Affairs (JCPA), created to counter assaults made on Israel's legitimacy. IAN educates, organizes and mobilizes the organized North American Jewish community to develop strategic approaches to countering these assaults and develops innovative efforts to change the conversation about Israel while working to achieve peace and security for two states and two peoples, Israelis and Palestinians. For this reason, IAN is leveraging and maximizing the collective ability of JFNA's 154 Jewish Federations and over 300 small non-Federated Network communities, along with JCPA's 15 national member agencies and 125 local Jewish community relations councils. We are a network countering a network.